

**THE MANAGEMENT AND LEGAL FRAMEWORKS FOR THE ESTABLISHMENT  
OF THE SOUTHERN AFRICA NAZARENE UNIVERSITY IN SWAZILAND**

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OF THE SOUTHERN AFRICA NAZARENE UNIVERSITY IN SWAZILAND**

by

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My gratitude is also expressed to my wife Phindile, my sons Prince, Angelo and Daniel for countless sacrifices. To my brothers James and Jerry goes my appreciation for their words of encouragement and the accommodation they provided whenever I visited South Africa.

Above all, I would like to express my deepest gratitude to God for His love shown unto me and for making me able to complete this research and receive a doctoral degree. Glory to God.

## **DECLARATION**

Student number: 3161-147-8

I declare that THE MANAGEMENT AND LEGAL FRAMEWORKS FOR THE ESTABLISHMENT OF THE SOUTHERN AFRICA NAZARENE UNIVERSITY IN SWAZILAND is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

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(C V MBANZE)

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DATE

## SUMMARY

This study of the legal and management frameworks for private higher education institutions in Swaziland provides a theoretical framework for the establishment and management of such institutions and especially the Southern Africa Nazarene University (SANU). A literature review of Swaziland's education legislation and education system, the legal processes for the establishment of private higher education institutions, the types and legal status of these, their funding of, and their organisational and management structures provided the theoretical framework upon which the study was based. The review indicated that: a private higher education system in Swaziland was in the process of being developed; such institutions were established and operated within the overall higher education system; there were two legal instruments that could be used to establish these institutions – an Act of Parliament and a Certificate of Registration; the government was the major funder of private higher education institutions; and there are different organisational and management structures in existence.

Against this background an empirical qualitative investigation was conducted. Data was collected from education managers, government officials, Church leadership, and legal representatives through in-depth interviews, focus group discussions, and participant observation. The findings of the empirical investigation complemented the findings obtained from the literature review. The underdevelopment of the private higher education system resulted in two major implications: uncertainty of the legal process for the establishment of SANU, and the development as well as immediate implementation of education legislation and policies. The application of the legal procedures outlined by the Higher Education Bill of 2007 to the establishment, management and funding of SANU affords a good example. Even though the people entrusted with the establishment of SANU selected the Act of Parliament for this process and developed the SANU Bill, government officials instead advocated and implemented the certification process regarding the establishment and management of SANU. Subvention, tuition fees, commercial farming and provision of short term occupational training programmes were identified as income-generating strategies for SANU. A unique organisational and management structure was developed for SANU. Based on those findings, several recommendations for the improvement of the

management of the process of establishment of universities in Swaziland and especially SANU were made.

## **Key Terms**

Personnel management

Management framework

Establishment of private universities in Swaziland

Higher education in Swaziland

Financial management

Higher education management

Constitutional and legislative framework for higher education

Southern Africa Nazarene University

## **DEDICATION**

This work is dedicated to the Mbanze family, and especially to Prof. James Mbanze (my grandfather) and Prof. Vicente J. Mbanze (my father) who dedicated their lives to the development of education in the Church of the Nazarene in Southern Africa.

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## **LIST OF ABBREVIATIONS AND ACRONYMS**

<b>BOG</b>	Board of Governors
<b>NAHEC</b>	Nazarene Higher Education Consortium
<b>NCE</b>	Nazarene College of Education
<b>NCN</b>	Nazarene College of Nursing
<b>NCT</b>	Nazarene College of Theology
<b>RAC</b>	Rector's Advisory Committee
<b>SANU</b>	Southern African Nazarene University
<b>UNISWA</b>	University of Swaziland

## **LIST OF ABBREVIATIONS AND ACRONYMS USED IN THE ADDENDA**

The list provides the reader with the meaning of the acronyms in the writing of the minutes and reports of various meetings. The researcher could not alter the minutes and the reports of those meetings as they were original documents.

ANU	Africa Nazarene University
BFC	Bethany First Church (of the Nazarene)
BGS	Board of General Superintendents
BoG	Board of Governors
CEO	Chief Executive Officer
COSAC	Course of Study Advisory Committee
DR	Regional Director (Africa Regional Director)
DWM	Division of World Missions
ExCo	Executive Committee of the Board of Governors of SANU
IBOE	International Board of Education (of the Church of the Nazarene)
GA	General Assembly
MOE	Ministry of Education
MOHSW	Ministry of Health and Social Welfare
NCM	Nazarene Compassionate Ministries
Nurses SOAR	Nurses Strengthening Our Aids Response
NUS	Nazarene University in Swaziland
PM	Prime Minister
PEPFAR	President's Emergency Plan for Aids Relief
RAC	Rector's Advisory Committee
SADAC	Southern Africa Development Countries
SNHI	Swaziland Nazarene Health Institutions
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund

## **CHAPTER ONE**

### **OVERVIEW OF THE STUDY**

#### **1.1 INTRODUCTION**

Administrators establishing a private university should be well versed in the legal and management frameworks for such an institution so as to ensure that it has firm foundations and will be able to function properly. Because of the existence of different kinds of such frameworks, it is important to note that this study focuses on education management and the educational legal frameworks. Education management relates to the systematic and comprehensive process that education managers use to achieve the institutional goals, while the legal framework consists of state and other legislation that regulates the establishment, governance and management of private higher education institutions. This study investigates the said frameworks within which private higher education institutions, and in particular the Southern Africa Nazarene University (SANU), may be established, governed and managed.

#### **1.2 BACKGROUND AND MOTIVATION OF THE STUDY**

Since the 1930s, the Church of the Nazarene has operated three colleges in the Kingdom of Swaziland. The colleges could not go beyond the parameters of their particular specialisations, namely primary education, nursing and midwifery, and theology. In an attempt to increase their effectiveness, widen the areas of specialisation, attract more students, expand areas of catchment (to include both Swaziland and the international community) and increase their educational impact, to mention only a few motivational factors, the managers of the colleges proposed the merger of the colleges to form a new university. The church leadership responded positively to the idea and preliminary work began in the early 1980s.

From the late 1980s, the Church of the Nazarene in Swaziland, in conjunction with the Office of the Africa Regional Education Coordinator of this Church, has therefore engaged in a process to establish a private university there. In 2000 the Working Committee with its sub-committees, *inter alia*, the Principals' Committee (now called the Rector's Advisory Committee) and the Steering Committee were established to work on the project (Brower 2008). The researcher is a member of these committees; thus he is directly involved in the establishment of the SANU and as such could act as insider researcher.

Although these committees made progress in that the 2005-2014 Strategic Plan was devised and its implementation put in hand, the researcher became aware that there was an uncertainty about the legal and management frameworks for the establishment of SANU. When the researcher began to investigate the phenomenon further, he realised that there were certain problems relating to the said frameworks that could hamper the process of establishing the new institution. This realisation was confirmed by the questions and discussions raised in forums the researcher was involved in as well as during the conversations he held with faculty members at Nazarene College of Theology (NCT), Nazarene College of Nursing (NCN) and Nazarene College of Education (NCE).

The next section deals with the issues the researcher identified which needed to be solved before clarity about the given frameworks for the establishment of the Nazarene university could be achieved.

### 1.3 STATEMENT OF THE PROBLEM

The establishment of SANU is a delicate process because it entails the merger of three colleges, namely, NCT, NCN and NCE. Two of the colleges (NCN and NCE) entered into partnerships with the government; thus they are governed, managed and financed by the government and the Church of the Nazarene, while NCT is governed, managed and financed solely by this Church. The fact that the merging colleges make use of different governance and management structures has implications for the structure to be adopted for the new university.

As a person involved in the establishment of SANU, the researcher became aware of the following problems:

- the lack of state laws which regulate the establishment, governance and management of private, and especially church-related, higher education institutions (currently, the Higher Education Bill of 2010<sup>1</sup> is in the final stages of the legislative process and of being promulgated)
- the designing of an appropriate organisational framework which would most clearly reflect the aims and objectives of SANU, taking into account the requirements of the national legislative framework
- defining the type and nature of partnership that should exist between the government and the Church in the governance and management of SANU
- the financial dependence of the NCN and the NCE on the government and the possible financial dependency of the proposed university
- legal issues emerging from the transfer of the employees, from NCT, NCN and NCE, to the proposed university.

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<sup>1</sup> The Bill does not have a number. This document will be referred to as the Higher Education Bill of 2010 throughout the thesis.

In the following paragraphs, a brief description of these problems is presented.

### **1.3.1 Lack of laws regulating private higher education**

Since the early 1900s, Swaziland has enjoyed the service of private higher education institutions, including colleges sponsored by the Church of the Nazarene. As mentioned (cf. chapter 1, section 1.3), even though such institutions have been operating for a long time, Swaziland has not yet passed legislation that governs their establishment, governance and management. Because such laws do not exist, the colleges operate in terms of the country's general education law and policy, *inter alia*, the Education Act 9 of 1981, the Teaching Service Act 1 of 1982, the Teaching Service Regulations of 1983, the National Education Policy of 1999, the Teaching Service (Amendment) Regulations of 2005 and the Draft Scholarship Policy for Tertiary Education in Swaziland of 2006 (Swaziland Government 1981; Swaziland Government 1982; Swaziland Government 1983; Swaziland Government 1999; Swaziland Government 2005; Swaziland Government 2006a). The researcher used the above mentioned legislation and policies to examine the legal and management aspects that could be used for the establishment and management of SANU. To supplement these, the Employment Act 5 of 1980, the Industrial Relations Act 1 of 2000 and the Higher Education Bill of 2010 were also considered. It must be noted that although the Higher Education Bill of 2010 has been approved by the Cabinet, it has not yet been signed into law by the King. However, due to the paucity of legislation regulating these institutions, the bill was taken into account because it provides valuable guidelines on how private institutions would be established in the future.

Besides the above mentioned legislation, the colleges, with the exception of NCT, operate by means of agreements made between themselves and the government. Examples include the agreement between the government and the National Board of the Church of the Nazarene in Swaziland on behalf of NCN and that between the government and the Schools Manager of

the Church of the Nazarene on behalf of NCE (High Commissioner of Basutoland, the Bechuanaland Protectorate, and Swaziland 1962; Swaziland Government 2003).

### **1.3.2 Financial dependence**

The agreements reached between the government and the colleges make express provision for financial support. However it is important to note that the aid provided to the colleges takes different forms. The support to NCN comes as subvention, while the financial support provided to NCE comprises direct payment of lecturers' salaries and pension benefits.<sup>2</sup> Another difference is that the financial aid provided to the NCN is furnished under the auspices of the Swaziland Nazarene Health Institutions on behalf of the National Board of the Church of the Nazarene in Swaziland (henceforth to be referred to as the National Board) while the assistance given to the NCE is provided under the auspices of the Teaching Service Commission on behalf of the Ministry of Education (Nazarene Higher Education Consortium 2008, item 3.2(4); Swaziland Government 1982, s 14; Swaziland Government 1983, s 3, s 4; Swaziland Government 2003, par 16). Regardless of the differences in the way the financial aid is supplied, the result of both is financial dependence.

### **1.3.3 The transfer of the employees**

The agreements between the government and the colleges made the employees of these institutions civil servants and, as such, they enjoy the benefits provided by the Government of the Kingdom of Swaziland to its employees. These benefits include, *inter alia*, adequate salaries and pension packages as well as scholarships for personnel development (Swaziland Government 2003, par 19 - 20). The proposed transfer of the employees of NCN and NCE from the Swaziland Nazarene Health Institutions and the Teaching Service Commission to

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<sup>2</sup> The expression "pension benefits" is used to mean any pensions, compensation, gratuities or other like allowances a person receives at the end of his [in this thesis the masculine pronoun is taken to include the feminine] employment in respect of his service (Swaziland Government 2005, s195(7)). Note that the Teaching Service Act 1 of 1982 and Teaching Service Regulation use the phrase "terminal benefits" instead of "pension benefits". "Pension benefits" is preferred because this is the term used in the Constitution of the Kingdom of Swaziland of 2005 (hereafter Constitution)

SANU, respectively, left them insecure. They feared the possible loss of their employment or the retirement benefits they had been entitled to under their previous employers. This feeling of uncertainty was heightened by the lack of clarity about salary scales and possible retrenchment packages to be offered by SANU. With these aspects unclear, the employees saw the establishment of SANU as a threat.

#### **1.3.4 Research questions**

Based on the problems described above, the researcher identified the following research questions:

- What legal framework exists within which the establishment of SANU should take place? What are the implications of the existing legal framework for the establishment of SANU and in particular for the management and governance structures of the new institution?
- What organisational and managerial aspects should be entrenched in the Act of Parliament?
- What type of partnership should be established between the Government of the Kingdom of Swaziland and the Church of the Nazarene with respect to the governance and management of SANU?
- What should be done to secure adequate operational funds for SANU and eliminate its possible financial dependence upon the government?
- What labour-related problems could result from the transfer of the employees of NCT, NCN and NCE from their present employers to SANU and how could these problems be resolved?

Building on these research problems, the aim and the objectives of the study are presented in the next section.

## **1.4 THE AIM AND OBJECTIVES OF THE STUDY**

### **1.4.1 The aim of the study**

The aim of this study was to provide a concise account of the legal and management frameworks for the committees involved in proceedings for the establishment of the SANU.

### **1.4.2 The objectives of the study**

To be able to conduct and complete the research, the researcher needed to identify specific objectives since they would direct the project and provide the basis for evaluation. The objectives of this study were derived from the research questions and are, to:

- explore the legal framework within which private higher educational institutions, and especially SANU, could be established in Swaziland in order to:
  - determine which legal and management processes should be undertaken to acquire the appropriate legal instrument that would establish (the legality of) SANU
  - examine the implications of using the existing legal framework for public education for the establishment of a private higher education institution in Swaziland, and in particular the drafting of a prototype Bill, for the management and governance structures of SANU
- develop a prototype Bill that can be used as a reference for establishing private higher education institutions in Swaziland, and especially for establishing SANU
- define the type of partnership that should be established between the Government of the Kingdom of Swaziland and the Church of the Nazarene in the governance and management of SANU
- outline potential methods that could be used to secure operational funds for SANU
- discuss labour-related problems emerging from the transfer of the employees of NCT, NCN and NCE to SANU.

## **1.5 SIGNIFICANCE OF THE STUDY**

The significance of the study lies in the fact that it was undertaken at a time in which many private higher education institutions were being established but no laws and policies were in existence to guide those establishment processes. This study is the first of its kind in Swaziland and thus provides important information on the given frameworks for the establishment of such institutions. It is hoped that this study will influence legislation that is being adopted to regulate the establishment of private higher institutions, and universities in particular. Besides this, the study provides administrators of higher education institutions in Swaziland with scientific information that they will need when creating the management and governance structures of these institutions. Particularly, the study has guided the committees responsible for the establishment of SANU. This was possible because the researcher acted as insider researcher. The ultimate significance of this study is to be found in the fact that the researcher developed a prototype Bill for SANU which was not only used in the process of establishing SANU but could also be used in future by administrators when establishing new private, higher education institutions in Swaziland.

## **1.6 DELIMITATION OF THE FIELD OF STUDY**

The delimitation of the field of study was carried out by an analysis of the most important concepts, a demarcation of the scope of the study, and by indicating the chapter divisions of the proposed research report.

### **1.6.1 Conceptual analysis**

This section briefly defines the terms that are used throughout the thesis: *investigation, establishment, legal framework, management, SANU managers, Southern Africa Nazarene University and Church of the Nazarene.*

#### 1.6.1.1 Investigation

Generally, the term *investigation* is used to mean an examination or a study of a phenomenon in order to discover its essence. Proceeding on this understanding, scholars termed it *research*, and defined it as a “systematic inquiry that uses orderly disciplined methods to answer questions or solve problems” (Polit & Beck 2008:765). Based on the above definitions, the concept “investigation” in this study is used to mean a systematic and organised method which was employed to study the legal framework for and management of the proposed SANU.

#### 1.6.1.2 Establishment

The term *establishment* conveys two major meanings that deserve attention. The first indicates the *creation, founding, or starting point of something*. Thus the term may be used in this manner: ‘Since its establishment five years ago, the college has graduated five hundred students’. Secondly, the term *establishment* may be used to mean “a business, organisation, or place where an organisation operates” (Cambridge International Dictionary of English 1995, s.v. “establishment”). Utilising the second concept, the ‘college’ would be the ‘establishment’ *per se*. In this study, the term *establishment* is used in the context of the first meaning in which the concepts of *founding and starting point* of something are encompassed, and thus it denotes the *founding* or the *starting point* of SANU. Besides this, the term *establishment* in this study also includes the concept *merging*, because SANU is a result of the merger of the three colleges, namely, NCT, NCN and NCE.

#### 1.6.1.3 Legal framework

The expression *legal framework* contains two words, *legal* and *framework*, that need to be examined if its meaning is to be understood. The word *legal* expresses the validity of something based on national law. The Cambridge International Dictionary of English (1995, s.v. “framework”) defines framework as “a supporting structure around which something [is]

built". In terms of the above definitions, the expression *legal framework* is used to refer to both *public law* and *private law* that regulate the establishment, governance and management of education institutions; however, the emphasis will fall on public law. The expression *public law* is employed to refer to legislation that governs the establishment, governance and management of higher educational institutions (Oosthuizen & Van der Westhuizen 1994:16). The public law consulted in this study includes, *inter alia*, the Constitution of the Kingdom of Swaziland, education legislation and labour legislation (see section 1.3.1 for a list of this legislation).

As the public law is being discussed, it is necessary that the concepts *legislation*, *subordinate legislation*, *bill* and *policy* be delineated. Joubert and Prinsloo (2001:8) and Oosthuizen (2004:15) define legislation as laws or statutes or Acts which has been promulgated or enacted by a legislature (for example, Parliament) or other governing body with power to legislate (for example, local municipal councils and provincial legislatures) and signed by the authorised person. In Swaziland the supreme legislative authority vests in the King-in-Parliament (Swaziland Government 2005, ss 106 - 108) and an item of primary legislation is called an *Act of Parliament* (Swaziland Government 2005, s 109(4)). Legislation has various purposes, *inter alia*, to establish, regulate, authorise, prescribe, proscribe and govern. The expressions legislation, statutes, statutory law and Act of Parliament will be used interchangeably in this study to denote the public law that governs the establishment, governance and management of higher education. The University of Swaziland Act of 1983 (Swaziland Government 1983a) serves as an example. This Act is a law that establishes the university and its organisational structures, determines its functionaries and provides the funding mechanism for the university.

The Department of Premier and Cabinet,<sup>3</sup> (2009:9) and Oosthuizen and Roos (2004:34) defines subordinate legislation or delegated legislation as laws that are similar to the Acts of Parliament but are made and adopted by public departments or any designated agency or body. The terms subordinate and delegated are used to indicate the principle that this type of legislation is made under an Act of Parliament and that the power to make and pass such legislation was delegated to that particular body by the legislature (Oosthuizen & Roos 2004:30; Swazi Government 2005, s 253(1)). Discussing the functions of subordinate legislation, Imber and Geel (2004:4) indicate that subordinate legislation is intended to “implement the goals and fill in the details of legislation”. These authors identify the following requirements for subordinate legislation: “it must have been adopted according to the procedure prescribed in a statute, its substance must be consistent with the statute the regulation is intended to implement, and the statute itself must be constitutional” (Imber and Geel 2004:4). Different categories of subordinate legislation, taking different forms, are found, for example, orders, by-laws, rules and regulations. The Legal Notice 17 of 1969, the Teaching Service Regulations of 1983, the Teaching Service (Amendment) Regulations of 2005 and the Procedures involving the Teaching Service Commission, circular no. 1/84 of 2005 afford instances of subordinate legislation (Swaziland Government 1969; Swaziland Government 1983; Swaziland Government 2005; Swaziland Government 2005a).

A bill is a proposed law or statute which has been formally tabled before a legislative assembly for consideration (Joubert & Prinsloo 2001:9; Swaziland Government 2005, ss 107 - 110). A bill becomes legislation (law) when the legislative assembly has approved it and it is assented to by the authorised person (Joubert & Prinsloo 2001:9-10; Swaziland Government 2005, ss106 - 108). As has been indicated, in Swaziland the supreme legislative authority vests in the King-in-Parliament (Swaziland Government 2005, s 106(a)). To this effect, subsection 1 of section 108 states that “a bill shall not become law unless the King

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<sup>3</sup> This is an Australian source and the title is the actual one as presented in the document itself.

has assented to it and signed it in token of that assent” (Swaziland Government 2005, s 108(1)).

Since, as indicated, there is no legislation regulating the establishment of private higher education institutions in Swaziland the researcher consulted the Higher Education Bill of 2010 that deals with this matter. The use of the Bill in this study was based on the assumption that it indicates the direction future law will probably take and also supports current policy trends and currently accepted practices in Swaziland in this regard.

Various definitions of the term policy have been formulated. These differ according to the context and the angle from which a particular scholar handles the subject. For example:

Policy is the instrument that determines what and how things are to change or how things are to be done (Claassen & Van Wyk 1999:3).

Policy is the implicit or explicit specification of courses of purposive action being followed or to be followed in dealing with a recognised problem or matter of concern, and directed toward the accomplishment of some intended or desired set of goals. Policy also can be thought of as a position or stance developed in response to a problem or issue of conflict, and directed towards a particular objective (Harman 1984:13).

... policy is much more than a specific policy document or text. Rather policy is both a process and product ... policy involves the production of the text, the text itself, ongoing modifications to the text and process of implementation into practice (Taylor, Rizvi, Lingard & Henry 1997:24-27).

An analysis of the above definitions shows that a policy (whether public or private) is a formal statement of principles that provides guidance to the administration of an organisation, department or institution (whether public or private) regarding its operation and directs people’s actions toward the achievement of the intended objectives. It is essential to note that policy is not law and is not mandatory. Policies are not regarded as legislation because they are adopted by the executive such as a Minister and not by the legislature (in the form of parliament for example) or by organs of state with subordinate legislative powers. Policy gives expression to legislation. Policy is only law if it is adopted into law. In

this study, the term policy is used to refer to public policies and especially education policies, *inter alia*, the National Education Policy of 1999 and the Statutes of the University of Swaziland of 1983. The policies were referred to because they indicate current trends and acceptable practices used by the government and institutions of higher education in Swaziland.

To illustrate the functions of policy in higher education institutions, the Statutes of the University of Swaziland of 1983 furnish an example. These provide procedures for the establishment of the organisational structures, describe the faculties of the university, outline the procedures for the appointment of personnel and describe their duties and responsibilities. Thus it can be asserted that the Statutes of the University of Swaziland of 1983 serves as a 'policy' in that it guides the administration of the university, directs personnel's actions toward the achievement of the objectives of the university and is in line with the University of Swaziland Act 2 of 1983.

The expression *private law* is used to refer to institutional regulations that govern the legal relationship between private persons (Oosthuizen & Oosthuizen 1994:23). The documents considered in this respect include, *inter alia*, the Manual of the Church of the Nazarene and the Educational Source-book. In addition, the expression *private law* is also used to refer to law that grants a unique benefit or establishes a relationship between the government and a particular private entity. The documents considered in this respect include, *inter alia*, the Agreement between the Government of the Kingdom of Swaziland and the National Board of the Church of the Nazarene in Swaziland (Swaziland Government 2003).

#### 1.6.1.4 Management

Authorities such as West-Burnham (1994:12-13, 28-29), Orlosky, McCleary and Webb (1996:2-3); Pettinger (2007:6-10), Smit, de J Cronje, Brevis and Vrba (2007:7-11) and Van der Westhuizen (1995:38-39) provide various definitions of the term *management*. The analysis of these indicates that *management* is a systematic and comprehensive process which managers use to achieve organisational goals. There are various kinds of management, *inter alia*, public, business, church, and education management. This study focused on education management.

Education management is concerned with aspects of educational institutions (whether primary or secondary schools, colleges or universities) that lead towards their proper functioning. These include student management, decision-making, institutional resources, organisational structures, policy at institutional level, curriculum development, staff development, acquisition of quality instructional resources, and the establishment of quality structures that encourage unity and communication between and among the governing body, leaders, officers, faculty, community, and students (Oosthuizen & Van der Westhuizen 1994:112-114; West-Burnham 1994:12-13, 28-29). Considering the nature of the education institution under investigation, the researcher concentrated on higher education management.

The difference between education management and higher education management is that the latter is concerned with the management of higher education institutions only, while the former deals with education institutions of all levels. The latter considers various aspects (e.g. student management, personnel development and institutional resources), and thus can be classified into various areas, *inter alia*, education administration and the management of human resources, student institutional resources, curriculum, and facilities. This study

investigated aspects of the administration of the educational institution, personnel management, and financial management.

#### 1.6.1.4.a *Education administration*

Van der Westhuizen (1995:36) observes that scholars fall into two camps when dealing with the concept *education administration*. The first school advocates that *education administration* is the same as *education management*; while the other argues that these concepts represent two different areas. Even though the authorities may differ, Van der Westhuizen (1995:36-37) points out how an analysis of their arguments indicates that *education administration* is concerned with the study of the organisational structures upon which education institutions function. Areas that are encompassed in this area include policy formulation and office administration, to mention two. Based on this information, the expression *education administration* is used to refer to activities which are of an administrative nature, for example, policy development, management of education institutions, and institutional governance.

#### 1.6.1.4.b *Personnel management*

The *Oxford Student's Dictionary* (1988 s.v. 'personnel') defines the *personnel* as a body of persons employed by an organisation, education institutions included. In terms of this definition, in this study the term *personnel* is used to include all people who are employed by any education institution, for example, lecturers and non-academic staff. It is necessary to note that education literature employs various terms when dealing with this subject, *inter alia*, *personnel*, *staff*, and *human resources* (Dunlop 1995:148-150; O'Neill 1994:199-202; Steyn 1996:38-39). Thus in this study the expressions *personnel* and *human resources* are used interchangeably to mean one and the same thing, that is, the employees of NCN, NCT and NCE. Consequently, the expressions *personnel management* and *human resources management* are also used interchangeably.

Oosthuizen and Van der Westhuizen (1994:119) define personnel management as “the activity by means of which the services of [teaching] staff can be acquired, facilitated and improved by means of management strategies in order to bring [about] an increased effectivity in educational [institutions]”. O’Neill (1994:199) defines human resource management as a “set of well-planned and fully integrated strategies, processes and procedures which are intended to promote an optimum level of performance [of employees]”. The researcher concurs with the above scholars and the expressions *personnel management* and/or *human resource management* are consequently employed to refer to the strategies, processes and procedures used by education managers to achieve quality service.

#### 1.6.1.4.c *Financial management*

Mentz and Oosthuizen (1994:147) define financial management as “the distribution and use of money for the purpose of providing education services and producing student achievement”. Building on this, the researcher defines financial management as a process through which education managers estimate the financial needs of a university, and obtain and administer university funds. In line with the abovementioned definition, the expression *financial management* is used to denote the system through which education managers plan, acquire, and effectively use financial resources.

#### 1.6.1.5 Managers of SANU

Pettinger (2007: 55-56) defines a manager as a person who directs or manages an organisation. Prior to this, Pettinger (2007:6-10) observes that a manager is a person appointed to establish a certain organisation or institution. In terms of this, as well as of the aspects presented in sections 1.6.1.4 and 1.6.1.4.1 of this chapter, the term *manager* and especially *managers of SANU* is used to refer to the people who are responsible for the establishment of SANU. These include members of the Rector’s Advisory Committee

(RAC) and members of the Executive Committee of the Board of Governors of SANU (ExCo) (cf. chapter 1, sections 1.2; 1.6.2; chapter 3, section 3.5). It is worth noting that the membership of these committees (with the exception of the said Executive Committee) is composed of managers of NCE, NCN and NCT. In this study, the term “managers of SANU” includes: the Principal of NCE,<sup>4</sup> the Principal of NCN,<sup>5</sup> the Principal of NCT,<sup>6</sup> the Deputy Principal of NCE, the Academic Dean of NCT, the Chairperson and the Deputy Chairperson of the Board of Governors of the Nazarene Higher Education Consortium (NAHEC) and the researcher (cf. chapter 1, sections 1.2, 1.6.2; chapter 3, section 3.5). It was these people who managed the process of establishing SANU.

#### 1.6.1.6 Southern Africa Nazarene University

The SANU will be a private Christian university under the auspices of the Church of the Nazarene. In its initial stages, the university will be offering three undergraduate programmes: Bachelor Degree in Theology, Bachelor Degree in Education, and Bachelor Degree in Nursing Science with specialisation in Midwifery. More academic programmes, for example Bachelor of Business Administration and Bachelor of Technology, will be added in subsequent years. Besides the addition of undergraduate programmes, the university plans to introduce graduate ones, *inter alia*, Master of Arts, Master of Education, and Master in Nursing Sciences.

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<sup>4</sup> The Principal of NCE was appointed to be the Dean of the Faculty of Education of SANU from January 2011.

<sup>5</sup> The Principal of the NCN was elected and inaugurated as the Vice-Chancellor of SANU on the 22 October 2010. Before this the said Principal acted as the Rector of the Nazarene Higher Education Consortium (NAHEC).

<sup>6</sup> The Principal of NCT was appointed to be the Dean of the Faculty of Theology of SANU from January 2011.

### 1.6.1.7 Church of the Nazarene

The Church of the Nazarene is an evangelical denomination that originated in Los Angeles, California. The church was founded in 1895 by Phineas F. Bresee and associates (Church of the Nazarene 2005:20). From the beginning, the church had an international dimension. Expansion into other areas of the world began in 1898 when missionaries of the church were sent to Asia. Subsequent extension into other areas followed. The church entered Central America in 1900, the Caribbean in 1902, Southern Africa in 1907, South America in 1909, Australia in 1945 and Europe in 1948 (Church of the Nazarene 2005:24-25). By the year 2005, the church had been established in one hundred and fifty countries (Church of the Nazarene 2005:26).

From the outset, the church attached great importance to education, and in particular, higher education. The church's dedication to this is well articulated in its education mission statement, which reads:

[The Church of the Nazarene] aims to guide those who look to it in accepting, in nurturing ... [and] in expressing service to the [world] ... . Additionally [it seeks] to provide a curriculum, quality of instruction, and evidence of scholastic achievement that will adequately prepare graduates to function effectively in vocations and professions such graduates may choose (Church of the Nazarene 2005:159).

To realise its commitment to higher education, the church operates sixty-six higher education institutions worldwide. These include eleven universities (nine in the USA, one in Kenya and one in South Korea), three theological seminaries (in Costa Rica, the Philippines, and the United States), three nursing colleges (in India, Papua New Guinea and Swaziland), thirty-seven theological colleges around the world, one education college in Swaziland and one junior college in Japan. The universities and the seminaries confer up to doctoral degrees while the colleges confer bachelor's degrees and diplomas of university status (Church of the Nazarene 2005:26). The SANU constitutes an addition to the above list.

### **1.6.2 Scope of the study**

The study is limited to the investigation of education management within the broader legal framework in relation to SANU. As mentioned (cf. chapter 1, section 1.6.1.4), the researcher focused on administrative affairs, financial management, and human resource management.

The participants in the study include the Director of Education in Swaziland, the Manager of the Nazarene Schools in Swaziland, administrators of the colleges who are also serving as members of the Rector's Advisory Team (the Principals, a Deputy Principal, and one Academic Dean), the Rector of NAHEC, and two members of the Board of Governors of NAHEC. The rationale for the selection of these participants was that they could provide the most accurate information regarding the phenomenon under investigation. In other words, they qualify as so-called "information-rich participants" (Schumacher & MacMillan 1993:378). For example, the administrators of the colleges, the rector and members of the Rector's Advisory Committee were those leading the establishment process; thus they needed the results of the study to help them with the work. The faculty are the people who have been most affected by the changes.

### **1.6.3 Chapter division**

The study is divided into five chapters. In chapter one an overview of the study is given. It comprises the following aspects: research background, statement of the problem, the aims and objectives of the study, the significance of the study, delimitation of the field of study, and the research design.

In chapter two the researcher provides a literature review. The aim of this chapter is to furnish a theoretical background to the legal and management frameworks within which higher education operates in Swaziland. In this chapter the emphasis is placed on three areas of education management, namely, educational administration, personnel management, and

financial management. In regard to educational administration the researcher considers the education legislation that governs the establishment, governance and management of higher education institutions in Swaziland. In relation to personnel management, the researcher investigates legislation concerned with labour-related issues in order to address problems arising from the transfer of the employees from the three colleges to the university.

Finally, concerning financial management the researcher examines the methods used to fund higher education in Swaziland in order to establish the means through which the university could acquire and manage its finances.

In chapter three the researcher describes the research methodology. The following aspects are discussed: research design and method, sampling techniques, instruments for data collection, and procedures for data analysis.

In chapter four the researcher presents the findings, while in chapter five a synthesis of the study is carried out, conclusions are drawn and recommendations provided.

## **1.7 RESEARCH DESIGN**

Various scholars, for example Babbie and Mouton (2001:72-74), Denzin and Lincoln (1994:2-3) and Rugg and Petre (2007:62-63), agree that the research design spells out the strategies the researcher plans to adopt for his research and that it incorporates methodological decisions which include, *inter alia*, the determination of the approach, the selection of a sampling method, and the selection of instruments for data collection and data analysis. Likewise, in this thesis the expression *research design* is used to refer to the overall plan the researcher devised for this study: it includes the research approach, sampling techniques and the instruments employed for data collection and data analysis.

### **1.7.1 Research approach: qualitative research**

There are two major research approaches the researcher can choose from, namely, the quantitative and the qualitative approach. The choice of the approach is dependent on the nature of the research problem (Babbie & Mouton 2001:270). The approach selected for this study, a qualitative one, was based on the nature of the research problem and the characteristics of such research that are applicable to this topic. Firstly, the said problem required an in-depth examination as well as an understanding and description of the phenomenon under investigation. Since it was the aim of the researcher to explore and describe management aspects related to the establishment of SANU and its future operations, the qualitative approach was appropriate. Secondly, the topic called for the study to be conducted in natural settings, the research process to be inductive, and the researcher to be the 'main instrument' in the research process (Creswell 2007:36-39). Thirdly, the issue required an insider researcher. The qualitative approach is the most suitable one for insider research.

### **1.7.2 Research method: action research**

There are various qualitative research methods, such as the case study, phenomenological research, and action research that could have been used, but the method selected for this study was the last mentioned. While the researcher recognises that action research is basically used by educators to improve practice (Maree 2007:124; McMillan & Schumacher 2006:418), he also concurs with McNiff and Whitehead (2002:15-16) that action research can be used to address challenges that people face in their work. In terms of this reasoning, action research was applicable to this study because it helped members of the Rector's Committee to critically examine their actions and to solve issues that they were facing as they were involved in the proceedings for establishing SANU. In addition, action research was selected because it enabled the researcher and the study participants to collaborate in

data collection, data analysis, and data interpretation, as well as to determine how to implement the findings (Maree 2007:125, 129; Polit & Beck 2004:266; McNiff & Whitehead 2002:15-16).

### **1.7.3 Data Collection**

Data for qualitative research can be gathered in a number of different ways, such as observation, participant observation, in-depth interviewing, focus group discussions and a review of documents (Creswell 2007:129-135; De Vos, Strydom, Fouché, & Delport 2002:298-299, 309; Gillham 2005:119-140; 3-4). Data collection for this research was carried out through in-depth interviews, focus group discussions, observation, and a literature review.

#### **1.7.3.1 In-depth interviews**

Until recently, Swaziland made use of oral contracts to do business with various national organisations, educational agencies included. As the researcher was searching for written documentation of agreements reached between the government and educational agencies, it transpired that some of those agreements had been entered into orally. In the absence of written documents, the researcher needed to conduct in-depth interviews with government officials and education managers to obtain the required information.

#### **1.7.3.2 Focus group discussions**

These discussions were selected as one of the instruments for data collection because they brought all participants together to

- discuss better ways to conjoin the statutes governing higher education institutions sponsored by the Church of the Nazarene and the statutory laws of the Kingdom of Swaziland,

- develop a prototype Bill that could be used as a point of reference by private education institutions in Swaziland, and especially by SANU,
- explore ways to establish stable financial resources for SANU,
- identify and discuss problems emerging from the proposed transfer of the employees from their former employers to SANU.

The focus group discussions were divided into two categories: one that used schedules or interview guides and another that did not. As an employee of NCN and NCT as well as a member of the working committee engaged in the establishment of SANU, the researcher served as an insider researcher and thus participated in the focus group discussions.

#### 1.7.3.3 Participant observation

While the researcher collected data from the participants, he searched for additional information that would enrich and/or substantiate the information provided by them. The observation entailed a careful, systematic and conscientious recording and analysis of all aspects related to the establishment and management of higher education institutions in Swaziland (Hoberg 1999:107-108). To make this possible, he made efforts to attend major events that addressed the subject. In addition, attention was accorded to everyday life situations that were related to the management of the three colleges. The observation of 'daily life' was important because it assisted the researcher to see and understand how people felt about the phenomenon and how they dealt with it (Creswell 2007:134-135).

#### 1.7.3.4 Literature review

Kelly (2006:316) regards a literature review as one of the best ways available for data collection in qualitative research. Speaking about the literature that might be used by the researcher, Kelly (2006:316) includes sources such as books and official documents, to mention only two. For this study the following sources were consulted: books; minutes of

various committees, for example the SANU Development Committee, the Joint Meeting of the NAHEC's Board of Governors Executive Committee, and the Rector's Advisory Committee; as well as private law and policy that address the establishment, management and governance of higher education in Swaziland. The public law made use of in this study includes, *inter alia*, the Legal Notice 17 of 1969, the Education Act 9 of 1981, the National Education Policy of 1999 and the Constitution of the Kingdom of Swaziland (Swaziland Government 1969; Swaziland Government 1981; Swaziland Government 1999; Swaziland Government 2005). In addition to the aforementioned legislation, the Higher Education Bill of 2010 was also used (Swaziland Government 2010). The private law consulted includes, *inter alia*, Manual of the Church of the Nazarene (Church of the Nazarene) and the agreements signed between the Government of the Kingdom of Swaziland and the National Board of the Church of the Nazarene in Swaziland (Swaziland Government 2003). The reading of these documents enabled the researcher to identify aspects or areas that could be explored, identify principles that could be used for the establishment, governance and management of SANU, and integrate the findings into the wider context of education management.

#### **1.7.4 Data analysis**

The following steps were adopted to analyse verbatim transcripts. After reading the transcripts, the researcher extracted significant statements, formulated meaning, and then categorised the statements into theme clusters. The findings were then integrated into an exhaustive description of the phenomenon and validated by two people who participated in the study (Creswell 2007:148-149; Gillham 2005:119-140; Hoberg 1999:51, 68; Terre-Blanche, Durrheim & Kelly 2006: 321-327, 338-339).

During the interviews, the researcher took notes and also recorded the procedures. At the end of the day the researcher read the notes and listened to the recorded information to

analyse, understand, expand and clarify what was said or discussed. After this, units of general meaning that appeared to be common among the majority of the participants were identified (Cohen & Manion 1994:329-333; Creswell 2007:148-149, 160-164; Hoberg 1999:51, 68). Once these units were identified, they were reduced to units of meaning relevant to the research objectives. Before writing the summary, specific themes that were unique to particular participants were considered.

## **1.8 ETHICAL CONSIDERATIONS**

Two categories of ethical principles were considered for this study: those related to participants and those related to the discipline of research itself (Strydom 2005a:56). Two ethical principles were applied from each category. The right to self-determination and the right to privacy were considered in regard to the participants; the principles of accuracy and honesty were taken account of in regard to the discipline of research (Fontana & Frey 2005:715; Polit & Beck 2008:170-175, 185-186; Strydom 2005a:56-65).

In regard to self-determination, the participants were given the opportunity to decide whether to participate, to refuse to give information, or to withdraw from the study. In addition, the researcher informed the participants about the goals of the research, the procedures to be followed and the precautions to be taken to safeguard their identities (Polit & Beck 2008:171-172; Strydom 2005a:59).

To safeguard participants' right to privacy and the procedures of the committees, the researcher honoured participants' request not to record individual interviews, personal conversations and the committees' meetings. However, to safeguard the authenticity of the research the participants were asked to sign the manuscripts and were informed that these would have to be submitted to the university if requested. Furthermore, the researcher

secured permission from the participants to submit their names and contact details to the university if requested (Strydom 2005a:64; Greeff 2005:293).

To produce a document that is accurate, objective, clear and unambiguous, the researcher used simple and straightforward language to present the findings. He also avoided all forms of emphasis or slanting, acknowledged all sources consulted and people who participated in the study (Strydom 2005a:65-66).

## **1.9 SUMMARY**

In this chapter the background information for the study was presented. The following aspects were discussed: background and motivation, the statement of the problem, the aim and objectives of the study, its significance, delimitations and research design.

In the subsequent chapter the literature review is presented. Its aim is to identify and discuss the key legal and management issues of private higher education within the framework of the broader higher education system of Swaziland.

## **CHAPTER II**

### **LEGAL AND MANAGEMENT FRAMEWORKS**

#### **2.1 INTRODUCTION**

Every country maintains an education framework within which its educational system operates and is managed. In this chapter a theoretical review of the legal and management frameworks within which higher education and, in particular, private higher education, operate in Swaziland is presented. The aim of the review is to identify and scrutinise key issues concerning the management of private higher education in Swaziland that would affect the establishment of the envisaged SANU and ultimately inform the constitution of the university.

The envisaged SANU will be a private university. The new university has to find its place within the overall higher education system of Swaziland. Although it is a private university in terms of its status (its establishment, management and day-to-day governance) it operates within the higher educational system and many contacts will exist between it and the public higher system. The researcher was therefore required to ‘place’ the private university in the existing constitutional and legislative context but also to indicate the interaction between public and private education, and higher education in particular.

Under the legal framework aspects such as: human rights to education; the education system in Swaziland, types of higher education institutions in this country, the establishment of higher education institutions, legal status of institutions of higher education in Swaziland, funding of private higher education and partnerships between government and education agencies; and the hiring of personnel (cf. chapter 2, section 2.3) are discussed. The management framework is sketched by describing the managerial structures at national and

institutional levels of higher education in Swaziland. In this research, the expression *local level* is used to denote the *institutional level*.

## **2.2 METHOD OF INVESTIGATION**

The method of investigation used for this chapter is that of a literature review. As indicated, the researcher studied Swaziland's legislation, the Agreement between the Government of the Kingdom of Swaziland and the National Board of the Church of the Nazarene (2003), and also consulted scholarly books dealing with education management. The law and policy documents have been described.

Besides reading written materials, in-depth interviews with government officials and education managers were conducted to gain more information on the topic or to bridge the gaps in the literature.

## **2.3 CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK**

This section outlines the constitutional and legal aspects upon which the education system in Swaziland is founded. These serve as a cornerstone upon which the establishment of SANU is guided and evaluated. They have been enumerated and are now discussed (cf. chapter 2, section 2.1).

### **2.3.1 Education as a human right**

Chapter 3 of the Constitution depicts education as a fundamental human right to be enjoyed by all Swazi citizens. To that effect, section 28(6) states that every Swazi child has the right to education (Swaziland Government 2005, s 28(6)). Augmenting the Constitution, paragraph 2.1 of the National Education Policy of 1999 declares that the government shall

[provide] opportunities for all pupils of school-going age and adults to develop themselves in order to improve the quality of their own lives and the standard of living of their communities ... (Swaziland Government 1999, par 2.1).

Guided by the National Education Policy of 1999, the Ministry of Education in collaboration with the United Nations Educational, Scientific and Cultural Organisation developed Swaziland's Education for All goals to give effect to the vision of providing education to all Swazi nationals. These goals address not only school education but also higher education.

With regard to the latter they include:

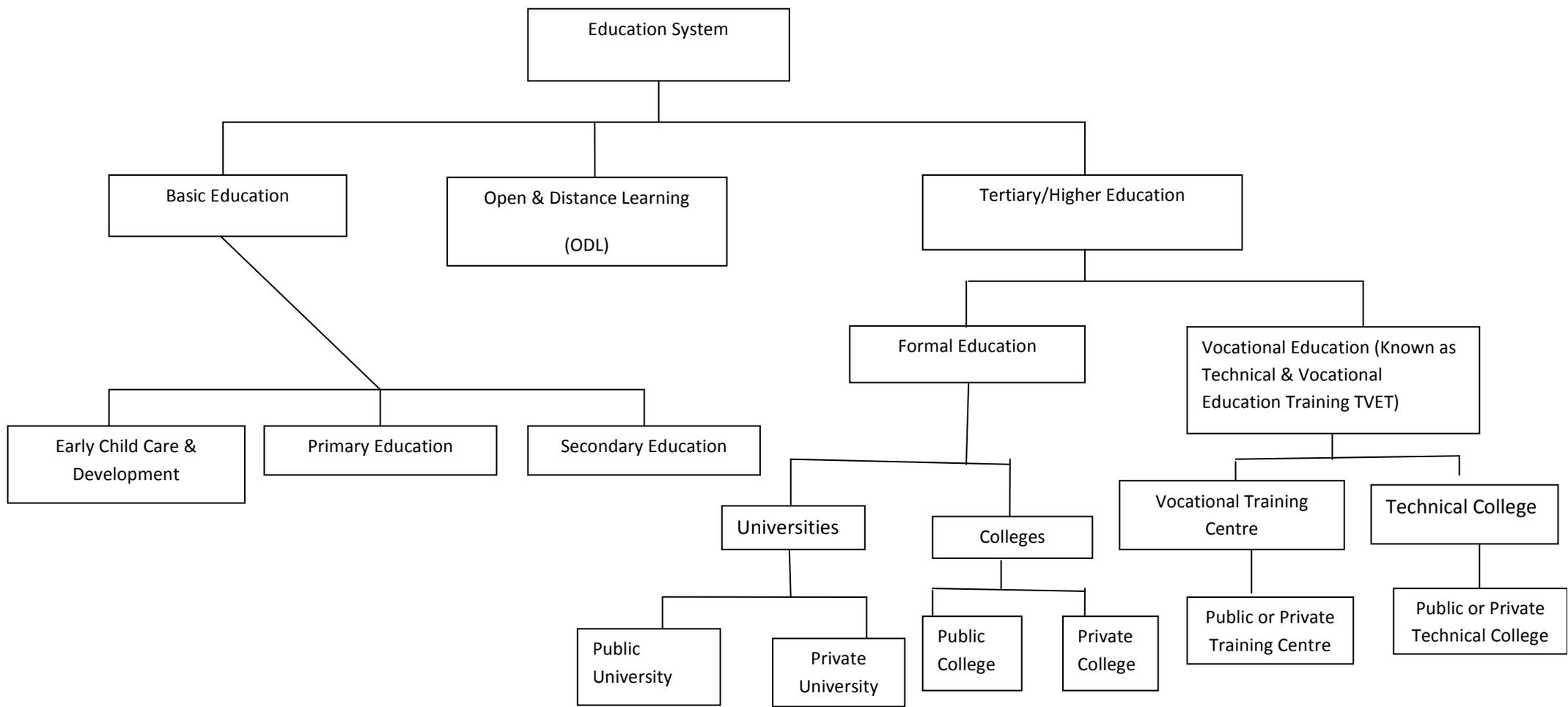
- ensuring that the learning needs of all young people and adults are met through equitable access to appropriate learning and life skills programmes;
- achieving a 50 percent improvement in levels of adult literacy by 2015, especially for women, and equitable access to basic and continuing education for all adults (Swaziland Government 2008, par 1).

In response, the Ministry of Education developed an integrated system of education that provides equal education opportunities to all Swazi nationals. It is discussed in the next section.

### **2.3.2 Education system in Swaziland**

The education system in Swaziland is categorised into basic education and higher education. Basic education is organised into: Early Childhood Care and Development Education, Primary Education, and Secondary Education. Higher education is classified into: Higher Education and Vocational Education (Swaziland Government 2008a, par 1). The diagram below depicts in compressed form the structure of the education system in Swaziland.

# Education System in Swaziland



### 2.3.2.1 Higher education in Swaziland

As already mentioned, higher education in Swaziland consists of formal and vocational education. The term *formal education* in this context refers to the post-secondary education designed to provide a variety of specialised academic programmes offered by universities and colleges. The term *vocational education* is used to refer to a type of education that is technical, specialised and totally related to a specific trade or vocation. It is offered at secondary and post-secondary levels and is designed to equip the learners with specific skills necessary for a particular trade or vocation. Secondary level vocational education is offered by vocational training centres, for example, Manzini Industrial Training Centre, Gwamile Vocational and Commercial Training Institute Matsapa, and National Handcraft Training Centre. Post-secondary level vocational education is offered by technical colleges, for example, Swaziland College of Technology.

To enter formal education, the learner is required to have gained six passes either from the General Certificate of Education or the International General Certificate of Secondary Education obtained in not more than two sittings, which include passes at 'C' grade or better in English Language and/or Mathematics and four other relevant subjects (Nazarene College of Nursing 2008, item 2.0.1; Swaziland Nazarene Bible College 2002, item B5.3 (3) (a); University of Swaziland 2008, item 041.21). There are two different sets of requirements to enter vocational education, depending on the level (secondary or post-secondary) in which the learner wishes to enrol. Entrance requirements for post-secondary level vocational education are similar to those for formal education. To enter secondary level vocational education, the learner should possess a Junior Certificate. However, other alternative criteria, for example, work experience, are considered for those who do not meet the required education level (Swaziland Nazarene Bible College 2002, item B5.1; B5. 2(1), (3); University of Swaziland 2008, item 030.20-030.23).

Three education qualifications, namely, a certificate, diploma, and degree are offered. A certificate programme generally takes between one and two years; a diploma takes two or three years; and the degree takes four years to complete. Two types of degrees are provided: the undergraduate and the graduate degrees. The undergraduate degree normally takes four years, while the graduate degree, in this case a master's degree, takes two or three years to complete (University of Swaziland 2008, par 151.41, 152.41). It should be noted that vocational education offers only certificates and diplomas, while formal education provides all three qualifications.

Even though the various qualifications (certificate, diploma, and degree) are offered by both formal and vocational education, they differ. Educational qualifications for formal education, for example, Diploma in Primary Education, Diploma in General Nursing, Bachelor's Degree in Theology, and Master's Degree in Agriculture, are academically and professionally oriented. Educational qualifications for vocational education are technical, specialised and entirely related to a specific trade or vocation, for example, certificates or diplomas in human resource management, information technology, motor mechanics, secretarial studies, business studies, and woodwork. To differentiate between the two levels of qualifications obtained from vocational education, the following expressions are used: Technical Diploma for the post-secondary level and Vocational Certificate for the secondary level.

In this section higher education in Swaziland is briefly described; thereafter the legal processes used to establish these institutions are investigated.

### 2.3.3 Positioning private higher education institutions

Institutions of higher education are classified into three categories: public, private, or government-aided institutions. The *public institutions* are established, managed, and funded by the Ministry of Education or any other government department. Some of those in this category include, *inter alia*, University of Swaziland (UNISWA), Swaziland College of Technology, Ngwane College of Education, Industrial Training Centre, National Handcraft Training Centre and Gwamile Vocational and Commercial Training Institute, Matsapa.

The *private institutions* are established, managed, and funded by individuals or private organisations. Since the late 1990s, their number, especially of vocational training institutions, has increased tremendously. The increase was a result of the establishment of vocational institutions by local businessmen and the establishment of learning centres by foreign universities. The local vocational institutions operate as companies registered by a ministry other than the Ministry of Education (Swaziland Government 1981, s 2(d)). Some of the institutions under this category include Nazarene College of Theology, Swaziland Business College and the Worker's College. The learning centres of foreign universities prepare adults to write specific exams for vocational courses (e.g. Level I, II and III Certificates) offered by the Association of Accounting Technicians (AAT), provided by foreign universities such as Boston University and the Eastern and Southern African Management Institute. Some of these centres include the Personal Computer Training Centre (PC Training), Boston College and Oxford College.

*The Unified Teaching Service Proclamation 34 of 1962* (The High Commissioner 1962, s 2,<sup>7</sup>) defines *government-aided institutions* as institutions “conducted by an agency [a person or organisation] with the aid of financial grants made by the government”. Thus,

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<sup>7</sup> The text references to this source indicate sections because the document is a proclamation.

*government-aided institutions* are educational institutions established and operated by individuals or private organisations but which receive financial support from a government ministry or department. As already mentioned, the financial aid given to these institutions could be effected either by means of government assuming full financial responsibility and providing direct payment of personnel salaries, retirement packages, staff development and student fees or by means of aid in the form of subvention.

The degree of government's financial involvement correlates with its participation in the management of an institution. The government has the upper hand in the management of institutions in which it assumes total financial responsibility, but exercises limited managerial responsibilities in the institutions that only receive subventions. The following examples portray the differences between government's involvement in the management of these institutions. The Teaching Service Commission, on behalf of the Ministry of Education, hires, promotes or transfers lecturers and administrative officers at NCE (Nazarene Higher Education Consortium 2008, item 3.2(4); Swaziland Government 1982, s 14; Swaziland Government 1983, ss 3-4) while the Board of Trustees of the Swaziland Nazarene Health Institutions, on behalf of the National Board of the Church of the Nazarene, is responsible for the hiring, promotion, and demotion of personnel at NCN (Swaziland Government 2003, par 16).

#### **2.3.4 Establishment of higher education institutions**

The legal framework for the establishment of higher education institutions in Swaziland was explained above. The reading of this legislation indicates that two legal instruments may be used for the establishment of higher education institutions in Swaziland: the Act of Parliament and Certificate of Registration (Swaziland Government 1981, s 3(1)-(3);

Swaziland Government 1983, par 3(1)-(2); Swaziland Government 2010, cl 40(2)). These two instruments are discussed next.

#### 2.3.4.1 Establishment of higher education institutions through an Act of Parliament

The Legal Notice 17 of 1969 and the Constitution indicate that there are two types of Acts of Parliament that can be used to establish higher education institutions, namely, a public Act and a private one (Swaziland Government 1969, par 2; Swaziland Government 2005, s 69(3), s 75(1), s 77(5)(a)-(c), (e)-(f), (6)-(8), s 106(a)-(b), s 107(a)-(d), s 108(1)-(3), s 109(1)-(4), s 121 (1)(vi), s 121(2)). A *public Act of Parliament* is an Act that establishes, regulates, authorises, prescribes, proscribes, governs and manages higher educational institutions. The Education Act 9 of 1981 and the University of Swaziland Act 2 of 1983 serve as examples. A *private Act of Parliament* is an Act that governs the establishment, governance and management of a private higher education institution (Swaziland Government 2010, cl 40(2)). In addition, a *private Act of Parliament* grants special benefits not available under a public Act to a private higher education institution (Swaziland Government 1969, par 2). This study focuses on the latter kind of Act; therefore, this section discusses the legal procedures for the adoption of such Acts.

Sections 69(3), 75(1), 77(5)(a)-(c), (e)-(f), (6)-(8), 106(a)-(b), 107(a)-(d), 108(1)-(3), 109(1)-(4) of the Constitution (Swaziland Government 2005) outline the following steps required in the making of an Act of Parliament in Swaziland:

- drafting and publication of the bill
- submission of the bill to the Cabinet
- submission of the bill to the House of Assembly or Senate (or to both houses)
- submission of the bill to the Parliament
- the voting on the bill; if the bill obtains the requisite number of approval votes, the bill is accepted
- presentation of the bill to the King for assent and signing

- publication of the law in the Gazette.

According to the Standing Orders 2-8 of the Legal Notice 17 of 1969 the responsibilities of drafting and the publication of the notice of intention to apply for a private bill are entrusted to any attorney enrolled in the High Court of Swaziland (Swaziland Government 1969, par 2-8). Even though the attorneys are given that responsibility, subsections (5), (7) and (8) of section 77 of the Constitution stipulate the Attorney-General as the overhead officer responsible for the law making process (Swaziland Government 2005, s 77(5), (7), (8)). Consequently, it can be said that when drafting a private bill the attorney should collaborate with the Attorney-General. The following quotation clarifies this stand:

(5) Without prejudice to the general functions under subsection (3), the functions of the Attorney-General shall be to -

(b) draw or peruse agreements, contracts, treaties, conventions and documents, by whatever name called, to which the Government is a party or in respect of which the Government has an interest;

(e) assist [private entities] in piloting bills in Parliament and providing guidance in legal matters to parliament...

(7) Subject to the other provisions of this Constitution, an agreement, contract, treaty, convention or document by whatever name called, to which Government is a party or in respect of which the Government has an interest, shall not be concluded without the advice of the Attorney-General (in person or by subordinate officers acting in accordance with the general or special instruction of the Attorney-General), except in such cases and subject to such conditions as Parliament may prescribe (Swaziland Government 2005, s 77(5)(b),(e), (7)).

Concerning the publication of a bill, the Standing Order 9 of the Legal Notice 17 of 1969 states:

- (1) Whenever application is intended to be made for leave to introduce a private bill, notice of intention to apply shall, once a week for two consecutive weeks be given in the Gazette and in one or more newspapers circulating in Swaziland. The last of the said notices shall be published at least 60 days before the presentation of the petition for leave to introduce the bill.
- (2) Such notice shall
  - (a) Contain a true statement of the general objectives of the Bill.
  - (b) Set forth such particulars as may be required ...

- (c) State that printed copies of all the bill have been or will be deposited in accordance with Standing Order No. 10; and
- (d) Disclose the name and address of the promoters.
- (3) Copies of the Gazette and newspaper or newspapers containing the said notice or the page on which such notice appears shall be submitted to the Clerk and shall be sufficient proof of publication (Swaziland Government 1969, par 9(1)-(3)).

Hereafter, the bill is submitted to the Cabinet, for two reasons. Firstly, the latter is responsible for any national development (Swaziland Government 2005, s 69(3)). Secondly, the Parliament may not deliberate on a bill that does not have the consent of the Cabinet signified by the Prime Minister and the Minister responsible (Swaziland Government 2005, s 111(a)).

The submission of a bill to Parliament is carried out thirty days before the intended day for the presentation of the bill to the latter (Swaziland Government 1969, par 11(1)-(2)). The Clerk of the Parliament determines the number of the copies of the bill to be submitted (Swaziland Government 1969, par 11(1)-(2)). Parallel to this, copies of the bill are also given to Regional Administrators, local authorities and staff of institutions whose rights or interests may be adversely affected by the provisions of the bill (Swaziland Government 1969, par (17), (18)).

Upon submission two examiners are appointed to access and evaluate the bill. They include the Clerk of the Parliament and any other member appointed by the presiding officer (Swaziland Government 1969, par 24, 25(1)-(3)). When the examiners establish that the bill complies with all requirements, it is tabled and read for the first time by the House. Hereafter, all the necessary procedures are followed. If there is no opposition, it is then submitted to the Parliament for further deliberations. After the Parliament has deliberated on the bill and reached a consensus, a vote is taken. If the bill obtains the required number of votes, it is accepted and passed (Swaziland Government 2005, s 125(1)).

Subsection (3)(b) of section 108 of the Constitution states, “Where the bill that has been duly passed is presented to the King for assent the King shall signify that he assents or withholds assent ... within twenty-one days” (Swaziland Government 2005, s 108(3)-(b)). After he has assented to the bill, it is then published in the Gazette as an Act of Parliament (Swaziland Government 2005, s 109(1)-(4)). Addressing the subject of the commencement of the operation of the law, subsection 3 of section 109 of the Constitution states that the King and the Parliament are responsible for determining the date on which a particular Act of Parliament comes into operation (Swaziland Government 2005, s 109(3)).

#### 2.3.4.2 Establishment of higher education institutions through registration

To register an institution of higher education the individual or organisation concerned must apply to the Principal Secretary in the Ministry of Education in accordance with the protocol and procedures prescribed by the Education Act 9 of 1981 and the National Education Policy of 1999 (Swaziland Government 1981, s 3(1)-(2); Swaziland Government 1999, par 12 (1.2.3.6)). However, once the Higher Education Bill of 2010 is signed as an Act, the registration of higher education institutions will be carried out by the Council of Higher Education (Swaziland Government 2010, cl 17(2); also see Mkhonta 2009: interview;).

Section 3(1) and (2) of the Education Act 9 of 1981 provides that

Every person who intends to establish [an institution of higher education must] apply in the prescribed form to the Permanent Secretary for the registration of such [institution].

Subject to subsection (3) no person shall operate [an institution of higher education] unless such [institution] is registered in accordance with this Act (Swaziland Government 1981, s 3(1) - (2)).

Paragraph 12 sub-paragraph 1.2.3.6 of the National Education Policy of 1999 states that

Private [higher education] institutions [may be established] provided that such institutions are properly registered with the Ministry of Education (Swaziland Government 1999, par 12(1.2.3.6)).

Clause 17(2) of the Higher Education Bill of 2010 declares that:

A person wishing to establish a public or private higher education institution shall apply to the Council for approval of establishment by submitting to the Secretary, an application in such manner as may be prescribed and accompanied by such details and such documentation as may be prescribed by the Council (Swaziland Government 2010, cl 17(2)).

After the receipt of the application, the Council inspects and verifies the viability of the project. To do so the Council considers the following indicators:

- The availability or the likelihood of the availability of the resources required to fund the project
- The viability of the presented plan for the achievement of the aims and objectives for which the higher education institution is to be established
- The ability of the proposed institution to maintain the required educational standards
- The correlation of the establishment of the institution with the national plan for developing higher education in Swaziland (Swaziland Government 2010, cl 19(1)(a)-(d)).

When the Council is satisfied that the application meets the aforementioned requirements, it approves the application and issues a letter under a seal constituting interim authority, and authorising the person or the organisation concerned to make preparations towards the implementation of the proposal (Swaziland Government 2010, cl 19(2)). Some of the major aspects that should be dealt with are the establishment of the governing and management structures of the institution, development of physical facilities, assembling of academic resources, advertisement of the programmes of instruction to be offered by the institution and admission of students to programmes that the Council may approve at the initial stage (Swaziland Government 2010, cl 19(2)(a)-(e)). Alongside these developments, the name and

particulars of the institution are published in the Gazette (Swaziland Government 2010, cl 19(3)).

Later on the institution “operating under a letter of interim authority and that has procured to the satisfaction of the Council the academic, physical and other resources necessary for the establishment of a viable higher education institution shall apply to the Executive Secretary for registration” (Swaziland Government 2010, cl 21(2)). When approved, the name of the institution is listed in the register, the institution is issued with a Certificate of Registration bearing the seal of the Council and notice of its existence (operation, and approved status) is published in the Gazette (Swaziland Government 2010, cl 22(1), (4)). According to the Higher Education Bill (Swaziland Government 2010, cl 22(4)), the certificate authorises the institution to exist as a legal entity and to operate as a fully accredited institution of higher education until such time as the certificate is suspended or revoked.

The Industrial Relations Act 1 of 2000 (Swaziland Government 2000) is another statute that should be considered. Sections 26, 27, 28 and 29 of the Act outline the registration process and the documents needed. One of the documents needed for registering any organisation or institution is the constitution of such an entity. The following are some of the aspects that need to be covered in the constitution:

- organisational structures of the university
- officers of the university
- financial provisions
- transitional provisions
- repeal of previous legislation (Swaziland Government 2000, s 29(1)(a)-(w)).

The founding instrument of an educational institution defines its legal status. Such status is an important aspect that needs to be addressed because it assures the consumers and the

education partners about the credibility of the institution as well as its educational programmes. In the following section the legal status of educational institutions in Swaziland is discussed.

### **2.3.5 The legal status of private higher education institutions**

The legal status of these institutions can be classified into two major categories: those pre-1981 and those post-1981. The pre-1981 institutions are a group of institutions founded before independence (1968). The institutions in this category are NCT, NCN, NCE and William Pitcher College established in 1915, 1928, 1936 and 1962 respectively (Magongo 2008: interview; Mbingo 2008:1-2; Nazarene College of Nursing 2008:6; Swaziland Nazarene Bible College 2002:10). Guided by the perceived needs of that time, the pre-1981 institutions specialised in three educational areas, namely, theology, health and education.

Even though this group of institutions differ to some extent they also display similarities, such as that they all:

- formed the nucleus upon which higher education in Swaziland was founded
- were established by religious organisations
- are government-aided institutions
- were established neither by an Act of Parliament nor by Registration, but are recognised as institutions of higher education and
- are affiliated to the University of Swaziland.

The post-1981 institutions are a diverse group composed of institutions that were constituted after the promulgation of the Education Act 9 of 1981. However, it is important to note that even though the University of Swaziland (the major institution in this group) was constituted in 1982, it developed from the University of Botswana, Lesotho and Swaziland, an

institution that was established in 1964 (University of Swaziland 2008:20). Besides the University of Swaziland, other institutions in this group include the Swaziland College of Technology, Ngwane College of Education, Industrial Training Centre, National Handcraft Training Centre and Gwamile Vocational and Commercial Training Institute Matsapa.

These post-1981 institutions are characterised by the fact that they:

- were established either by an Act of Parliament or by Government Order
- are corporate institutions
- are under the auspices of the Ministry of Education or another government department
- are public institutions, and
- are multidisciplinary institutions offering various programmes leading toward the conferment of various academic awards ranging from certificates to master's degrees.

The latter institutions diversified their education programmes to include all areas of study, *inter alia*, sciences, technology, business and industry. This diversification was prompted by two reasons. First, it was a response to the need for the development of human resources in all educational areas. Second, it was induced by the need for the provision of appropriate and adequate training as outlined by various governmental documents, *inter alia*, the National Development Programme (Swaziland Government 1999a) the Human Resource Development Strategy for the Public Service (Swaziland Government 2000a) and the National Health Workforce Development Plan 2007-2015 (Swaziland Government 2006).

Any education institution needs funds to operate. The funding of the private higher education entities in Swaziland is discussed below.

### 2.3.6 Funding of private higher education

Paragraphs 8.2, 10.1.1 and 11 of the National Education Policy of 1999, section 4(2) (e) of the Education Act 9 of 1981, and clause 5(2)(d) of the Higher Education Bill of 2010, indicate that institutions of higher education derive their funds from either the public or the private sector. Funds from the public sector include all monies derived from government, *inter alia*, subventions, scholarships, bursaries and other financial assistance given to students (Swaziland Government 1981, s 4(e); Swaziland Government 2010, cl 5(e), (f)). Private sector funds comprise, *inter alia*, money for tuition fees, scholarships, bursaries and donations.

One can pose the question: Why does government fund private higher education institutions? Recognising the services provided by private education institutions, the government *adopted*<sup>8</sup> some private higher education institutions, NCN and NCE included. The “adoption” of these institutions happened at different periods in response to different situations; hence, as noted, it takes different forms. The following paragraphs explain the events that led toward the embracement of these institutions.

The adoption of NCE took place in 1962 as a response to the teachers’ request for standardisation of teachers’ salaries and conditions of service (Magagula 2008: interview). Prior to the 1960s the government-aided institutions received a “grant” from the government that helped with the payment of salaries, construction of school facilities, and purchasing of school equipment and furniture. Due to financial constraints, church-related schools could not afford to match the salary and working conditions offered to teachers employed in public schools. As a result, teachers launched a protest and requested standardisation in these

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8 The term adoption is used in a connotative manner. The concept that the researcher wishes to portray is the embracing of these institutions in relation to financial matters. The Government of the Kingdom of Swaziland did not in any way nationalise the institutions. The institutions remained under the auspices of the founding organisation, in this case, the Church of the Nazarene.

respects. In an attempt to address the problem, a commission was established. From its findings, it recommended that government should regulate teachers' salaries and make direct payment of these regardless of the type of schools (public or private) at which they were employed. In response, the High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland promulgated the Unified Teaching Service Proclamation 34 of 1962, a statute that enabled the government to assume financial responsibility for both public and private education institutions, including higher education institutions such as NCE. The government's financial obligation to NCE included payment of salaries, payment of money related to staff development and the students' fees (High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland 1962, s 3-9,<sup>9</sup>; Magagula 2008: interview). The government's financial aid to private higher institutions was revived and extended by the Education Act 1 of 1981 to include assistance in the maintenance of the private institutions, and the provision of education facilities (Swaziland Government 1981, s 4(b)-(d), (h)).

The adoption of NCN occurred in the early 1980s as a response to the Declaration of the Alma Alta Conference of 1978. The Declaration stipulates the need for the provision of health services to all people by the year 2000 (Nhlengethwa 2008: interview). In its attempt to achieve this goal, the government realised that health services should be made accessible, acceptable, available and affordable to all Swazi citizens. Consequently it had to fund church-related hospitals and clinics as well as private higher education institutions offering nursing education such, as NCN. As a way forward, the Ministry of Health reached a 'gentleman's agreement' with the Swaziland Nazarene Health Institutions in which the government committed itself to the payment of a monthly subvention for the operation of these health institutions (Mabuza 2008: interview; Nhlengethwa 2008: interview). This

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<sup>9</sup> The text references to this source indicate sections because it is a proclamation.

agreement was formalised in September 2003 with its ratification by the Government and the National Board of the Church of the Nazarene in Swaziland.

The financial aid given to private higher education institutions implies the existence of a partnership between the government and these institutions. This is discussed next.

### **2.3.7 Partnership between government and private education agencies**

The subject of such a partnership has created a debate among scholars. Some, for example, Harman (1991:76) argue that like other private businesses, private higher education institutions should not have a close relationship with the government apart from the relationship established by the national obligations. Others, for example, Gornitzka, Kyvik and Stensaker (2002:382) and Jongbloed (2004:251-252), argue that private higher education is both a public and private business because it promotes intellectual, social and economic development, and thus, by implication there is a need for a partnership between government and private higher education.

Based on the principle that private higher education is both a public and private business, the Government of the Kingdom of Swaziland established working relationships with such institutions. These include, *inter alia*, recognition of the institutions, conceding of legal authority to their managers, and the provision of personnel and financial assistance toward institutional operation (High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland 1962, s 11, s 38;<sup>10</sup> Swaziland Government 2005b, par 7(6), 8, 9, 15). Besides this, the government signed contractual agreements that established and regulated the relationships as well as the management of those institutions.

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<sup>10</sup> The text references to this source indicate sections because it is a proclamation.

In summary, Swazi educational legislation outlines the basis for a partnership between the government and the private sector in the management of higher education. This partnership is based on the principle that the government is the overseer of higher education, and any agency undertaking educational business should comply with all necessary requirements, utilise the resources in a proper manner and be accountable to both the government and the public.

Such accountability to the government is not limited only to financial matters. These educational institutions are also accountable for human resource management. In the following sections the researcher addresses some aspects for which these institutions are accountable, especially the terms and conditions for employment and principles for human resource management in Swaziland.

### **2.3.8 Employment of lecturers**

The Teaching Service Regulations of 1983, the Procedures Involving the Teaching Service Commission of 2005, and the Teaching Service (Amendments) Regulations of 2005 outline various aspects relevant to the employment of teaching personnel, lecturers included. These include the terms and conditions of employment, definition of the employer, employment procedures, contract of employment, and the rights and benefits of the employees (Swaziland Government 1982, s 24-31; Swaziland Government 2005a, s 2-6, s 9-12). The researcher recognises that the aforementioned documents were designed for public institutions; however the contents are general and thus by implication are also applicable to private ones. Furthermore, as indicated in chapters one and two, sections 1.3.2, 1.3.3 and 2.3.3, NCE and NCN are government-aided institutions; consequently these statutes are relevant to the study.

The Teaching Service Regulations of 1983 require that all applicant lecturers must have obtained an appropriate academic qualification, submit an application to the relevant office, observe all protocols and be prepared to sign a contract of employment (Swaziland Government 1983, ss 3-4). The employee is given the right to associate himself with a workers' (employee) organisation for collective bargaining. In addition, the lecturer is entitled to a proper salary, favourable working conditions, pension, sick leave, death gratuity and vacation leave. These labour rights are guaranteed in the Bill of Rights of the Constitution.

Section 32 of the Bill of Rights states that

- a person has a right to practise a profession and to carry on any lawful occupation, trade or business
- a worker has a right to
  - freely form, join or not to join a trade union for the promotion and protection of the economic interest of that worker; and
  - collective bargaining and representation
- the employer of a female worker shall accord that worker protection before and after childbirth in accordance with law
- parliament shall enact laws to
  - provide for the right of persons to work under satisfactory, safe and healthy conditions
  - ensure equal payment for equal work without discrimination
  - ensure that every worker is accorded rest and reasonable working hours and periods of holidays with pay as well as remuneration for public holidays; and
  - protect employees from victimisation and unfair dismissal or treatment (Swazi Government 2005, s 2(1)-(4)(d)).

These rights find expression in the Wages Act 16 of 1964, the Employment Act 5 of 1980, the Workmen's Compensation Act 7 of 1983, and the Industrial Relations Act 1 of 2000 (Swaziland Government 1964; Swaziland Government 1983c; Swaziland Government 2000). The above mentioned Acts are the cornerstones upon which all Swaziland's labour regulations and policies are based. The statutes regulate labour aspects such as recruitment of the employees, contracts of employment, wages, allowances, compensation, working conditions, discrimination, employment of women, leave, employer and employee

organisations and federations, communication and consultations structures. The University of Swaziland Act 2 of 1983, the Statutes of the University of Swaziland of 1983, the Constitution of Nazarene College of Theology, are additional documents that address the above mentioned labour aspects (Swaziland Government 1983a; Swaziland Government 1983b; Nazarene College of Theology 2009).

The terms and conditions of employment, the selling or taking over of a business by another person or organisation constituted other aspects that needed to be dealt with because SANU is a result of the merger of three colleges, as indicated in sections 1.3, 1.3.2 and 1.3.3

Addressing legal issues emerging from the transfer of employees from one employer to another, section 33bis (1)-(2) of the Employment Act 5 of 1980 states:

- (1) An employer shall not
  - Sell his business to another person or
  - Allow a takeover of the business by another person
    - Unless he first pays all the benefits accruing and [which] are due for payment to the employees at the time of such sale or takeover
- (2) Notwithstanding subsections (1) if the person who is buying the business or taking it over, makes a written guarantee which is understood by and acceptable to each employee that all benefits accruing at the termination of his previous employment shall be paid by him within 30 days and by mutual agreement agreed in writing and approved by the Commissioner of Labour, subsection (1) shall not apply (Swaziland Government 1980, s 33(1)-(2))

Sections 26(1)-(2), and 30(b)-(c) of the Employment Act 5 of 1980 indicate that when the transfer of employees occurs, the terms and conditions of service may be altered. If this occurs, the new employer must notify the employee in writing, specifying the changes which are being made. If the employee is not satisfied with the new terms and conditions of service he must request the employer in writing to submit to the Labour Commissioner a copy of the new terms (Swaziland Government 1980, s 26(1)-(2), 30(b)-(c)). The Labour Commissioner reads the changes which are being made; and makes recommendations in an endeavour to

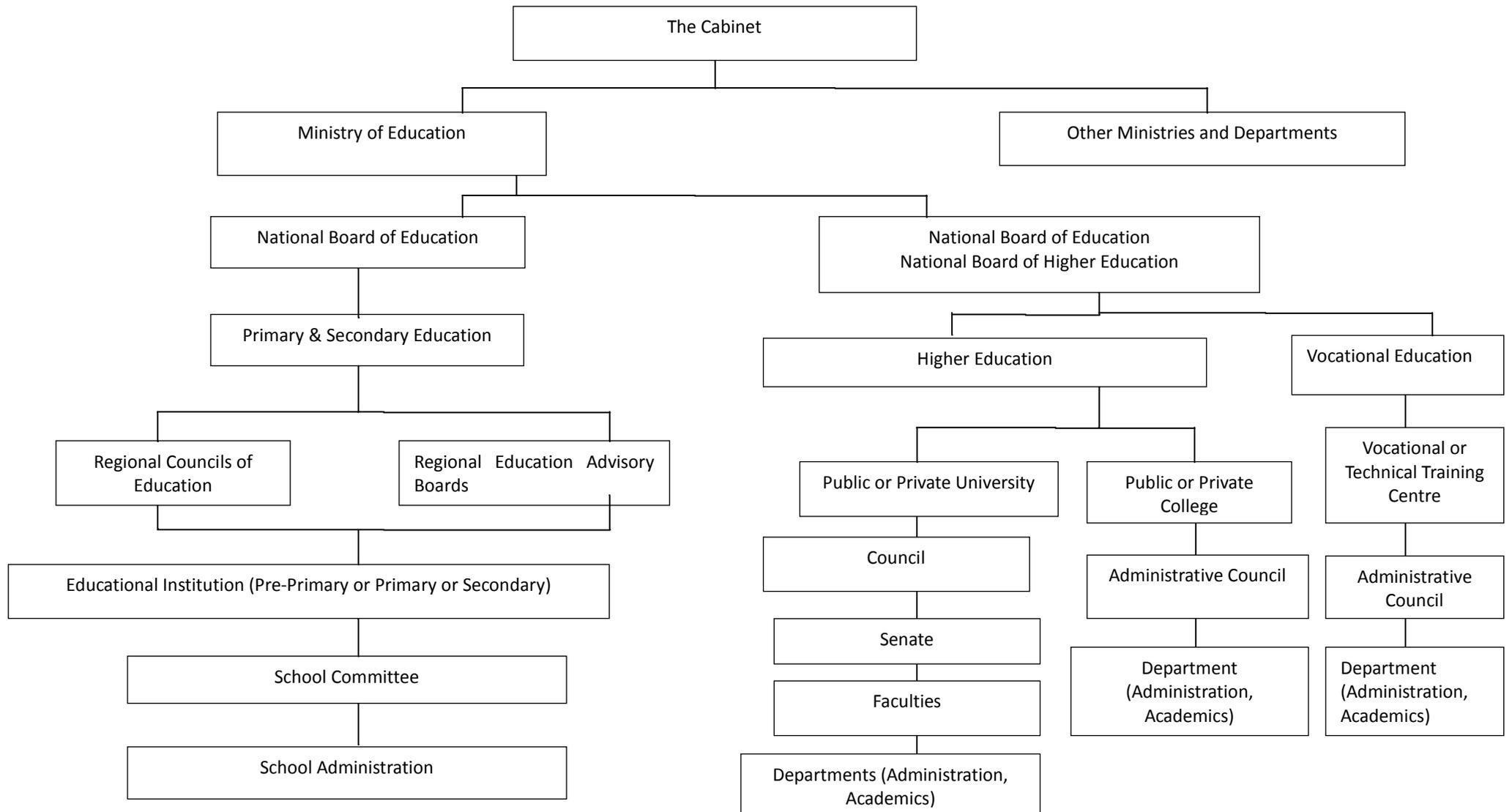
settle the matter. If he is not able to settle the matter he refers it to the Industrial Court (Swaziland Government 1980, s 26(3)-(4)).

In this section the researcher introduced employment aspects that require proper management principles and structures. The management framework of higher education in Swaziland is dealt with below.

## **2.4 MANAGEMENT FRAMEWORK OF HIGHER EDUCATION IN SWAZILAND**

The education system in Swaziland is organised and managed on three levels: national, regional, and local. In the following sections a brief description of each is presented. Due to the nature and scope of the research the discussion focuses on higher education. At the regional level there is no organisational and management structure for higher education; therefore that level was not included in the discussion. The following diagram depicts in compressed form the organisational and management structures of the education system in Swaziland.

## Organisational and management structure of the education system in Swaziland



### **2.4.1 Management of higher education: the national level**

At the national level higher education is managed by the Ministry of Education which consists of four departments: open and distance education, primary education, secondary education and higher education. The Minister of Education, the Director of Education and the Chief Inspectors serve as managers at the national level. These managers are responsible for the proper functioning of the educational system in Swaziland; however, each one of them carries out specified duties and functions which are now described.

#### 2.4.1.1 The Minister of Education

Section 7(a)-(c) of the Teaching Service Act 1 of 1982 and the Assignment of Responsibilities to Ministers, Notice 25 of 2009 prescribe the following aspects as the managerial duties of the Minister of Education:

- making of regulations prescribing the qualifications and other matters relating to the teaching profession
- making of regulations prescribing the terms and conditions of service in the teaching profession generally
- making of regulations prescribing the administration and management of the educational sector
- management of educational services (government and non-government institutions included) (Swaziland Government 1982, s7(a)-(c); Swaziland Government 2009).

#### 2.4.1.2 The Director of Education

Section 8(a)-(d) of the Teaching Service Act 1 of 1982 outlines the following duties and functions of the Director of Education:

- promoting and maintaining appropriate standards of qualifications and other matters in the teaching profession
- ensuring uniformity and harmony of the terms and conditions of service in the teaching profession
- facilitating the administration and management of the teaching profession.

#### 2.4.1.3 The Chief Inspector of Tertiary Education

The Chief Inspector of Tertiary Education is responsible for the management and welfare of the colleges. To achieve this goal the inspector, in collaboration with the principals, draws up and submits the institutional budgets to the Ministry of Education. In addition, the inspector assists the managers of the colleges to devise their strategic plans, and makes proposals for changes within the curriculum or organisational structures. The inspector, as in the case with SANU, is also delegated to help the institutions draw up the necessary documents and to facilitate the establishment process.

### **2.4.2 Management of higher education: the institutional level**

Management of higher educational institutions varies depending on the nature and organisational structures of a particular institution. Organisational structures may range from simple to complex. Regardless of their complexity, organisational structures define the roles and the relationships for those involved in management and establish a framework within which they may assist others in making decisions and accomplishing institutional objectives. The structures outline the duties and functions expected of and assumed by managers of the institutions. Even though the organisational structures define management and

administrative frameworks, management should be carried out within the limits defined by law (Ford, Hughes & Ruebain 2005:195).

The aforementioned lack of organisational and management structures for private universities limits the researcher to the discussion of the structures for public universities and public and private colleges.

#### 2.4.2.1 Organisational structures of public universities

This discussion will be limited to the University of Swaziland since it is Swaziland's only public university. The title, 'organisational structures of public universities', was purposefully used to generalise the subject and accommodate future development.

The managerial bodies of the only public university in Swaziland are determined in the *Statutes of the University of Swaziland* (Swaziland Government 1983b, ss 17-27, ss 33-38). Public universities in Swaziland possess two major managerial bodies: the Council, and the Senate. Each body has its standing committees. The standing committees of the Council include, *inter alia*, the Finance Committee, the General Services Committee, the Building and Tenders Committee, and the Joint Negotiation Committee. The standing committees of the Senate include, among others, the Dean's Committee, the Admissions Committee, the Academic Planning Committee, and the Senate Board of Affiliated Institutions (Swaziland Government 1983b, ss 17-27, ss 33-38).

The Council is the highest managerial body of the university and is responsible for the government, control and management of the university. It is responsible for the

- management of the university estate and buildings
- appointment of officers of the university

- provision for the welfare of both students and employees of the university
- validation and implementation of submissions from departments
- establishment or discontinuation of departments and faculties as recommended by the Senate and other relevant bodies (Swaziland Government 1983a, s 16).

The Senate of the university is the second highest managerial body and is responsible for the management of academic matters. As a management body the Senate

- manages and directs teaching and research
- approves the content of new programmes
- sets and upholds academic standards
- directs faculty development
- sets procedures for the award of qualifications
- is responsible for student discipline
- directs examinations (Swaziland Government 1983b, s 4).

#### 2.4.2.2 Managers of public universities

Sections 4, 8, 9, 10, 11, 12 and 13 of the University of Swaziland Act 2 of 1983 prescribe the following managers of public universities: the Chancellor (the King of Swaziland), Vice-chancellor, Pro-Vice Chancellor, Registrar, Bursar, Librarian, Deans and Heads of Departments.

Section 8(1) of the said Act states that the Chancellor is the Head and the Chief Officer of the University of Swaziland and that His Majesty the King of Swaziland occupies that position. The role of the Chancellor is mainly ceremonial, for example, awarding degrees during graduation ceremonies.

The Vice-chancellor is the Chief Academic and Administrative officer of the university. His major responsibility is to furnish the overall leadership for the executive management of the university and to provide for its day-to-day operations. This responsibility includes the following aspects among others:

- formulation, implementation and promotion of management policies
- chairing various University Committees and Boards
- serving as the Chief Disciplinary Officer of the University (Swaziland Government 1983b, s 5)

The Pro-Vice Chancellor is the third major manager of the university. Section 5(5) of the Statues of the University of Swaziland, 1983, promulgates that the Pro-Vice Chancellor assists the Vice-chancellor, and “acts as Vice Chancellor during a vacancy in that office or during the absence, inability or incapacity of the Vice Chancellor” (Swaziland Government 1983b, s 5(5)(a)). In addition, the Pro-Vice Chancellor is accorded the following responsibilities; to:

- co-ordinate academic programmes and regulations
- monitor formulation and implementation of the University Strategic Plan and projects
- chair various committees and boards as determined by the Senate
- liaise with external bodies, organisations and institutions on behalf of the University (Swaziland Government 1983b, s 5(5)).

The Registrar is the Chief Administrative Officer of the University, serves as the Secretary of the Council and the Senate and provides secretariat services to various committees and the board. In addition the Registrar

- keeps all university records (student registrations, academic records, etc.)
- serves as the human resource manager
- signs all legal university documents on behalf of the University
- represents the University in all University legal matters and

- manages the university transport and security services (Swaziland Government 1983b, s 6(6)).

The Bursar is the general manager of the institutional finances. These responsibilities include:

- directing the accounting functions of the University
- formulation of the University's accounting financial policies and regulations
- maintenance of the University's accounts
- receiving departmental budget estimates and compiling institutional budget for presentation to the [relevant bodies]
- assisting external auditors in the preparation of financial auditor's report
- being the custodian of university assets (Swaziland Government 1983b, s 7(5)(a)-(d),(f)).

The Librarian is responsible for the management of the library or libraries of the university, that is, for:

- the operations of the library
- marketing and promoting the library services
- keeping the library up to date with research and new technology
- provision of training and guidance in using a library to the students, staff, researchers (Swaziland Government 1983b, s 8(5)).

The Dean of a Faculty and a Head of Department are the academic and administrative heads of a faculty and department respectively. These officers shoulder similar managerial responsibilities. The difference is that the Dean of a Faculty deals with a larger entity while the Head of Department deals with a smaller entity within the faculty. Their managerial functions include co-ordination of activities of a faculty or department including, *inter alia*:

- the timeous preparation of examination papers
- appointment of external examiners
- collating and compilation of examination results

- monitoring the procedures for the appointment of new members of academic and non-academic staff
- supervision of the selection and admission of new students, and
- preparation of financial estimates for the requirements of a faculty or department (Swaziland Government 1983b, ss 9(5), 10(3)).

#### 2.4.2.3 Organisational and management structures of the colleges

The colleges make use of different organisational and management structures depending on whether a college is a public or private institution.

##### 2.4.2.3.a *Organisational structures of colleges*

The public colleges are directly managed by the Ministry of Education; thus they do not maintain organisational structures of their own. Everything, for example, the construction of facilities or the buying of educational supplies is directed and managed by officers from relevant departments at the Ministry of Education. This arrangement will be reversed once the Higher Education Bill of 2010 is enacted as a law, for it will establish colleges as entities capable of managing their own affairs. For proper management of the college the Bill establishes organisational structures and officers of the college. The structures include the Board of Governors, the Academic Board, Faculties and Departments (Swaziland Government 2010, cl 9(1)-(5), 14(1)-15 (1)-(3)). The managers include the Rector, Deputy Rector, Bursar, Librarian and Registrar (Swaziland Government 2010, cl 8(1)-(3), 17). Each one of these officers is entrusted with the responsibility of managing the college: for example, clause 8(2) of the Swaziland Higher Education Bill of 2010 states that, “the Rector shall be the chief academic and administrative officer of the College and shall exercise such powers and perform such duties as may be conferred on him by the Statutes” (Swaziland Government 2010, cl 8(2)). It is important to note that most of the organisational structures

proposed by the bill are reflected in the organisational structures of the private colleges, and thus serve as models.

As indicated, the private colleges make use of different organisational and management structures to those of public colleges: the structures can be categorised as administrative or academic. The administrative division consists of the Board of Governors, the Council or the Administrative Council (with its standing committees), and the Student Representative Council. The bodies in this division deal with the governance and management of the institution. For example, the Board of Governors owns and governs the institution while the other boards or committees manage it (Nazarene College of Education 2009:4; Nazarene College of Theology 2009:2; Nazarene Higher Education Consortium 2008:2; Swaziland Nazarene Bible College 2002:144-147). The academic division comprises the Senate or the Academic Council with its standing committees, including the Faculty Board, the Curriculum Committee, the Research Committee and the Library Committee. Even though the Senate and its standing committees manage the institution, these specialise in the management of academics.

#### 2.4.2.3.b *Managers of colleges*

As in any other organisation, colleges employ managers who direct their daily business. However, these also differ depending on whether the college is a public or private institution. The public colleges have the following managers: Principal, Vice-principal and Heads of Departments. The limitation in the number of the officers is a result of the fact that a public institution falls directly under the Ministry of Education and thus the officers of the ministry are directly responsible for the operation of public colleges (cf. chapter 2, section 2.4.2.3.1).

Private colleges employ various officers depending on their nature and needs. These managers can be classified as administrative, academic and non-academic officers. The administrative officers include, *inter alia*, the Principal, the Vice-principal, and Dean of Student Affairs, while the academic officers consist of, amongst others, the Registrar, the Academic Dean, Level Coordinator and Heads of Departments. The non-academic officers include, *inter alia*, the Business Manager and the Librarian. Even though there are these management areas, it is important to note that in a particular college a person may be active in most or all of the categories; for example, at NCE, the Principal serves in all areas.

Another important factor that should be pointed out is that the officers of public colleges are appointed by and are responsible to the Teaching Service Commission while the officers in private colleges, with the exception of those at NCE, are appointed by the Board of Governors/Trustees in accordance with the by-laws of the institution and are responsible to the Board (Nazarene College of Education 2009:4; Nazarene College of Theology 2009:2; Swaziland Government 1983, ss (3)-(4); Teaching Service Commission 1984, ss (1)-(2), (4)).

In the following paragraphs the researcher presents a collective description of the duties of the college managers.

The Principal serves as the chief administrator of a college. His duties encompass, *inter alia*,

- overseeing the general operation of the college
- advising the Ministry of Education or the Board of Governors on issues concerning the college
- chairing faculty and staff meetings
- serving as ex-officio member of all college committees
- communication with external educational and non-educational bodies regarding the promotion of the college and instructional programmes

- signing all diplomas and certificates issued by the college together with the relevant personnel, for example, the Registrar and Chairman of the Board of Governors
- nominating suitable qualified staff and officers for appointment (applicable to private colleges only)
- supervising and directing all building projects
- supervising the financial and business affairs of a college (Nazarene College of Education 2009:19-20; Nazarene College of Theology 2009:8-9; Swaziland Nazarene Bible College 2002:147-148).

The Vice-principal assists the principal in carrying out the daily management functions of the institution. He is responsible to the principal, and during the latter's absence assumes the duties of the principal, acting in his absence. Some of the vice-principal's duties include,

- assisting, advising and supporting the principal in the administration and management of the college
- establishing working committees that will address specific aspects, for example, admission and disciplinary problems
- setting class timetables and examination schedules
- planning and coordinating extracurricular activities, for example, sports, religious activities, and special functions
- supervising both academic and non academic staff
- enforcing and maintaining discipline (Nazarene College of Education 2009:18-19; Nazarene College of Theology 2009:8-9; Swaziland Nazarene Bible College 2002:148-149)

The colleges may be classified into two groups in relation to the posts of the registrar and the academic dean. Based on its American nature, NCT is the only one of the three Nazarene colleges that has instituted these two posts and differentiates between them. NCE and NCN have either one of them; this officer performs the work carried out by the two officers at NCT. NCE and NCN do not have the post at all; thus the principal or the vice-principal does

the work of these officers. According to the constitution of the NCT, the Registrar is responsible to the academic dean and the principal. Duties encompass, *inter alia*:

- keeping official documents of the college, for example, the Articles of Incorporation and the by-laws, minutes of all boards and committees as well as all reports presented by the officers of the college
- supervising and coordinating with the Academic Dean the admission procedures required of all applicants
- establishing, maintaining and preserving all personal confidential files relating to staff and students
- organising and directing the registration process for each college semester
- managing and recording all matters relating to the academic progress of students (Nazarene College of Theology 2009:10-11).

The Academic Dean is in charge of all academic matters and carries out immediate supervision of the academic programmes. This includes:

- supervising all academic programmes and activities of the college
- interpreting and implementing the academic regulations
- communicating with external educational and non-educational bodies in respect to the instructional programmes and the operation of the college as an institution of higher education
- developing, presenting and amending academic policies and programmes of the college
- making recommendations to relevant authorities and bodies (Senate) as regards the curriculum, programmes of study and graduation requirements
- advising the college administration regarding affiliation or accreditation of the college
- representing the college on all boards, committees and consultations for academic affairs
- ensuring proper adherence to the appointment and dismissal procedures for full-time and part-time faculty

- working with the librarian toward library development (Nazarene College of Theology 2009:9-10; Swaziland Nazarene Bible College 2002:149-150).

The Business Manager exercises immediate oversight of the financial and business affairs of the college, receives and disburses its income, formulates the annual budget, keeps accurate records of all financial transactions and formulates, as well as submits, reports of the fiscal condition of the college to the relevant authorities (Nazarene College of Theology 2009:12-13; Swaziland Nazarene Bible College 2002:151-1152).

The Librarian is the senior manager in charge of the library. In this role, the Librarian formulates library policies, coordinates and directs library operations, assesses library needs, prepares an annual budget, and trains and supervises library assistants, among other things (Swaziland Nazarene Bible College 2002:186).

The Dean of Student Affairs directs student affairs, organises extracurricular activities and works together with the college management in promoting student welfare.

The Level Coordinator and/or Heads of Departments serve as the head of a particular academic department, for example, agriculture, home economic, languages, nursing and midwifery. The responsibilities of the Level Coordinator and the Head of Department include, *inter alia*:

- planning and management of the development of a department or level (e.g. year I) in consultation with the Vice-principal
- reviewing the syllabus for a particular course of study within a department
- ensuring, as far as he/she is able, that lecturers within a department carry out the duties imposed on them in terms of their appointment

- working together with relevant departments of other higher institutions and relevant organisations to maintain required educational standards for the department
- organising, in liaison with the college administration staff, development (in-service or continuing education) for the department (Nazarene College of Education 2009:17-18).

## **2.5 SUMMARY**

This chapter contains a review of the legal and management frameworks within which higher education, and in particular private higher education, operates in Swaziland. The aim was to identify and scrutinise key issues concerning the management of private higher education in Swaziland that would affect the establishment of the envisaged Nazarene university and ultimately inform the constitution of the university.

The chapter was divided into two major sections: (1) the constitutional and legislative framework and (2) the management framework of higher education in Swaziland. In the first section the following aspects were discussed: human rights to education; the education system in Swaziland; types of higher education institutions there; the establishment of higher education institutions; legal status of institutions of higher education in this country; funding of private higher education and partnerships between government and education agencies; and the hiring of personnel. The management framework was sketched by discussing the managerial structures, at national and institutional levels, of higher education in Swaziland. The review served as the basis for contextualising the establishment and management of SANU within the higher education system of Swaziland.

In the next chapter the research methodology used for this study is presented.

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1. INTRODUCTION**

In this chapter the research methodology used for this study is described. The following aspects are discussed: research design and method, sampling techniques, instruments for data collection, procedures for data analysis and ethical considerations.

#### **3.2 RESEARCH DESIGN**

As indicated earlier, various scholars, for instance Babbie and Mouton (2001:72-74) and Rugg and Petre (2007:62-63), concur that the research design spells out the strategies the researcher plans to adopt for research. Hence, in this study the expression *research design* is used to refer to the overall plan the researcher devised for this study: it encompasses the research approach, sampling techniques and the instruments used for data collection and data analysis.

#### **3.3 RESEARCH APPROACH: QUALITATIVE RESEARCH**

Since it was the aim of the researcher to explore and describe management aspects related to the establishment of the SANU and its future operations, the qualitative approach was deemed appropriate for the present study. The characteristics of such research relevant to the study which motivated the researcher to follow this approach are indicated next.

### **3.3.1 In-depth examination of the phenomenon**

Describing the aims of qualitative research, Denzin and Lincoln (2005a: ix-xv), Denzin and Lincoln (2005b:5-12) and Flick (2002:2-3) conclude that these are to conduct an in-depth examination and consequently obtain a comprehensive understanding of the phenomenon under investigation. Therefore, the researcher of this study undertook an in-depth investigation of the legal framework as regards his topic.

### **3.3.2 Natural settings and understanding the phenomenon from the participants' frame of reference**

Denzin and Lincoln (2005b:3) state that “qualitative researchers study things in their natural settings, attempting to make sense of, or interpret, phenomena in terms of the meanings people bring to them.” Therefore, qualitative research is context specific and evaluated on the basis of its contribution to the people concerned (Vidich & Lyman 2000:39). Since the researcher attempted to understand higher education management in the context of the existing Swaziland legal framework for the establishment of private higher educational institutions, qualitative research is considered appropriate for this study.

### **3.3.3 The researcher as the key instrument**

Kemmis and McTaggart (2005:569-570) indicate that a qualitative researcher differs from other researchers in that he is at the centre of the research. As the key instrument, the researcher develops critical systems that will enable him to collect and interpret data as well as build quality relationships with the participants. The researcher in this study developed the research methodology, collected and interpreted data; he also created a relationship of reciprocal trust and rapport with the participants as the quality of the data depended on their truthfulness.

### 3.3.4 The researcher acts as insider researcher

One distinctive characteristic of qualitative research is that the researcher acts as an “insider researcher” (Le Gallais 2003:4-5; Robson 2002:382; Rooney 2005:6-9; Workman 2007:147-148). Rooney (2005:6) defines such a researcher as a person who is directly involved in the study and connected “with the research setting”. The researcher’s involvement in the study may occur in various forms, *inter alia*, that of an employee conducting a professional study and/or an employee conducting research as part of academic studies (Rooney 2005:6; Workman 2007:146-147). Defining the researcher’s connection with the setting, Edwards (1999:1) argues that the researcher is connected to the setting if the researcher has been a member of the particular organisation for five years.

There are various benefits when the researcher acts as an insider researcher, such as:

- long standing relationships between participants and the researcher, which result in the establishment of trust and rapport and are characterised by a spirit of openness, trust, and honesty
- possession of a rich knowledge about the history and the culture of the organisation so there is a better understanding of what happens, including the truthfulness of the information provided
- production of scientific knowledge that would improve practice
- the research addresses the needs of the organisation and assists with the development of organisational structure, support systems and methods
- provision of scientific knowledge appropriate for the improvement of peoples’ skills, roles and capabilities (Edwards 1999:1-13; Le Gallais 2003:4-5, 7-9, 12; Rooney 2005:6-7; 11, 15-16; Workman 2007:14-151, 154-155, 157)

These benefits are all applicable to this study and also serve as reasons why the researcher chose to act in this role. Rooney (2005:8) describes work-related studies as a “close-up reality based on thick description of participants’ lived experiences.” Such a study is best

conducted if the researcher is an insider. Since he was an insider researcher and a member of the group engaged with the establishment of the SANU, the participants were more open and trusted the researcher with confidential information, something that would have been less likely with an outsider researcher. Also, the rapport that the researcher established with the participants enabled him to engage them without any conditions attached (Le Gallais 2003:7).

The researcher worked in various educational institutions of the Church of the Nazarene in Mozambique, Swaziland and Kenya *inter alia* as lecturer, academic dean and registrar. He also served on various committees in these institutions. As an employee of these institutions, his objective was to improve the quality of the management and the programmes of study offered by the institutions. It was this desire that prompted the researcher to conduct the present study. Besides this, he hoped to produce scientific knowledge that would improve the objectives and purpose of the organisation, support system and practice (cf. chapter 1, sections 1.4, 1.5, 3.4.1, 3.4.2).

### **3.4 RESEARCH METHOD: ACTION RESEARCH**

As indicated in section 1.7.1, the researcher selected action research as his research method. This selection was motivated by two factors that characterise such research, namely, improvement of practice and involvement of personnel (Maree 2007:125, 129; McMillan & Schumacher 2006:148; McNiff & Whitehead 2002:15-16). These factors are complementary in that if one is utilised the other is also engaged (or developed), as observed in this study. They are briefly discussed below.

### **3.4.1 Improvement of practice**

According to McDowel, Smailes, Sambell, Sambell and Walkelin (2008:144) the improvement component is aimed at three areas: “improvement of practice, improvement of the understanding of the practice by the practitioner and the improvement of the situation in which the practice takes place.” In chapter one section 1.2 it was indicated that the personnel involved in the establishment of SANU are educational managers, people who can be considered practitioners. The engagement of the managers in this exercise is assisting them to improve their managing skills, which in turn leads towards the improvement of the manner in which the colleges are managed (practice). For example, two of the colleges operated without written constitutions, but as a result of the combined discussions, those colleges were able to draft their own constitutions. Added to this was the establishment of organisational committees that provide forums in which personnel can participate in the management of the institutions. The colleges have now merged into SANU but at the time of the gathering the information they were separate identities and the action research significantly improved management skills of the then managers of the colleges.

The second attribute of the improvement of practice is the understanding of the practice (higher education management) employed by the practitioner (education managers). One of the aims of the researcher in selecting action research was that it would aid managers to gain a better understanding of the nature of private higher education management. It is imperative that the managers of the colleges understand this, to ensure a smooth transition from individual colleges to a unified private university.

The third area in which improvement takes place is the betterment of the situation in which the practice takes place. The situation in this study was twofold: the Swazi context (the situation in which higher educational management occurs in Swaziland) and the institutional

context (the situation in which higher educational management occurs in a particular institution). In relation to the Swazi context, the researcher observed that the government was engaged in the development of legislation that would govern and manage all higher education in Swaziland, such as the Higher Education Bill of 2010. Besides this, the government has established consultative meetings with education stakeholders which included private and church organisations. For example on 5 October 2009 the Commissioner of Education in the Church of the Nazarene and the Board of Governors of NAHEC held consultative meetings with the Prime Minister and the Minister of Education. Addressing the attendees, the Prime Minister pointed out that the government was engaged in the development of legislation and policies that would govern higher education in Swaziland and invited the Church of the Nazarene to establish a university which would provide programmes that would meet the needs of the nation (Swazi TV News, 6 October 2009, 20:00h; Nhlengethwa 2009, Conversation). Responding to a question posed by Kent Brower, the Representative of the International Board of Education in the Church of the Nazarene regarding the instrument that would be used to establish SANU, Pat Muir, the Permanent Secretary of the Minister of Education said, “the Higher Education Bill is being developed and it will cater for the establishments of other universities in Swaziland [SANU included]. [And] it is hoped that this bill will be out very soon” (Nazarene Higher Education Consortium 2009:2).

In regard to the institutional context, the researcher would like to reiterate what has been mentioned. He observed considerable improvement in the management of the institutions involved in this study. Prior to the beginning of the establishment of SANU, college officers, for example the principals and the deputy principals, were the only people engaged in the management of some of the institutions. As these officers participated in the later meetings they exchanged experiences and deliberated on various managerial aspects; consequently,

there was a change in the manner in which the institutions were managed. In this way the study contributed toward the improvement of the current institutional situation as well. This is evident from the quality management principles and skills used by the NAHEC management team toward the establishment and management of the proposed university.

### **3.4.2 Involvement of personnel**

Addressing the value of the personnel's involvement in a study, numerous scholars such as Kemmis and McTaggart (2005:568), Maree (2007:125, 129), McDowel *et al.* (2008:144), McNiff and Whitehead (2002:15-16) as well as Reason and Bradbury (2001:2) point out that such involvement is significant because it contributes toward the

- provision of combined efforts in addressing work related challenges or problems
- production of knowledge that is practical, appropriate, balanced and useful
- improvement of practices through the use of critical and reflective exercises
- provision of opportunities through which personnel can systematically examine their actions and concerns about a particular phenomenon
- establishment of a collaborative spirit between the researcher and study participants as well as among education stakeholders.

All of the above mentioned aspects are pertinent to the study. The managers of the colleges involved in the study faced a number of challenges. One was the merging of the colleges. This was considered a challenge because, as indicated, it entailed the bringing together of three independent institutions. Besides, the need for an Act of Parliament that would govern and manage the proposed new university was identified.

Participation by personnel enables them to produce knowledge that is practical, appropriate and useful to a particular context (Reason & Bradbury 2001:2). It may take the form of

books, reports or articles. For this study, the manner in which this was realised was the communication of the legal aspects to the church leaders and future managers of the institutions as well as the need for a prototype Act of Parliament of the proposed university.

Speaking about the provision of opportunities through which personnel can systematically examine their actions and concerns about a particular phenomenon, Kemmis and McTaggart (2005:568) assert that their involvement

... involves 'reaching out' from the specifics of particular situations, as understood by the people within them, to explore the potential of different perspectives, theories, and discourses that might help to illuminate particular practices and practical settings as a basis for developing critical insights and ideas about how things might be transformed. [And] involves 'reaching in' from the standpoints provided by different perspectives, theories, and discourses to explore the extent to which they provide practitioners themselves with a critical grasp of the problems and issues they actually confront in specific local situations.

From this statement it is evident that personnel involvement is essential because it would enable participants to explore and enlighten their understanding of higher education management and furthermore facilitate the establishment of SANU.

Finally the collaboration provided by action research establishes interaction between the researcher and study participants. The issues addressed in this study are a result of such relationships. In addition, the interaction helped the researcher in the definition of the problem, data collection, data analysis and maximising the usefulness of the findings (Maree 2007:125, 129; McNiff & Whitehead 2002:15-16; Polit & Beck 2008:266). The merging of the colleges required collaboration between all stakeholders. The collaborative opportunity provided by the action research was the only means that could enable various stakeholders to engage in a dialogue toward achieving the overall goal.

### 3.5 SAMPLING INSTRUMENTS

Creswell (2007:125-126), Greeff (2005:304-305) as well as Strydom and Delpont (2005:327-328) identify non-probability, and especially purposive, sampling as the sampling method mostly used in qualitative research.

Purposive sampling was used to select participants and settings for this study. This technique was chosen because it enabled the researcher to select ‘information-rich’ participants as well as the “settings where the specific processes being studied are most likely to occur” (Strydom & Delpont 2005:328). As noted, the involvement of the researcher in the study, the existing longstanding relationships between participants and the researcher, the knowledge of the settings and the fact that the researcher had worked for NCN and NCT for a long period of time were advantageous to the selection of the participants and the settings. The researcher easily identified the ‘information-rich’ participants and the “settings where the specific processes being studied [were] most likely to occur” (Strydom & Delpont 2005:328).

Samples for qualitative research are usually small (Fontana & Frey 2005:703; Kamberelis & Dimitriadis 2005:891; Patton 2002:244). Qualitative research uses small samples because it involves an in-depth investigation and a combination of various methods or techniques for data collection, such as observation and interviewing (Creswell 2007:126-128).

Discussing observation, Strydom and Delpont (2005:328) point out that the researcher must select “settings where the specific processes being studied are most likely to occur”. Similarly, Rubin and Babbie (2001:399) assert, “field researchers ... observe everything within their field of study.” Based on the above information the researcher selected all the sites relevant to the study, namely, the three campuses of the Nazarene colleges.

Defining the size of the sample for qualitative research, Greeff (2005:305) comments,

Focus groups [in-depth interviews included] usually include six to ten participants. Groups this size allows everyone to participate, while still eliciting a range of responses. ... deciding on the right number of participants means striking a balance between having enough people to generate a discussion, but not having so many people that some feel crowded out. In making decisions about size, it is useful to think concretely about how much time each participant will get to talk in the group. Smaller groups [four to six people] are preferable when the participants have a great deal to share about a topic or have intense or lengthy experiences related to the topic of discussion.

The above mentioned numbers were considered for this study; thus a few participants were selected for the in-depth interviews and focus group discussions. Five people participated in the in-depth interviews namely the Director of Education, the Grantee/manager of the Nazarene Schools in Swaziland, the Principal of the Nazarene College of Nursing, the Financial Director of the Swaziland Nazarene Health Institutions and the Chairperson of the Manzini Nazarene Schools Committees. Two types of focus group discussions were conducted: one that used an interview schedule and another which did not. Initially, eight participants were selected to participate in the focus group discussions where interview schedules were used. The participants were the six members of the Rector's Advisory Committee (three principals, a deputy principal, an academic dean, and the researcher) and two members of the Board of Governors of NAHEC (the chairperson and the deputy chairperson of the Board of Governors of NAHEC). For reasons beyond the researcher's control the deputy principal and the academic dean were not able to attend the focus group discussions. The initial participants were also selected for the second category of focus group discussions. Once more the deputy principal and the academic dean were not able to participate. However, three new participants, namely, two attorneys and an officer from the Africa Regional Office were identified to replace them. The researcher was able to identify these participants because he acted as insider researcher and had access to other potential

participants. Their involvement with the establishment of SANU made them suitable participants and ensured that they met the set criteria (discussed below) for selection.

The criteria used to select the participants for the in-depth interviews were that they had to be a manager in one of the three colleges, or be an official in the Ministry of Education who is well informed regarding the organisational and management structure of the educational system in Swaziland as well as knowledgeable about education legislation in this country. The criteria used to select the participants for the focus group discussions were that they had to be involved in the establishment of SANU, to be a person who is well informed about the organisational and management structure of higher educational institutions and be someone who is a legal expert and is knowledgeable concerning the legislative process.

### **3.6 DATA COLLECTION INSTRUMENTS**

Three major instruments were used to collect data for this qualitative research, namely, observation, interviews and the literature review. Some scholars, for example, De Vos *et al.* (2005:274-325), Denzin and Lincoln (2005c:641-649), Gillham (2005:119-140) and Rugg and Petre (2007:92-152) subdivide these instruments into various categories, *inter alia*, indirect observation, participant observation, personal conversation, in-depth interview, focus group interview, literature review and analysis. Data collection for this research was undertaken through in-depth interviews, focus group discussions, participant observation, and a literature review. The researcher used a combination of these instruments in an attempt to secure an in-depth understanding of the phenomenon. In addition, the combination enabled the researcher to validate and cross-check the information (Denzin & Lincoln 2005b:5; Patton 2002:306). The selected instruments are discussed below.

### **3.6.1 In-depth interviews**

The in-depth interviews provided data to achieve the first and the third objectives which encompassed the following aspects: the legal status of the institutions of higher education, types of partnerships between government and the institutions and the financing of the institutions.

According to Fontana and Frey (2005:698-699) as well as Rugg and Petre (2007:135-136) interviews allow the researcher to obtain the information that people know on a particular phenomenon. When, as mentioned (cf. chapter 1, section 1.7.3.1), it transpired that certain agreements had been reached orally, in the absence of written documents, the researcher decided to conduct interviews with a government official and education managers to obtain the information. The government official was the Director of Education. The managers included the Grantee/manager of the Nazarene Schools in Swaziland, the Principal of the Nazarene College of Nursing, the Financial Director of the Swaziland Nazarene Health Institutions and the Chairperson of the Manzini Nazarene Schools Committees.

The interview with the government official was employed to elicit and clarify information concerning the organisational and management structures of the education system in Swaziland and to verify the organisational organograms presented in sections 2.3.2 and 2.4. The interviews with the managers were directed toward the acquisition of information related to the establishment and management of the colleges, the existing partnership between the colleges and government and the funding of the colleges. In so doing, the interviews were relevant to this study in that they allowed the researcher and the participants to explore and gain a comprehensive understanding of the phenomenon, not only based on the literature review but also on the individuals' perceptions and opinions.

The interviews were conducted on different days at the offices of the participants. The researcher interviewed the Principal of NCN and the Financial Director of the Swaziland Nazarene Health Institutions simultaneously so as to enable the participants to supplement each other's responses. The interview was conducted at the office of the Principal at NCN.

The in-depth interviews were not recorded since the participants requested this – a request with ethical implications that needed to be observed. Instead, the researcher took notes using a notebook. The non-recording of the interviews may have a negative impact on the trustworthiness of the findings. To safeguard the authenticity of the research, the researcher asked the participants to sign the manuscripts and informed them that the last mentioned would have to be submitted to the university if requested. In addition, the researcher secured permission from the participants to submit their names and contact details to the university if requested (Greeff 2005:293; Strydom 2005a:64).

Interview schedules were used. The schedules did not prevent the participants from including other aspects that were considered important toward the understanding of the phenomenon. The schedules only served as starting points and guiding instruments (De Vos *et al.* 2002:302). A maximum of sixty minutes was allowed for each interview. However, this length was not cast in stone as the duration of each interview was influenced by the content being discussed and the manner in which the participants responded.

In the following sub-sections the interview schedules for the in-depth interviews are described.

### 3.6.1.1 Interview schedule for the Director of Education

1. From the reading of education legislation (Acts, policies and bills) I was not able to identify charts presenting (1) organisational structures for the education system in Swaziland and (2) organisational and management structures for the institutions of higher education. However, I developed the following diagrams:
  - (a) Are these charts portraying the correct picture of the organisational structures?
  - (b) What structures are missing and should be incorporated?
  - (c) What structures should be eliminated and why?
2. Section 16(1) of the Education Act 9 of 1981 (Swaziland Government 1981) mentions the existence of the National Board of Higher Education. To my understanding this body is the one that is responsible for the regulation of higher education. However, section 5(1) and section 7 of the same Act indicate that the National Board of Education is the entity responsible for all educational matters (higher education included). Can you clarify this “discrepancy” and indicate which body is responsible for the functioning of higher education in Swaziland?
3. Education legislation with the exception of the Higher Education Bill of 2010 (Swaziland Government 2010) is silent regarding the organisational and management structures of the institutions of higher education, especially private colleges. What organisational and management structures exist to govern and manage these institutions?
4. What other information can you provide which can help me as I study the management of private higher educational institutions in Swaziland?

### 3.6.1.2 Interview schedule for the Manager of the Nazarene schools in Swaziland

1. Presently, the Nazarene College of Education (NCE) is under the management of the Ministry of Education.
  - a. When was the NCE transferred to the Ministry of Education?
  - b. What circumstances led to the transfer of the college from the Church to Government?
2. Is there an official document that formalised the transfer of the college to the Ministry of Education?
3. Was the transfer beneficial to the Church and personnel?
4. If the answer is yes what benefits were brought by the transfer? Please include benefits for both the Church and personnel.
5. If the answer is no, what were the disadvantages brought by the transfer? Please indicate the problems experienced by the Church and personnel.
6. What type of funding does the institution receive from the Ministry of Education?

### 3.6.1.3 Interview schedule for the Principal of NCN and the Financial Director of the Swaziland Nazarene Health Institutions

1. Presently, the NCN is under the control of the Ministry of Health and Social Welfare.
  - a. When was the NCN transferred to the Ministry of Health and Social Welfare?
  - b. What circumstances led to the transfer of the NCN from the Church to Government?
2. Is there an official document that formalised the transfer of the college to the Ministry of Health and Social Welfare?
3. What advantages were brought about by the transfer? Please include advantages for both the Church and personnel.

4. Apart from the benefits, what problems were experienced as a result of the transfer?  
If there were problems please indicate the problems experienced by the Church and personnel.
5. What type of funding does the institution receive from the Ministry of Health and Social Welfare?

#### 3.6.1.4 Interview schedule for the Chairperson of the Manzini Nazarene schools committees

1. You are one of the few living people who were directly involved in the establishment and development of the education institutions of the Church of the Nazarene in Swaziland. Having searched and found no official record about the exact date on which the Nazarene College of Education was established can you tell me when the college was established?
2. Who established it?
3. What motivated the establishment of the college?

#### **3.6.2 Focus group discussions**

Specific reasons prompted the researcher to select focus group discussions as one of the instruments for data collection. First, such discussions make it possible for people who work together or partners who intend to do so to gather, discuss their work plan and make suggestions regarding how things should be done (Greeff 2005:290-300; Kamberelis & Dimitriadis 2005:889:893; Krueger & Casey 2000:7).

As Strydom (2005:409-421) states, focus group discussion enables the participants to be actively involved in collective efforts to address and solve the problem, to critically reflect

and refine suggestions made by the participants and to provide a holistic approach to and understanding of the phenomenon being studied.

Describing the nature of the discussions carried out by the focus group, Greeff (2005:300) as well as Milena, Dainora and Alin (2008:1279) indicate that the discussions are to be carefully planned and should occur in a permissive and non-threatening environment. Discussing the benefits of the focus group discussion Greeff (2005:300-301), Kamberelis and Dimitriadis (2005:888, 981) and Lewis (2000:2) argue that a focus group (1) enables the researcher to establish various responses or views on a specific subject, (2) provides a variety of experiences from which the researcher may draw in-depth understanding of the phenomenon and (3) enables the people concerned to solve their own problems.

As regards the advantages of the focus group discussion compared to other data collection instruments, Kamberelis and Dimitriadis (2005:902-903) are of the opinion that:

The focus groups [interviews allow] researchers to explore the nature and effects of the [phenomenon] in ways that are not possible through individual interviews ... . Individual interviews strip away the critical interactional dynamics that constitutes much of social practice and collective meaning making... In contrast ... focus groups ... cultivate new kinds of interactional dynamics and, thus access to new kinds of information [which could not be obtained efficiently, if other instruments are/were used].

The focus group discussions were used to provide data to achieve objectives one, two, three four and five. Consequently, these discussions covered the following aspects: the legal framework within which private higher education institutions could be established in Swaziland; organisational and management structures of higher education institutions; types of partnerships between government and the institutions; the financing of the institutions and transfer of employees from NCT, NCN and NCE. It is important to note that the aspects covered by the focus group discussions are the same (with the exception of objective one) as those covered by the in-depth interviews. Even though the aspects are almost identical, they

differ with respect to the depth of study. The in-depth interviews established information that provides a comprehensive understanding of the phenomenon (cf. chapter 3, section 3.6.1) while the focus group discussions concentrated on what could be done for the establishment of the university, for example the production of a prototype Bill that could be used as a point of reference by private educational institutions in Swaziland and especially SANU.

As mentioned (cf. chapter 1, section 1.7.3.2), the focus group discussions were divided into two categories one using schedule or interview guide and the other that did not use an interview guide. Detailed information on each of these is now presented.

#### 3.6.2.1 Focus group discussion using interview schedule

Two focus group discussions were initially scheduled but only one was held. The combining of the focus groups was prompted by the working schedules and the availability of the participants. However, it is important to indicate that the participants addressed all the aspects originally planned to be covered in the second schedule. The two schedules were combined before the session. The combined schedule did not prohibit the participants from raising and elaborating on other aspects considered important towards gaining an understanding of the phenomenon. The schedule for the session is presented below.

### 3.6.2.1.a *Interview schedule for the focus group discussion*

#### Establishment of the Institution

1. There are two legal instruments (the Act of Parliament or a Certificate of Registration) used to legalise education institutions in Swaziland. Which legal instrument is the most suitable to establish SANU? Why do you regard that as the most suitable instrument?
2. It is a known fact that Swaziland does not have specific laws (with exception of the University of Swaziland Act 2 and the Higher Education Bill of 2010) upon which private higher education institutions will be established and operate. What are the implications of the unavailability of such laws for the establishment of SANU, and, in particular, for the management and governance of the new institution? How do you plan to overcome such problems?

#### Partnership

3. What type of partnership would you prefer to be established between the Government of the Kingdom of Swaziland and the SANU? Why do you prefer that type of partnership?

#### Finances

4. The Government of the Kingdom of Swaziland uses two methods to finance private institutions of higher education: direct payment of the salaries of staff and subvention. If the government will finance the university which type would you like to be adopted? Give reasons for your choice.
5. In the absence of specific policies that regulate the funding of private institutions, what assurance do you have for the continual sustainability of the government funds?
6. What other methods could the university use to generate income?

7. What should be done to secure adequate operational funds for the university and eliminate its possible financial dependence upon government?

#### Labour Issues

8. Presently, the Teaching Service Commission and the Management of the Raleigh Fitkim Memorial Hospital (on behalf of the Board of Trustees of the Swaziland Nazarene Health Institutions) are the employers of lecturers at NCE and NCN respectively. As the employers, the Teaching Service Commission and the Raleigh Fitkim Memorial Hospital have powers and authority more than any management structure, the Board of the Governors of the university included. If the Teaching Service Commission and the Management of the Raleigh Fitkim Memorial Hospital will continue to be the employers, who will have the power to appoint and dismiss the staff?
9. Knowing the challenges that the colleges, especially NCE and NCN have regarding hiring and transfer of lecturers (for example, the deployment of lecturers who do not observe the code of ethics of the Church of the Nazarene and the transfer of lecturers without consulting the administration of the college), what measures will be taken to prevent such problems for SANU?
10. Being a private and a church related institution, it is imperative that the personnel hired be fully in accord with the ethos of the Church of the Nazarene. How will that be taken care of if the Teaching Service Commission will be the employer?
11. SANU is established as a result of the merger of three institutions. The merger may not be favoured by some individuals who may opt for early retirement. What plans do you have to counteract that event from happening?

12. The faculty raised concerns about the loss of retirement benefits from the previous employers and the uncertainty about salary scales and other benefits offered by the university. What measures are being taken to address these concerns?

13. Addressing legal issues emerging from the transfer of employees from one employer to another, section 33 (1)-(2) of the Employment Act 5 of 1980 states:

(1) An employer shall not

Sell his business to another person or

Allow a takeover of the business by another person

Unless he first pays all the benefits accruing and [which] are due for payment to the employees at the time of such sale or takeover

(2) Notwithstanding subsections (1) if the person who is buying the business or taking it over, makes a written guarantee which is understood by and acceptable to each employee that all benefits accruing at the termination of his previous employment shall be paid by him within 30 days and by mutual agreement agreed in writing and approved by the Commissioner of Labour, subsection (1) shall not apply (Swaziland Government 1980, s 33(1)-(2))

Was this aspect taken care of? If not, when will it be taken care of? And how will it be dealt with?

### 3.6.2.2 Focus group discussion not using interview schedule

The second focus group discussion was conducted without using interview schedules. The reason was that the researcher did not want to channel the discussions to specific elements of an Act of Parliament, but, rather, wished to allow the participants to engage in a meaningful discussion that would help them decide what aspects should be incorporated into the SANU Bill.

To achieve this goal, two weeks before the first discussion the researcher briefed the participants about the objectives of the meeting, provided them with copies of documents that addressed the subject (the Act of Parliament) and asked them to read the documents in preparation for the discussions. The documents provided to the participants included: the Education Act 9 of 1981, the University of Swaziland Act 2 of 1983, the Industrial Relations

Act 1 of 2000, the Higher Education Bill of 2010, the constitution of the Nazarene Higher Education Consortium, as well as the catalogues and constitutions of the colleges. The readings of these documents familiarised the participants with aspects or elements of an Act of Parliament and enabled them to discuss specific aspects that had to be included in the SANU Bill.

The researcher was able to meet and brief the participants about the objectives of the discussion, as well as to acquire relevant documents, because he acted as an insider researcher. As such, he was accorded the privilege of serving in various committees and attending meetings of the Board of Governors. These included the Rector's Advisory Committee, the Steering Committee, the SANU Development Committee, the SANU Marketing Committee and the SANU Legal Committee. The researcher attended the proceedings of the first and the second annual meetings of the Board of Governors of the Nazarene Higher Education Consortium as well as the meetings the Board of Governors held with various stakeholders, *inter alia*, government officials, the McKnight Architect Group and the Swaziland Partnership Organisation. For more information about the researcher as an insider researcher the reader is referred to chapter three sections 3.3.3 and 3.3.4 of this study.

Even though there was no specific interview schedule, the following core principles of an Act of Parliament served as the basis upon which the discussion evolved:

- The Act of Parliament is the supreme law of an organisation
- The Act of Parliament is the foundation and source of the legal authority underlying the existence and functioning of an organisation
- The Act of Parliament provides a framework for the establishment of the organisational structures and indicates their relationships.

Two focus group discussions were held (one with an interview schedule and one without an interview schedule) . In the first the participants deliberated on critical aspects of the Act, including the legal authority underlying the existence and functioning of the SANU and the framework for the establishment of the organisational structures and their relationships. The second discussion session was used to identify the major aspects that emerged during the first session; to refine findings and to elaborate on aspects not sufficiently covered during the first one. The duration of sessions varied depending on the content of the information being discussed. During the discussions, the researcher took notes and also audio recorded the procedures.

As indicated in section 3.5, apart from the initial participants, three new ones, namely, two attorneys and an officer from the Africa Regional Office, participated. It is important to mention that the new participants met the requirements for selection because they were directly involved in the establishment process of the SANU; they were well invested with the organisational and management structure of higher education institutions; they were legal experts; and they were knowledgeable with the formulation of legislation.

Besides the two focus group discussions, the team held various meetings and extended discussions using electronic media in the form of e-mail exchanges as the participants refined the proposed SANU Bill.

### 3.6.3 Participant observation

Participant observation is considered to be an important instrument for data collection in qualitative research (Creswell 2003:185-188; Ritchie & Lewis 2003:35) because it enables the researcher to be actively involved in the daily settings with the participants, to study the phenomena as they develop and to possess practical experience of the problem. In this respect Strydom (2005:277) asserts that participant observation enables the researcher to have “first-hand experience of the daily, living experience of people, [to] become part of the situation being observed [and] gives him the opportunity to listen, to see, to inquire, and observe something significant happening”.

As participant observer the researcher attended major events where the establishment of SANU was addressed such as the meetings of various boards and committees, *inter alia*, the Board of Governors of NAHEC, the Rector’s Advisory Committee, the SANU Development Committee, the Executive Committee, the Strategic Planning Committee, and the Policy Development Committee. In addition, the researcher accorded attention to everyday life situations that were related to the management of the three colleges (Creswell 2007:134-135).

### 3.6.4 Literature review

A literature review is one of the methods used for data collection in qualitative research (Kelly 2006:316; Strydom & Delpont 2005:314). Strydom and Delpont (2005:314) termed the literature review the *study of documents* and defined it as “the analysis of any written material that contains information about the phenomenon that is being researched.” Creswell (2003:188), Neuman (2000:395), Strydom and Delpont (2005:315-318) as well as Ritchie and Lewis (2003:35) identified various categories of documents for study, *inter alia*, primary and secondary sources, personal and non-personal documents, public and procedural

documents. Discussing public documents, the above mentioned scholars identified the following: newspapers, magazines, newsletters, television, radio, books, journals, government publications, minutes of meetings, annual reports and financial reports, to mention a few.

For this study, books, journals, minutes of meetings, government publications including public and private laws that address the establishment, management and governance of higher education in Swaziland were scrutinised (cf. chapter 1, section 1.7.3.4). The reading of these documents enabled the researcher to identify aspects or areas that could be explored, establish principles that could be used for the establishment, governance and management of SANU, and integrate the findings into the wider context of educational management.

### **3.7 DATA ANALYSIS**

Various authorities such as Atkinson and Delamont (2005:821), De Vos (2005a:334) and Rugg and Petre (2007:151) concur that analysis of data in qualitative studies takes different forms depending on the type of data and the purpose of the study. Enumerating the types of data, Atkinson and Delamont (2005:821) and Perakyla (2005:868-870) aver that there are two major types of data used in qualitative research, namely spoken and written. The former data include, amongst other things, data from interviews and narratives, while the written data include, *inter alia*, data from books, journals and government documents.

Based on those types of data, different methods of data analysis were devised. Three, the semiotic narrative, discourse analysis and membership categorisation analyses, were evolved to analyse data from written sources. The conversation analysis method was developed to

analyse data from interviews (Atkinson & Delamont 2005:821-836; Perakyla 2005:870-875). Each one of these methods follows its own steps and procedures. Even though the procedures differ there are common aspects among them, for example, categorisation and identification of specific units or themes.

For this study, the guidelines for data analysis proposed by Creswell, De Vos and Hycner<sup>11</sup> were adopted (Cohen & Manion 1994:329-333; Creswell 2007:148-149; De Vos 2005:334-339). It is necessary to note that not all of the above-mentioned authors' guidelines were used; the researcher selected those that could be useful for the study. From these guidelines the following steps were selected and applied:

- Data collection and preliminary analysis
- Reading or listening to the interviews
- Transcription of the interviews
- Organisation of data
- Identification of categories, themes and units of general meaning, and relating them to the research question and objectives
- Identification of specific themes that were unique to particular participants
- Writing a summary of each individual interview
- Writing of a composite summary (Cohen & Manion 1994:329-333; Creswell 2007:148-149; De Vos 2005a:334-339).

Creswell (2007:150-154) and De Vos (2005a:333) point out that the process of data analysis in qualitative research does not proceed in a linear fashion. This was noticed in this study. Some of the above listed steps ran concurrently while others occurred prior to the preceding ones.

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<sup>11</sup> Hycner's guidelines were sourced from Cohen and Manion (1992:329-333). Therefore, there is no text reference and bibliography for Hycner except that referring to Cohen and Manion.

During the interviews and discussion sessions, the researcher made a preliminary analysis of the data collected. At the end of the day the researcher read the notes and listened to the recorded information to analyse, understand, expand and clarify what was said or discussed. After that, the researcher identified units of general meaning that appeared to be common among the majority of the participants. Once the units of general meaning were identified, they were reduced to units of meaning relevant to the research objectives. Furthermore, the researcher looked for specific themes that were unique to particular participants. This was followed by the writing of a summary (De Vos 2005a:333-344; Gillham 2005:119-140; Terre-Blanche, Durrheim & Kelly 2006:321-327, 338-339).

Data from the interviews, conversations and discussions were blended with those from observations and documents. Thus the report presents the integrated findings from all sources of data, namely, in-depth interviews, conversations, focus group discussions, observations and the literature review. To do so the researcher used descriptive language.

### **3.8 ETHICAL CONSIDERATIONS**

There are two basic categories of ethics that a researcher must consider: ethical issues related to the participants and those related to the discipline of research itself (Strydom 2005a:56). Regarding the participants, three primary ethical principles were identified: beneficence, respect for persons and justice (Edwards & Mauthner 2002:20; Polit & Beck 2008:170). Building on those principles, various sub-categories were developed, *inter alia*, freedom from harm, protection from exploitation, right to self-determination, right to privacy, honesty and justice (Fontana & Frey 2005:715; Polit & Beck 2008:170-175; Strydom 2005a:58-64). Two ethical principles were identified in relation to the discipline of research: accuracy and honesty (Polit & Beck 2008:185-186; Strydom 2005a:56, 65). This

section discusses ethical aspects observed during the selection of the participants, data collection, and the writing of the report.

In chapter three section 3.5 it was indicated that purposeful sampling was used to select participants. Even though this method was used, participants were accorded the privilege to decide whether to participate, refuse to give information, or to withdraw from the study. To accomplish this, the researcher informed the participants about the goals of the research, the procedures to be followed and the precautionary measures he would take to safeguard their identities (Polit & Beck 2008:171-172; Strydom 2005a:59). In this way the researcher can assert that participants were not coerced but participated voluntarily (Babbie & Mouton 2001:470; Neuman 2003:124; Thomas & Smith 2003:21).

As indicated in chapter 3 section 3.6.1 the in-depth interviews, personal conversations and the meetings were not recorded. In respecting the norms of the meetings, the researcher found it fit not to record the proceedings. In that way he did not violate the participants' right to privacy and self-determination and upheld the procedures of the committees (Greeff 2005:293; Strydom 2005a:64). Another aspect that is worth noting is that during the focus group discussions there were times during which the researcher was asked to stop recording the proceedings, for example, when the group was considering the appropriateness/eligibility of His Majesty being the Chancellor of SANU and the implications of this for the university.

Emphasising the ethical responsibilities of the researcher towards the writing of the report, Strydom (2005a:65) makes it clear that "researchers should compile the report as accurately and objectively as possible." To achieve this goal Strydom (2005a:66) concludes that the

- information must be formulated and conveyed clearly and unambiguously to avoid or minimise misappropriation by subjects, the general public and even colleagues
- researcher should avoid all forms of emphasis or slanting)
- researcher should acknowledge all sources consulted and people who collaborated in the study.

In pursuit of a study that is accurate, objective, clear and unambiguous, the researcher observed all these ethical principles and guidelines.

### **3.9 LIMITATIONS OF THE STUDY**

Hosfstee (2006:87) asserts: “Limitations are inherent in academic work. You can’t do it all and you can’t do it perfectly. No one expects you to”. That is true even for this study. The major limitations for this study included: lack of legislation regulating the establishment and management of private higher education institutions, and the shortcomings that characterises the few existing legislation (cf. chapter 1, sections 1.6.1.3, 1.7.3.1); lack of document containing historical information about the development of private higher education institutions (cf. chapter 2, section 2.3.6); and difficulties in the convening the focus group discussion (cf. chapter 3, sections 3.5, 3.6.2.1).

In spite of these limitations, great efforts were made to minimise their effects upon the findings. To minimise the effects of the first and second limitations the researcher used the Higher Education Bill 1 of 2010 as it indicates the direction future law will probably take, conducted in-depth interviews with government officials and education managers, and conducted focus group discussions to get the required information. To minimise the effects of the third limitations the researcher had to conduct the schedules proposed two focus discussion (one using interview schedule) at once as participants could not attend two

sessions due to working schedules. Even then not all participants were able to attend. But, the researcher was able to identify other participants that meet the criteria (cf. chapter 3, sections 3.5; 3.6.2.1)

### **3.10 SUMMARY**

In this chapter the research methodology was described. The chapter began with a discussion of the approach used, namely the qualitative one, and proceeded with the discussion of the research method, namely action research. Two factors that characterise action research, improvement of practice and involvement of personnel, were briefly discussed. It is important to note that the second factor was the major factor that contributed to the selection of this method; thus more emphasis was placed on it. Next, the chapter presented the sampling technique. The non-probability sampling technique, especially the purposive sampling technique, was discussed, the instruments used for data collection were identified, the data analysis methods used were described and ethical considerations were spelt out.

Using the instruments described in this chapter, the researcher collected and analysed the data. The findings are contained in the next chapter.

## CHAPTER FOUR

### RESULTS AND DISCUSSION OF THE FINDINGS

#### 4.1 INTRODUCTION

Chapter two contains a theoretical review of the management of higher education in Swaziland, especially private higher education. This review serves as a basis for contextualising the establishment and management of SANU within the higher education system of Swaziland. Since, as noted, private higher education is still in the process of being developed (or established), empirical research was necessary to gain essential information and to deepen the understanding of the Swazi phenomenon. According to the research design as described in chapter three, the in-depth interviews, focus group discussions, participant observation, and literature review were conducted to examine the legal and management aspects of the establishment and management of SANU. As indicated in section 3.7, an eclectic method for data analysis, derived from the steps presented by Creswell, De Vos and Hyncer,<sup>1</sup> was developed and employed in this study (Cohen & Manion 1994:329-333; Creswell 2007:148-149; De Vos 2005:334-339). In accordance with the ethical principles adopted for this research, pseudonyms were used to ensure the anonymity of the participants.

In this chapter, the objectives of the study are revisited and examined in conjunction with the processed data. The objectives of the study identified in chapter one were to

- explore the legal framework within which private higher educational institutions, and especially SANU, could be established in Swaziland in order to:

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<sup>1</sup> Hyncer's guidelines were sourced from Cohen and Manion (1992:329-333). Therefore, there is no text reference and bibliography for Hyncer except for that of Cohen and Manion.

- determine which legal and management processes should be undertaken to acquire the appropriate legal instrument that would establish (the legality of) SANU;
- examine the implications of using the existing legal framework for public education for the establishment of a private higher education institution in Swaziland, and in particular, the drafting of a prototype Bill for the management and governance structures of SANU.
- develop a prototype Bill that can be used as a reference for establishing private higher education institutions in Swaziland, and especially for establishing SANU
- define the type of partnership that should be established between the Government of the Kingdom of Swaziland and the Church of the Nazarene in the governance and management of SANU
- outline potential methods that could be used to secure operational funds for SANU
- discuss labour-related problems emerging from the transfer of the employees of NCT, NCN and NCE to SANU.

#### **4.2. LEGAL FRAMEWORK FOR THE ESTABLISHMENT OF PRIVATE UNIVERSITIES**

This section focuses on the existing legal framework within which private higher educational institutions, especially SANU, can be established; the legal process that should be undertaken to acquire the appropriate legal instrument that would establish SANU; and the presentation of a prototype Bill for the establishment of private universities in Swaziland.

As indicated in chapter two, section 2.3.4, the legal framework for the establishment of higher education institutions in Swaziland is currently found in the Education Act 9 of 1981, the University of Swaziland Act 2 of 1983 and the National Education Policy of 1999.

Besides these, it was indicated that the Higher Education Bill of 2010<sup>2</sup> was also considered as it indicates the future direction for higher education and, when passed, it will serve as the road map for the establishment of higher education institutions. The reading of the aforementioned legislation supplemented by data from in-depth-interviews and focus group discussions indicated that two legal instruments can be used for the establishment of higher education institutions in Swaziland, namely, an Act of Parliament and a Certificate of Registration (Swaziland Government 1981, s 3(1)-(3); Swaziland Government 1983, s 3(1)-(2); Swaziland Government 2010, cl 17(2), 40(2)).

The researcher recognises that both instruments are required, although they serve different purposes. The Act of Parliament is required to establish the university as a legal entity and the Certificate of Registration is required to legally permit the university to become operational. The researcher would like to point out that according to the data from the in-depth interviews, the Certificate of Registration constitutes part of the process of the establishment of a private university through a general Act. When there is a *general Act* or *umbrella Act*, a private university can be established under that Act provided the applicant follows the procedures and complies with the requirements prescribed by the Act. The legal processes are now discussed.

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<sup>2</sup> Since the Bill does not have a number, this document will be referred to as the Higher Education Bill of 2010 throughout the thesis.

#### 4.2.1 Legal instruments governing the establishment of SANU

The participants<sup>3</sup> agreed that the university should be established through an Act of Parliament rather than through a Certificate of Registration. The selection of the Act of Parliament may raise the following questions: where does the said Certificate fit into the process where an Act of Parliament is used? Is this Certificate not part of the process of establishing a university through an Act of Parliament? As was indicated in the previous paragraphs, the managers of SANU and data obtained from in-depth interviews indicated that the two possible options constitute separate processes. When the registration process is followed, the individual institution applies for registration in terms of a general Act, such as the proposed Higher Education Act of 2010.<sup>4</sup> When the route of an Act of Parliament is followed, the Act for that specific university is passed, for example, The University of Swaziland Act 2 of 1983 (Swaziland Government 1983a). At the moment, the role and functions of these instruments and processes are not clearly defined. In addition, the two processes are intertwined because there is uncertainty as to precisely what the procedures and requirements are and the relevant provisions of the Higher Education Bill of 2010 appear to be haphazardly implemented (cf. chapter 4, sections 4.4.1; 4.4.2).

The selection of the Act of Parliament was informed by two factors: practice and the recommendations by different stakeholders. The two factors are discussed next.

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<sup>3</sup> The term *participants* is used to refer to the people who participated in the focus group discussions, namely the Principal of NCE, the Principal of NCN, the Principal of NCT, the Chairperson and the Deputy Chairperson of the Board of Governors of NAHEC (now called SANU), an officer from the Africa Regional Office of the Church of the Nazarene, the researcher, and two attorneys (cf. chapter 3 section 3.5).

<sup>4</sup> Parliament approved the Higher Education Bill of 2010 in September 2010; however, the King has to assent to it before it becomes law (cf. chapter 2 sections 2.3.4, 2.3.4.2, 4.2.2). The researcher is aware that the Act should be assented to within 21 days, although, in reality, it does not really function like this in practice.

The selection of the Act of Parliament is considered to be practice-oriented because the submissions presented by the participants are based upon practice. The participants indicated that in their experience higher education institutions are established by an Act of Parliament. They consequently suggested that this is the route to follow with regard to SANU. The following submissions by Participant A/Manager and Participant B/Admin respectively, support this reasoning:

I think that there is only one instrument used to [establish] higher education institutions in Swaziland – that is the Act of Parliament, for example, the Act that established the University of Swaziland.

We do not know [if there is] a choice. Registration is just a registration to enable the institution to exist as a legal entity. But here we are talking about being legislated as a legal entity to provide higher education. I don't know if registration can establish a university ... . [The Act of Parliament] is what we want, but we wait for the people with legal expertise to tell us what else we can use to establish SANU. But what else does exist [apart from the Act of Parliament]?

Secondly, the choice of the Act of Parliament was informed by consultative discussions which the Rector's Advisory Committee (RAC) and the Executive Committee of the Board of Governors of SANU (ExCo) held with different personnel, for example, government officials and church leadership.

We have never talked about registration in regard to SANU, but the Act of Parliament ... . That is the instrument we have discussed with the Prime Minister, the Minister of Education and the Church leadership ....(Participant B/Admin).

As a result, there is cooperation between those who manage the establishment of SANU and government departments. Addressing the subject Participant D/Admin said:

If we were encountering problems – whereby we knock on doors and no one addresses the issue – that would be disastrous. But presently, the Ministry of Education is supporting us, encouraging us, guiding us and leading all the way. It may be the writing of the proposal or the Cabinet paper or any other document.

The results obtained from the analysis of the data and the observations that the researcher made during the meetings between participants and government officials suggest that some misunderstandings existed between the two groups. Government officials, such as the Premier and the Principal Secretary to the Ministry of Education, referred to the public Act of Parliament (i.e., the Higher Education Bill after its adoption into law) that would govern the establishment of all higher education institutions in Swaziland while the participants referred to the development of a private Act of Parliament that would establish SANU (e.g., the SANU Act). Another misunderstanding is related to the interpretation of the support and guidance rendered to the management of SANU by the government officials during the writing of the application for the establishment of SANU and the Cabinet paper. The support furnished by the government officials was related to the procedures for the establishment and registration process, while the participants considered the support as relating to the procedures for the promulgation of an Act of Parliament.

#### **4.2.2 Legal process for the promulgation of a private Act of Parliament**

Five steps for the promulgation of a private Act of Parliament were identified (cf. chapter 2, section 2.3.4.1). The steps include: the drafting and publication of a bill; the submission of a bill to the Cabinet and to Parliament; voting on a bill; the assenting to and signing of a bill; and the publication of an Act in the Gazette (Swaziland Government 2005, ss 69(3), 75(1), 77(5)(a)-(c), (e)-(f), (6)-(8), 106(a)-(b), 107(a)-(d), 108(1)-(3), 109(1)-(4)).

According to the Standing Orders 2-8 of the Legal Notice 17 of 1969 and the Constitution, the responsibilities of drafting and the publication of a private bill are entrusted to any attorney enrolled in the High Court of Swaziland in collaboration with the Attorney-General

(Swaziland Government 1969, par 2; Swaziland Government 2005, s 77(5)-(8)).

Before a bill is submitted to Parliament, the attorneys should publish a notice of intention to apply for a private bill once a week for two consecutive weeks in the Gazette and in one or more local newspaper. The last notification should be published sixty days before the intended date of application (Swaziland Government 1969, par 9(1)). The notice should indicate the names of the promoters and the objectives of the particular bill. Copies of the bill should also be given to various personnel, *inter alia*, the Secretary to the Cabinet, the Clerk of Parliament, Regional Administrators, Local Authorities and all persons or organisations whose rights or interests may be affected by the provisions of the bill (Swaziland Government 1969, par 11(1), 17(1)).

As indicated in chapter 2 section 2.3.4.1, a bill is submitted to the Cabinet for two reasons: the Cabinet is responsible for any national development (Swaziland Government 2005, s 69(3)) and the Parliament may not deliberate on a bill that has not gained the consent of the Cabinet (Swaziland Government 2005, s 111(a)). Once the Cabinet consents, regulations dictate the steps that must be followed to ensure that the particular bill complies with all the requirements before it reaches Parliament. After the Parliament has deliberated on the bill and reached consensus, a vote is taken and if the bill obtains the required number of votes,<sup>5</sup> it is accepted and passed (Swaziland Government 1969, par 24, 25(1)-(3); Swaziland Government 2005, s 125(1)).

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<sup>5</sup> The Parliament in Swaziland comprises 95 parliamentarians of which 65 are members of the House of Assembly and 30 are members of the House of Senate. In a normal sitting, 48 votes are needed to pass a bill in Parliament. However, it is rare that all parliamentarians attend a session; thus a majority vote of the members present is required for a bill to be accepted and passed.

After a bill has been accepted and passed by the Parliament, it is presented to the King for assent. Section 108(3)(b) of the Constitution states: “Where the bill that has been duly passed is presented to the King for assent, the King shall signify that he assents or withholds assent ... within twenty-one days” (Swaziland Government 2005, ss 108(3)(b), 109(1)-(4)). Dealing with the commencement of the operation of the law, section 109(3) of the Constitution states that the King and the Parliament are responsible for determining the date on which a particular Act of Parliament comes into operation (Swaziland Government 2005, s 109(3)).

To develop the SANU Bill, a committee, entitled the *Legal Advice Team* composed of the members of the Rector’s Advisory Committee (RAC), members of the Executive Committee of the Board of Governors of SANU (ExCo)), members from the International Church of the Nazarene and two attorneys, was formed. The researcher acted as a member of this committee. To achieve its objective, the committee held several meetings, two of which served as the focus group discussions for this study. The team also conducted electronic discussions, which revolved around the contents, structures and organisation of the SANU Bill and the role an Act of Parliament plays in the process of establishing a private university.

As a result of such discussions, the *Legal Advice Team* decided on the structures and aspects to be included in the SANU Bill. As evident in the verbatim transcription (cf. Addendum G) of the first focus group discussion, at the beginning of the process the members of the *Legal Advice Team* used two terms, namely, *Act of Parliament* and *Charter*, to refer to the SANU Bill. However, they finally adopted the term *Act of Parliament*.

The SANU Bill is divided into five sections:

- establishment, incorporation and seat of the university
- constitution and government of the university
- degrees, examinations and admission to the university
- formulations of the statutes and regulations of the university
- general and miscellaneous interpretations.

The aspects incorporated into the above mentioned sections of the SANU Bill include, *inter alia*, the establishment of the university, vesting of the property, membership of the university, its officers, the establishment and composition of the governing bodies, and powers and duties of the managers.

It is worth noting that transitional provisions relating to various aspects, for example, governing bodies, conditions of service, initial arrangements for the funding of SANU (with the exception of clause 2(1)-(2)), were not included in the Bill. Being aware of these limitations, on the 9 August 2010 the researcher notified the members of the *Legal Advice Team* of these by means of an e-mail. However, the members did not share this concern and therefore did not address the issue. The copy of the e-mail is attached as Addendum O.

The final draft of the Bill was presented to the Board of Governors of NAHEC for approval on 19 August 2010. After approval it was submitted to the Ministry of Education. The

prototype Bill was compiled and used to compile the SANU Bill. The full text of the SANU Bill is to be found in section 4.3 of this chapter.

### **4.2.3 Legal process for the acquisition of a Certificate of Registration**

In discussing the establishment of a higher education institution through a Certificate of Registration, it was pointed out (cf. chapter, 2 section 2.3.4.2) that the individual or organisation concerned has to apply in accordance with the protocol and procedures prescribed by the Education Act 9 of 1981 and the National Education Policy of 1999 (Swaziland Government 1981, s 3(1)-(2); Swaziland Government 1999, par 12 (1.2.3.6)). Furthermore, it was indicated that the protocol and procedures included in the Higher Education Bill of 2010 should be considered as they indicate the future foundation upon which private higher education institutions will operate (Mkhonta 2009: interview; Swaziland Government 2010, cl 17(2)).

The person or organisation concerned should submit an application for the establishment of the institution to the Permanent Secretary in the Ministry of Education (cf. chapter 2, section 2.3.4.2). When the application is approved, a letter of approval is issued by the Ministry of Education. The letter allows the person or organisation concerned to make final preparations and begin operations. Subsequently, the institution applies to the Permanent Secretary in the Ministry of Education for registration. When the application is approved the institution is included in the list of the registered institutions, its name is published in the Gazette and it is issued with a Certificate of Registration (Simelane 2010: personal conversation).<sup>6</sup> The

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<sup>6</sup> When the Higher Education Bill is enacted, the application will be submitted to the Executive Secretary of the Higher Education Council, which will then approve or disapprove the application. If

Certificate “constitutes authority to continue operations until such time as the Higher Education Council or the Minister of Education suspends or revokes it” (Swaziland Government 2010, cl 22(4)).

Addressing those present at a consultative meeting between the representatives of the International Church of the Nazarene, the Board of Governors of the Nazarene Higher Education Consortium, and the Office of the Prime Minister, held on 5 October 2009 at Mbabane, the Prime Minister indicated that the government was developing legislation and policies that would govern higher education in Swaziland (Swazi TV 2009: News bulletin). That information was echoed by the Permanent Secretary of the Ministry of Education when addressing the proceedings of the joint meeting of the officials from the Ministry of Education, the representatives of the International Church of the Nazarene, the Board of Governors of NAHEC (now SANU) and members of the Rector’s Advisory Committee held on the same day. In his speech, the Permanent Secretary indicated that his ministry had developed the Higher Education Bill of 2010 which was being discussed by the Parliament and when enacted would provide guidelines for the establishment of public and private institutions of higher education in Swaziland. Furthermore, he requested the members of the Board of Governors of NAHEC and the Rector’s Advisory Committee to prepare and submit a formal application for the establishment of the institution and requested the Chief Inspector of Tertiary Education to assist the members of the above mentioned board and committee with the application (Southern Africa Nazarene University 2009b: minutes of the joint meeting).

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approved, a letter of approval and the Certificate of Registration will be issued (Swaziland Government 2010, cl 17, 18, 19, 21, 22).

A team was formed to draft the necessary application document.<sup>7</sup> The researcher was selected as a member of the team, to serve as the secretary and to be responsible for the development of chapters one and four and part of chapter five of the application document. The selection of the researcher favoured him in that it made it possible for him to act as an insider researcher, provided him with another platform which he could use as a source of data, enabled him to gain a better understanding of what was happening, and above all, enabled him to be connected with the research settings (Edwards 1999:1-13; Le Gallais 2003:4-5, 7-9, 12; Rooney 2005:6-7; 11, 15-16; Workman 2007:14-151, 154-155, 157). After six months the team produced a sixty-page document. This was submitted to the Ministry of Education on 16 April 2010.

The document consists of five chapters. Chapter one contains the historical background; the mission and vision statements of SANU; the purpose, functions and objectives of SANU; the justification for the establishment of the university; and the benefits that SANU could hold for Swaziland. In chapter two, the schedule for the establishment of SANU is presented. In chapter three, the academic awards (certificate, diploma, bachelor's degree and master's degree) to be offered by the university are described. The offering of the doctoral degree will be considered in the near future. Provisions are made for the introduction of new educational programmes each year beginning from the year 2012. These include: business management and entrepreneurship, design and technology, information communication technology, horticulture and tourism, social sciences, human resources management, and property management. In chapter four, the existing personnel is enumerated indicating educational and professional qualifications, teaching ranks, number of lecturers per school and a brief

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<sup>7</sup> The document is entitled "Proposal for the Establishment of the Southern Africa Nazarene University".

discussion of current employment status as well as the projected number of lecturers needed for quality functioning of the college. In chapter five, the budget estimates for physical facilities, student enrolment and personnel are given. The facilities include, *inter alia*, administration centres, teaching and learning facilities, student facilities, a library and information technology centre, and sports facilities. The estimated budget for the facilities is R269.8 million. A six year projection of student enrolment was calculated at six percent growth per academic year. An estimated total cost of R45,000.00 per student was reached and a 10 percent escalation per annum agreed upon. The estimates indicate that in the year 2015 SANU should be able to educate 2580 students which would allow it to generate R187 million from tuition fees. Regarding personnel, it was estimated that by the year 2015 SANU will be employing 239 academic personnel requiring R109 million per annum and 77 administrators requiring R38 million per annum.

The Ministry of Education forwarded the application to the Cabinet, which approved it on 20 June 2010. The submission of the application document by the NAHEC Board of Governors, the approval of the application by the Cabinet and the issuing of the letter of approval by the Ministry of Education constitute the first step towards establishing a private higher education institution through registration, as stated in clause 17 of the Higher Education Bill of 2010 (cf. chapter 2, section 2.3.4.2). Clauses 18, 19, 21 and 22 of the Higher Education Bill of 2010 allow for the institution to prepare for and begin operations before applying for the registration certificate.

Even though the Cabinet has approved the application for the establishment of SANU and a letter of approval has been issued by the Ministry of Education, participants still believed that

SANU should be established by an Act of Parliament. This aspect is discussed in the next section.

### **4.3 SOUTHERN AFRICA NAZARENE UNIVERSITY BILL OF 2010**

The contents of the Bill are now reproduced

To provide that the Nazarene College of Nursing, the Nazarene Teacher Training College and the Nazarene College of Theology shall become and be incorporated as a private university and further provide for the constitution, rights, powers, privileges, and duties of that university.

It is desirable that the Nazarene College of Nursing, Nazarene Teacher Training College, herein after referred to as the Nazarene College of Education, both of which are situated in Manzini, and the Nazarene College of Theology, situated in Siteki, shall become a university. This university shall be established for the promotion and advancement of learning with a Christian emphasis. The main campus will be at Manzini Nazarene Complex in Manzini and a satellite campus at Siteki. Both campuses will have residence accommodation.

BE IT ENACTED by His Majesty the King, the Senate and the House of Assembly of the Kingdom of Swaziland as follows:

*Establishment, Incorporation and Seat of the University*

- 1.(1) Upon a date to be fixed by the Minister by notice in the *Gazette* (hereinafter referred to as “the appointed day”) the Nazarene College of Nursing, the Nazarene College of Education, both of which are situated in Manzini, and the Nazarene College of Theology shall become a University.
  - (2) The name of the University shall be “Southern Africa Nazarene University”, and shall under that name, be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable in law of
    - (a) suing and being sued;
    - (b) acquiring, holding and being subject to the special provision as to alienation hereinafter contained, of alienating property movable or immovable and to perform such other Acts as a body corporate may lawfully perform.
  - (3) Such university (hereafter referred to as “the University”) shall exist for such purposes, with such constitution, and with such rights, powers, privileges, and duties, as are described in this Act and set out in the Statutes of the University.
- 2.(1) The Board of Governors of NAHEC, its Council and Senate who held the executive powers of the Consortium immediately prior to the appointed day shall continue to govern the university by the same NAHEC Constitution until those conditions set in section *three* have been fulfilled.

- (2) The members of the teaching and administrative staff of the three colleges who held office immediately prior to the appointed day shall continue as members of the teaching and administrative staff respectively of the University and shall continue to be governed by the same conditions in respect of emoluments and tenure of office unless and until those conditions are altered by the Board of Governors in accordance with the Statutes.<sup>19</sup>

### *Vesting of Property*

#### 3. On the commencement of this Act:

- (1) All the property, movable or immovable, vested or contingent, and all rights, powers and privileges of any kind which, immediately prior to the appointed day, were vested in the Board of Governors of NAHEC, or which, if this Act had not been passed, would accrue to or vest in that board, shall, upon and as from that day, without payment of transfer duty, stamp duty or registration charges, accrue to and vest in the University, which shall, as from the appointed day, assume and be liable for all debts and liabilities of the Board in respect of that institution, subject to the conditions under which those debts and liabilities were incurred:

Provided that all funds or rights vested immediately prior to the appointed day, by trust, device, or bequest, in any of the Colleges or the Board of Governors of NAHEC thereof shall be applied or exercised by the University in accordance with the conditions of the trust, devise, or bequest.

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The reading of this clause implies that there is more than one person in one position. At this present moment all personnel maintain their positions until all necessary conditions are fulfilled. The transitional arrangements are being drafted.

- (2) The Registrar of Deeds shall make any necessary endorsements or attestations to records and documents relating to the assets referred to in this section as may be necessary to give effect to the provision of this section.
4. (1) At any time after this Act has been published as an Act in the *Gazette* a Provisional Board shall be constituted consisting of existing members of the Board of Governors of NAHEC;
- (2) Such Provisional Board shall have power to submit to the Commission, appointed under section *twenty-seven*, draft Statutes, draft regulations, draft joint statutes, and draft joint regulations, and shall further possess the powers and functions conferred upon it by the next succeeding section and those powers and functions only as detailed in the NAHEC Constitution, and shall remain in office until the Board of Governors of SANU and the Council of the University have been constituted as hereinafter provided.
  - (3) The quorum of the Provisional Board shall be as that provided for under the NAHEC Constitution.
  - (4) If any vacancy occurs amongst the members of the Provisional Board by reason of death, resignation, incapacity or otherwise, the Board shall, as soon as possible thereafter, appoint a person to fill the vacancy, but the powers and functions of the Provisional Board shall, in the meantime, continue as if no vacancy had occurred, but subject always to the provisions of sub-section (3).

5. (1) The seat of the University shall be upon a portion of Farm No. 435 in the District of Manzini or such other place as may be appointed by the Board of Governors of SANU from time to time. The Board is hereby authorised, at any time after this Act has been published as an Act in the *Gazette*, to reserve as a site for the University, and at any time after the appointed day, to grant to the University, such portion of land as it may deem requisite for the purposes of the University.
- (2) Notwithstanding the provisions of sub-section (1), the University may also conduct its university activities elsewhere, including in any community or hospital department approved by the Director of Health Services and Director of Education in consultation with such relevant public authorities and assigned to the University for such purposes, and at such other places as the Board of Governors may approve.
- (3) The University may enter into any agreement with any health authority for the purposes of and incidental to teaching and training in medicine and surgery and other allied disciplines of the Faculty of Medicine of the University.

*Constitution and Government of the University*

6. The University shall consist of:
- (1) the Board of Governors of SANU (hereafter referred to as the Board of Governors)
  - (2) the Chancellor
  - (3) the Vice-Chancellor of the University
  - (4) the Pro Vice-Chancellor(s)

- (5) the Registrar
- (6) the Council
- (7) the Senate
- (8) the professors, lecturers, staff and students of the University
- (9) the Bursar
- (10) the Director of Library Services
- (11) Joint Committees of the Council and Senate
- (12) Convocation

*The Board of Governors*

7. (1) The membership of the Board of Governors, whose appointment or election shall be set out in the Statutes, shall consist of:
- (a) two general Church of the Nazarene representatives as set out in the Statutes
  - (b) the Chairperson of the National Board of the Church of the Nazarene in Swaziland or his/her designate
  - (c) the Vice-Chancellor
  - (d) the Registrar
  - (e) the Bursar
  - (f) the Chair of the Council
  - (g) the Chair of the Senate

- (h) the Student Representative on the Council as set out in the Statutes
  - (i) eight representatives of the Church of the Nazarene in Swaziland as set out in the Statutes
  - (j) representatives from education institutions and Church leaders from Southern Africa as set out in the Statutes.
- (2) Subject to the provisions of this Act, the Board of Governors shall be the final authority in all matters pertaining to the University and shall exercise the governing authority of the University.
- (3) The duties of the Board of Governors shall be set out in the Statutes and shall include:
- (a) at their first meeting held after the appointed day, to elect by majority of votes of Governors present, the Chancellor for the ensuing five year term
  - (b) to hire the Vice- Chancellor and approve faculty and key administrative personnel of the University
  - (c) to appoint the Chairman and Vice-Chairman of Council for such period as shall be determined by the Statute
  - (d) to hold full fiduciary responsibility for the University
  - (e) to clarify the mission and approve long range plans and overall policies of the University
  - (f) to receive and approve at the annual general meeting of each year a report which Council shall lay before the meeting of the proceedings, together with an audited financial report of the state of affairs of the University during the preceding year.

- (4) The Board of Governors may delegate to the Council or the Senate any powers or functions which the Board is itself competent to exercise or perform in accordance with the provisions of the Act. The Council and Senate shall be accountable to the Board of Governors for the exercise of this delegated authority.
- (5) The Board of Governors may delegate to any of the officers of the University such of its powers or functions which the Board is itself competent to exercise or perform in accordance with the provisions of the Act. The officers shall be accountable to the Board for the exercise of this delegated authority.

#### *Chancellor*

8. (1) There shall be a Chancellor of the University who shall be a member in good standing of the Church of the Nazarene and shall be appointed by the Board of Governors at their annual meeting.
- (2) The Chancellor shall be the titular head and patron of the University and in the name of the University shall confer all degrees.
- (3) The Chancellor shall hold office for a term of five years but shall be eligible for re-appointment.
- (4) The Chancellor, shall among other qualifications, be a holder of at least a Masters degree and have wide experience in the management of institutions of higher education, public service, church or community services.

*Vice-Chancellor*

9. (1) The Vice-Chancellor shall be the chief executive officer of the University, appointed by the Board of Governors in the manner prescribed by the Statutes, and his powers and duties shall be as thereby prescribed.
- (2) The Vice-Chancellor shall be the *ex-officio* chairman of the Senate.
- (3) The Vice-Chancellor shall, in the absence of the Chancellor, have power to confer degrees.
- (4) The Vice-Chancellor shall hold office for a term of five years but shall be eligible for reappointment.

*Pro-Vice Chancellors*

10. (1) The Pro-Vice Chancellor Academics shall be the chief academic officer of the University who shall be appointed by the Board of Governors in the manner prescribed by the Statutes of the University under such conditions of service and perform such duties as the Board may determine.
- (2) The Pro-Vice Chancellor Administration shall be the chief administrative officer of the University who shall be appointed by the Board of Governors in the manner prescribed by the Statutes of the University under such conditions of service and perform such duties as the Board may determine.
- (3) The Pro-Vice Chancellors shall be under the immediate supervision and control of the Vice-Chancellor.
- (3) The Pro-Vice Chancellors shall hold office for a term of five years but shall be eligible for reappointment.

*Council*

11. (1) Subject to the provisions of this Act, and subject to the approval of the Board of Governors in accordance with Section 6, the executive authority of the University shall be vested in the Council which shall consist of:

- (a) the Vice-Chancellor of the University, who shall be chair of Council;
- (b) the Pro-Vice Chancellor(s) of the University
- (c) one person appointed by the Minister of Education; and
- (d) one person appointed by the Minister responsible for Public Service Human Resources Management; and
- (e) one person appointed by the Minister of Finance; and
- (f) three persons elected by convocation of the University; and
- (g) six persons nominated by Senate amongst their number; and
- (h) one person chosen by the Council of the University of Swaziland; and
- (i) one person elected by the academic staff who are not members of Senate themselves; and
- (j) one student chosen by the Student Representative Council.

Except, as in paragraph (g) provided, a professor of the University shall not be eligible for election as a member of the Council.

(2) The Board of Governors shall elect amongst its members who are members of Council in terms of subsection (1) above, a Chairperson and a Vice-Chairperson who shall hold office for such period as shall be determined by the Statute.

The persons chosen from time to time in accordance with this sub-section shall hold office for such periods as the Statutes in each case prescribe.

- (3) The Council shall be constituted as soon as possible after the first Statutes, framed as hereinafter provided, become in force and effect and shall exercise its functions as from the appointed day.
  - (4) Whenever the period of office of any member of the Council expires or is about to expire, his place shall be filled in manner provided by the Statutes, subject always to the provisions of sub-section (1).
  - (5) Casual vacancies in the Council caused by death, resignation, or other cause prescribed by the Statutes shall be filled as therein required, subject always to the provisions of sub-section (1)
  - (6) The quorum and the procedure at meetings of the Council and the times of holding such meetings shall be as prescribed by the Statutes.
  - (7) The Council shall be the administrative body of the University, and, save as by this Act is specifically provided, shall make all appointments it deems necessary for the efficient conduct of the University.
12. (1) The Council may, by resolution, establishes committees of the Council, and may appoint as members of such committees any persons, whether they be members of Council or not.
- (2) The Council may delegate to any such committee any powers or functions which the Council is itself competent to exercise or perform.
  - (3) The Council may delegate to any of the officers of the University such of its powers or functions as it thinks fit.

*Senate*

13. (1) There shall be a Senate for the University consisting of:
  - (a) the Vice Chancellor of the University *ex-officio*, who shall be chairman;
  - (b) the Pro-Vice Chancellor(s) of the University;
  - (c) two members of the Council chosen by it in a manner and for a period prescribed by the Statutes;
  - (d) the Professors of the University;
  - (e) such officers as are appointed as Deans of Faculties as are not Professors of the University;
  - (f) the Registrar;
  - (g) the Director of Library Services;
  - (h) the Dean of Students Affairs;
  - (i) one representative staff member of each Faculty, who is not a Professor of the University;
  - (j) two students as members chosen by the Student Representative Council of the University;
  - (k) other members as may be provided for in the Statutes.
- (2) Subject to the provisions of section 6(2), the functions of Senate shall include the superintendence and control of instruction, curricula, examinations, and research.
- (3) The Senate shall also submit to the Board of Governors from time to time:
  - (a) reports upon its work; and
  - (b) such recommendations as may seem to the Senate expedient as to any matters of interest affecting the University; and

- (c) recommendations as to any matters referred to it by the Board of Governors.
- (4) If any member of the Council chosen under paragraph (c) of sub-section (1) dies or ceases to be a member of the Council or resigns office as a member of the Senate, the members of the Council shall choose another of their number to fill the vacancy on the Senate.
- (5) The quorum, the procedure in meetings of the Senate and the times at which such meetings shall be held shall be as prescribed by the Statutes.
- (6) The Senate may by resolution establish committees of the Senate, and may appoint as members of such committees any persons, whether they are members of Senate or not.
  - (a) the Senate may delegate to any such committee any powers or functions which the Senate is itself competent to exercise or perform.
  - (b) the Senate may delegate to any of the officers of the University such of its powers or functions as it thinks fit.

*Joint Committees of Council and Senate*

14. (1) The Council and the Senate may, for such purposes as they may deem expedient, by resolution of each body establish joint Committees of the Council and the Senate, to which joint Committees the Council may appoint members, whether they are members of the Council or not, and the Senate may appoint members, whether they are members of the Senate or not.

- (2) The Council and the Senate may delegate to any such Committee any powers or functions which the Council itself is competent to exercise or perform or the Senate itself is competent to exercise or perform.
- (3) the Committee shall elect from amongst its members a Chairman and Deputy Chairman, who shall hold office for one year but shall be eligible for reappointment.

### *Convocation*

15. (1) Convocation of the University shall consist of:
  - (a) all graduates of the University, who became graduates as the result of examination, while they were students of the University or of the former Nazarene Colleges, and who, within six months after the commencement of this Act, signify in writing addressed to the Registrar of the University that they elect to be members of the convocation of the University;
  - (b) the principal, the professors and lecturers of the University incorporated under this Act;
  - (c) all persons who become graduates of the University incorporated under this Act;
  - (d) all holders of diplomas to whom degrees have been granted under subsection (4) of section *twenty-two*.
- (2) Meetings of convocation shall be summoned and held in a manner and at times and for purposes prescribed by the Statutes.
- (3) Convocation may discuss and state its opinion upon any matter relating to the University, including any matter which may be referred to it by the Council.

*Registrar*

- 16.(1). There shall be a Registrar of the University appointed by the Board of Governors on the recommendation of the Council who shall be the Chief Personnel Officer of the University and shall exercise such powers and perform such duties as are assigned to him under this Act, the Statutes, and by the Board of Governors, or as may be delegated to him by the Vice-Chancellor.
- (2) The Registrar shall be under the immediate supervision and control of the Vice-Chancellor.
- (3) The terms and conditions of employment of the Registrar shall be determined by the Board of Governors on the recommendation of the Council.

*Bursar*

17. There shall be a Bursar of the University who shall be appointed by the Board of Governors on the recommendation of the Council in such manner and under such conditions as provided for in the Statutes, and who shall be responsible to the Vice-Chancellor for the financial administration of the University.

*Director of Library Services*

18. There shall be a Director of Library Services of the University who shall be appointed by the Board of Governors on the recommendation of the Council in such manner and under such conditions as provided for in the Statutes, and who shall be responsible to the Vice-Chancellor for the Libraries of the University.

*Academic and Non-Academic Staff*

19. The Professors, lecturers, and other staff at the University shall be appointed by the Board of Governors on the recommendation of the Council after consultation with the Senate or with such Faculty or Committee thereof as may be appointed for that purpose by the Senate.

*Students*

- 20.(1) Students shall be those who
- (a) are properly registered with the University in accordance with the Statutes
  - (b) Will have paid their fees for that year by the date and in the manner prescribed in the Statutes
  - (c) Are receiving regular instruction at the University
- (2) Student Representative Council: there shall be a Student Representative Council which shall be constituted in accordance with the Statutes

*Faculties and Departments*

21. At the University there shall be established
- (a) faculties or departments of Education, Health, and Theology; and
  - (b) subject to the approval of the Minister and Statutes, such other faculties or departments as the Board of Governors, on the recommendation of the Council, may approve.

*Degrees, Examinations of, and Admission to the University*

22. (1) The University shall have power, subject to the provisions of this Act and Statutes, to confer degrees of bachelor, master or doctor in any faculty mentioned in, or approved under, sub-section (4) below and section *twenty-three*, and all such other degrees as it may deem expedient to confer. The designation of any specific degree in any faculty shall be as prescribed by the Statutes and no other.
  - (2) Save as is provided by sub-section (4) below and section *twenty-three*, no degree shall be conferred by the University upon any person who has not attended for such period as may in each case be prescribed by the Statutes as a student of the University.
  - (3) Save as is provided by sub-section (4) below and section *twenty-three*, no degree shall be conferred by the University upon any person who has not attained, in examination or other test, the prescribed standard of proficiency.
  - (4) Notwithstanding anything contained in this section the University may grant to any holder of a diploma granted (either prior to or after the appointed day) by the former Colleges, a degree equivalent in value.
  - (5) The University may, subject to the provisions of this Act, grant a diploma or certificate to any person who has pursued a course of study provided by the University, or to any other person deemed by it to possess the qualifications for such a diploma or certificate.
23. A person who has graduated from another University or who is able to give satisfactory evidence of his qualifications, may, subject to the provisions of section *twenty-two*, be

admitted to courses of special study and research at the University and may proceed to a degree under conditions different from those applicable to ordinary students. Such conditions shall be prescribed by the Statutes.

24. Subject to the provision of the Statutes, the University may, on the resolution of the Board of Governors on the recommendation of the Council and the Senate and without examination, confer degrees, *honoris causa*, of master or doctor in any faculty upon any person who has rendered distinguished services in Swaziland in the advancement of arts, science, jurisprudence or other branches of learning or upon any person whom the University may on the resolution of the Board of Governors on the recommendation of the Council, deem worthy of such a degree:

Provided that the holder of a degree which has been conferred *honoris causa* shall not, by the fact that he has been admitted thereto, be entitled to practise any profession.

25. All examinations held by the University shall be conducted in accordance with the Statutes.
26. A student of the University shall be subject to such disciplinary provisions as may be prescribed by the Statutes or by rules made by the Council.

*Framing of Statutes and Regulations of the University and Joint Statutes and Joint Regulations*

27. (1) As soon as possible after this Act has been published as an Act in the *Gazette* the Minister shall appoint a Commission of five persons (of whom three shall form a quorum) consisting of:
- (a) one person appointed by the Minister after consultation with the Director,

- (b) one person appointed by the Minister amongst a list of three persons nominated and seconded for appointment by NAHEC because of their special skill and knowledge,
  - (c) one person appointed by the Minister amongst a list of three persons nominated and seconded for appointment by the University of Swaziland, with a Chairman and an additional member, unconnected with either of those institutions or with that group of institutions.
- (2) The duties of that Commission shall be to:
- (a) recommend to the Board statutes for giving effect to this Act and for the general government of the University in relation to matters not specifically prescribed by this Act, and regulations for the better carrying out of the Statutes; and
  - (b) recommend to the Board joint Statutes which shall be common to the University, and other universities in Swaziland, for giving effect to those provisions of this Act, which relate to:
    - (i) the joint examination standards authority;
    - (ii) statutes for the distribution and award of the sums available for scholarships, exhibitions and prizes in line with the priority areas.
    - (iii) a joint Committee for conducting professional examinations, and joint regulations for the better carrying out of the joint Statutes.

The joint Statutes shall also make provision whereby a registered student of any one of the institutions of higher learning may be admitted as a registered student of any of the other universities and shall further make provision as to all other matters whatsoever which are of common interest to the institutions.

- (3) If a vacancy occurs in the office of a Commissioner by reason of death, resignation, incapacity or otherwise, the Minister shall appoint a person to fill the vacancy. If the vacating member was a representative of a college or of the University of Swaziland mentioned in sub-section (1), the Minister shall, in filling the vacancy, appoint a person representing the college or (as the case may be) the University of Swaziland represented by the vacating member.

Pending the filling of the vacancy, the powers of the Commission shall continue as if no vacancy had occurred, subject always to the number prescribed as a quorum being present at its meetings.

- (4) Before any such Statutes or regulations or joint Statutes or joint regulations are framed for recommendation to the Board, the Commission shall invite the Provisional Board mentioned in section three to submit for its consideration draft Statutes, draft regulations, draft joint Statutes, and draft joint regulations; shall consider the drafts so submitted and shall take such other steps as are in its opinion best adapted for facilitating the making of representations by or on behalf of any person or body of persons directly affected.

- (5) The Commission may, if it thinks fit, take evidence upon any matters which fall within its duties and may, through the Chairman, administer an oath to a witness before it.
- (6) The Commission shall, as soon as possible, present reports to the Board upon the matters falling within its duties under this section and may from time to time present to the Minister *interim* reports.

It shall at first present reports containing draft Statutes and draft regulations for the University, relating to the election of the Board of Governors, the Council and the Senate, and draft Statutes and draft regulations common to all institutions of higher learning in Swaziland.

- (7) All reports of the Commission shall be presented to the Board before submission to the Minister and shall, as soon as possible after presentation to the Minister, be laid by the Minister upon the tables of both Houses of Parliament, if Parliament be then in session, or if Parliament be not then in session, as soon as possible after the commencement of its next ensuing session.

#### *Financial Provisions*

- 28.(1) The financial year of the University shall be the period from 1st July of one year to the 30<sup>th</sup> of June of the following year or in respect of this accounting period, a period shorter or longer than twelve months as the Board of Governors may determine.

- (2) The funds, assets and liabilities of the University shall consist of:
  - (a) all assets and liabilities of the constituent colleges of NAHEC as prescribed in the NAHEC Constitution;
  - (b) moneys or property that may be donated, lent or granted to the University;
  - (c) property and investments acquired by or vested in the University and all moneys earned or arising there from;
  - (d) moneys and properties that may in any manner become payable to or vested in the University in respect of any matter regarding its powers and duties.
- (3) The Council shall prepare estimates each financial year which shall be approved by the Board of Governors before the commencement of the following financial year.
- (4) The Council shall keep proper books and records of account of the income, expenditure, assets and liabilities of the University. Six months before the end of the financial year, such records of accounts shall be submitted together with the financial statements of income, expenditure, assets and liabilities of that year to the auditors of the University.
- (5) The University books and records of accounts shall be audited annually by an auditor appointed by the Board of Governors on recommendation of the University Council.
- (6) The auditors shall prepare and submit a full report annually to the Board of Governors for its approval.

- (7) The Minister shall lay the annual report and audited accounts before Parliament at its first sitting.

*General and Miscellaneous*

29. The Council shall transmit annually to the Board of Governors and the Minister within six (6) months after the termination of any academic year of the University a report of the proceedings thereof during that year, together with a complete and audited statement of the receipts and expenditure thereof during the same period.
- That report and statement shall, as soon as possible thereafter, be laid by the Minister upon the tables of both Houses of Parliament.
30. Immovable property vested in the University shall not be alienated except with the approval of the National Board and the International Board of the Church of the Nazarene, and for the purposes of this section “alienated” shall mean sold, hypothecated, leased, or otherwise disposed of.
31. No vacancy in the office of Chancellor, and Vice-Chancellor of the University nor any deficiency in the number of members of the Board of Governors, the Council or of the Senate shall be deemed to impair or affect the corporate existence of the University or any powers, rights or privileges conferred by this Act upon the University or the Board of Governors, the Council or the Senate, provided that, in the case of the Board of Governors, the Council or the Senate, no resolution of any body shall be valid unless passed at a meeting whereat a quorum was present or unless the Statutes relating to any such meeting have in all other respects been complied with.
32. Whenever by any law in force immediately prior to the appointed day any right or privilege is conferred upon any person by reason that he/she is a graduate of the former

Colleges of the Nazarene in Swaziland or has passed an examination thereof or is the holder of any certificate thereof, such right or privilege shall be deemed to be conferred upon a person who holds a like degree or an equivalent certificate or who has passed a like examination of the University.

33. Whenever in any provision of a law in force immediately prior to the appointed day (other than a provision to be repealed by this Act) the expression Nazarene College of Education; Nazarene College of Nursing; and Nazarene College of Theology appears or a reference to any of the former Colleges is made, that expression or reference shall, after the appointed day, be construed as including the University or as a reference thereto.

*Interpretation*

34. In this Act, unless inconsistent with the context,

the “Minister” shall mean the Minister of Education or any other Minister to whom may be assigned the administration of matters relating to higher education in Swaziland;

the “Board of Governors” shall mean the Board of Governors of SANU as constituted in accordance with this Act, and as prescribed by the Statutes;

the “Council” shall mean the Council, as constituted in accordance with this Act, of the University;

the “Senate” shall mean the Senate, as constituted in accordance with this Act, of the University;

the “Statutes”, in contradistinction to the joint Statutes, shall mean Statutes of the University which under and in accordance with this Act are for the time being in force, and shall include also the regulations made under the Statutes;

the “joint Statutes” shall mean Statutes framed in accordance with this Act and for the time being in force, for regulating matters which, under this Act, are to be prescribed by joint Statutes, and shall include also joint regulations made under the joint Statutes;

the “University” shall mean the Southern Africa Nazarene University incorporated under this Act;

“student” shall mean a person registered for a degree, diploma or certificate of the University.

35. This Act may be cited for all purposes as the “Southern Africa Nazarene University Act, 2010”

#### *Implementation of the Act*

36. This Act shall come into operation on the date to be appointed by the Minister by Notice in the Gazette.

#### *Dissolution of the University*

37. In the event of the dissolution of the University or the repeal of this Act, the assets and properties shall revert to the Church for educational purposes in harmony with the Manual of the Church of the Nazarene, 2009-2013, paragraph 383, which reads as follows: "All institutional constitutions and bylaws must include an article on dissolution and disposal of assets indicating that the Church of the Nazarene shall receive such assets to be used for educational services of the church."

#### 4.4 IMPLICATIONS OF THE PAUCITY OF THE LEGAL FRAMEWORK

The participants recognised the paucity of the legal framework<sup>20</sup> for higher education. However, they did not view it as being problematic. The participants viewed the situation as normal and conducive to the establishment of SANU. The following dialogue alludes to that supposition:

Researcher: can I conclude that even though there is collaboration between officials of the government and SANU, still there are no defined procedures?

Participant A/Manager: you cannot say that there are no clear and prescribed procedures. We are following defined procedures. We are not speculating. There are established procedures [that are] being followed toward the establishment of SANU ... . The [Limkokwing University of Creative Technology] was discussed by the Parliament. UNISWA is an existing institution and an Act of Parliament was used to establish that university and we are following a similar process.

Researcher: I would say that UNISWA is a public institution and that is a different case. As a public institution, the government took care of the legal aspects. But SANU and other new institutions are private. To me that is ... .

Participant B/Admin: what is the issue? What Participant A/Manager is saying is that whether private or public institution, even though there is no Act of Parliament, government is clear on how to establish any entity that will become a university in Swaziland ... .

Participant D/Admin: [sir] as precedents, there are other institutions that have done a similar exercise [and we are following the same procedures].

Even though the participants claimed that the paucity of higher education legislative framework was not a difficulty, the analysis of the data indicated that the scarceness of such laws is problematic and poses great challenges regarding the establishment of SANU. The primary challenges are the uncertainty concerning the procedures to be followed for the

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<sup>20</sup> The expression “paucity of legal framework” is used to mean the lack of suitable/relevant documents of the legal framework for higher education and, in particular, private higher education, and the shortcomings identified in the existing legal documents. There are few documents containing the legal framework. Added to that, the existing documents have shortcomings in that they do not cover all aspects for the establishment of a private higher education institution. For example, the steps for the registration, regulations for the charging of the tuition fees, organisational structures and the officers or managers of higher education institutions.

establishment of private higher education institutions, SANU included, and the lack of defined organisational and management structures for private higher education institutions. The two aspects are discussed in the subsequent sections.

#### **4.4.1 Uncertainty about legal procedures to adopt the SANU Act**

The initial view that the establishment of a private university is a new phenomenon in Swaziland and that there is uncertainty regarding the procedures to be followed was supported by various indicators, *inter alia*, the fact that the participants and legal experts were not sure about the legal process to follow, the participants were not conversant with the legal procedures to adopt the SANU Act, and the participants undertook two legal processes (application for registration and development of the Act of Parliament).

Even though the participants resolved that SANU should be established through an Act of Parliament instead of the Certificate of Registration,<sup>21</sup> they experienced uncertainty about the legal process to follow (cf. chapter 4, section 4.2.1). This uncertainty was observed in various meetings, for example, those of the Board of Governors of NAHEC, the Rector's Advisory Committee, the Legal Advice Team, and focus group discussions. The submission made by Participant A/Manager during the proceedings of the first focus group discussion clearly depicts the uncertainty:

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<sup>21</sup> The selection of the Act of Parliament rather than the Certificate of Registration raises many questions, for example, "where does the Certificate of Registration fit into the process?" and "where [is] an Act of Parliament used?" Added to that, the reading of the legislation indicates that there is not a choice between two legal instruments, for example, a Certificate of Registration or an Act of Parliament, but that obtaining a Certificate of Registration is as much a prerequisite as the Act for the establishing of an university in Swaziland. The researcher raised these issues but the participants viewed them as of less value. Although the participants have agreed upon this route, he still believes that the matter is not resolved. His stand derives from the existing gaps in the existing legislation and the manner in which government officials are handling the process as well as the statements made by the government officials. The researcher acknowledges the existence of the prescribed steps to be followed and these are outlined in section 2.3.4.1 and 4.2.3.

Participant A/Manager: We do not have an established procedure [for the establishment of a higher education institution] ... . There is the Higher Education Bill that is in the process. Besides that there is nothing that exists that directs individuals on how to establish institutions of higher education. Higher education in Swaziland falls under the Education Act ... . The Higher Education Bill will be the first of its kind ... .

The uncertainty was also expressed by the attorneys hired by SANU for the drafting of the SANU Bill. In a personal conversation with the researcher, the attorneys alluded to the problems caused by the minimal legal framework, by saying that they were not sure if a private Act of Parliament was the appropriate instrument to be used to establish SANU (Mdladla & Thwala 2010: personal conversation). In addition, the attorneys indicated that to their knowledge, there was only one promulgated private Act of Parliament in Swaziland, an Act that dealt with donor funding, and that it took a long time and hard work for that particular Act to be promulgated (Mdladla & Thwala 2010: personal conversation). The submissions of the attorneys substantiate the fact that there is no clear direction concerning the issue.

Another factor that indicates uncertainty is the fact that the participants were not conversant with the legal procedures to be followed to acquire a private Act of Parliament. In response to the question related to the subject, and supported by other participants, Participant B/Admin said:

SANU management [the people who manage the establishing process of SANU] discussed [the] procedures with the Ministry of Education. The procedures that we have to follow are:

- SANU leadership prepares the draft bill<sup>22</sup>
- The bill is submitted to the Ministry of Education
- The Ministry of Education engages the chamber of the Attorney-General to [consider the bill] in collaboration with our legal experts

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<sup>22</sup> It should be noted that in the focus group discussion, the participants referred to the SANU Bill as the “charter”. But since it is a proposal for an Act of Parliament, the researcher preferred to use the term “bill”, which is the appropriate term for such document.

- Approval of the bill by the Cabinet
- Submission of the bill to Parliament by the Ministry of Education
- Establishment of the Portfolio Committee to work on the bill. Some bills, depending on their nature, have to be made public before being deliberated by Parliament. But that is debatable. I am not sure about that aspect because there is no Act of Higher Education that gives us such information and regulations
- Deliberation and approval of the bill by Parliament
- Submission to and approval of the bill to Senate
- Submission of the bill for assent by the King
- The King assents to the bill and officially it becomes law.

Note that the steps may change [from time to time and] you need to verify the procedures with the appropriate officers, for example, the officers at the Ministry of Education. We cannot speculate the procedures. What we know is what we should do and that is:

- Drafting the bill
- The Board of Governors of SANU approves the proposed bill
- The bill is submitted to the Ministry of Education

That is how far we can go. Beyond the Ministry of Education we are not involved.

Another factor that indicates uncertainty is the undertaking of the two processes: the application for registration and the drafting of the SANU Bill. As described in sections 4.2.1 and 4.2.3 of this chapter, the Legal Task Team on behalf of the Board of Governors of SANU developed and submitted the application for the establishment of SANU, which was approved by the Cabinet. As prescribed by section 3 of the Education Act 9 of 1981, paragraph 12 of the National Education Policy of 1999 and described in section 4.2.1 of this thesis, the submission of the application for the establishment is the first step of the registration process (Swaziland Government 1981 s 3; Swaziland Government 1999 par 12). On the other hand, the participants have developed the SANU Bill which, when enacted, will become an Act for the establishment of SANU. As prescribed by the Standing Orders 2-8 of the Legal Notice 17 of 1969, sections 69, 75, 77, 106-109 of the Constitution and described in sections 2.3.4.1 and 4.2.3 of this dissertation, the drafting of the bill is the first step for the promulgation of a

private Act of Parliament (Swaziland Government 1969 par 2-8; Swaziland Government 2005, ss 69(3), 75(1), 77(5)(a)-(c), (e)-(f), (6)-(8), 106(a)-(b), 107(a)-(d), 108(1)-(3), 109(1)-(4)). The aforementioned actions (the approval of the proposal for the establishment of SANU and the drafting of the SANU Bill) imply that the people who are currently managing the process of establishing SANU are undertaking two legal processes (registration and promulgation of the Act of Parliament) simultaneously. If this supposition is true, will the managers of SANU observe and fulfil the requirements of the two processes? Furthermore, which instrument will precede the other if both are obtained?

#### **4.4.2 Lack of defined organisational and management structures**

The second problem created by the minimal higher education legislative framework is the lack of defined organisational and management structures for private higher education institutions. As indicated in chapter two, section 2.4.2, the education legislation does not prescribe the organisational and management structures for private higher education institutions. The Statutes of the University of 1983 prescribed the organisational and management structures for the public University; they also served as a guideline in the development of the organisational and management structures of SANU.

The participants developed an organisational model similar to that used by UNISWA. The employment of the UNISWA model was necessitated by the facts that the Higher Education Bill is silent in this respect and that the model is familiar in Swaziland, so it would be easily understood by government officials. The model provides for the following structures: the Council, the Senate, the Chancellor, the Vice Chancellor, the Pro-Vice Chancellors, the Registrar, the Bursar and Director of Library Services. The functions of those bodies and the

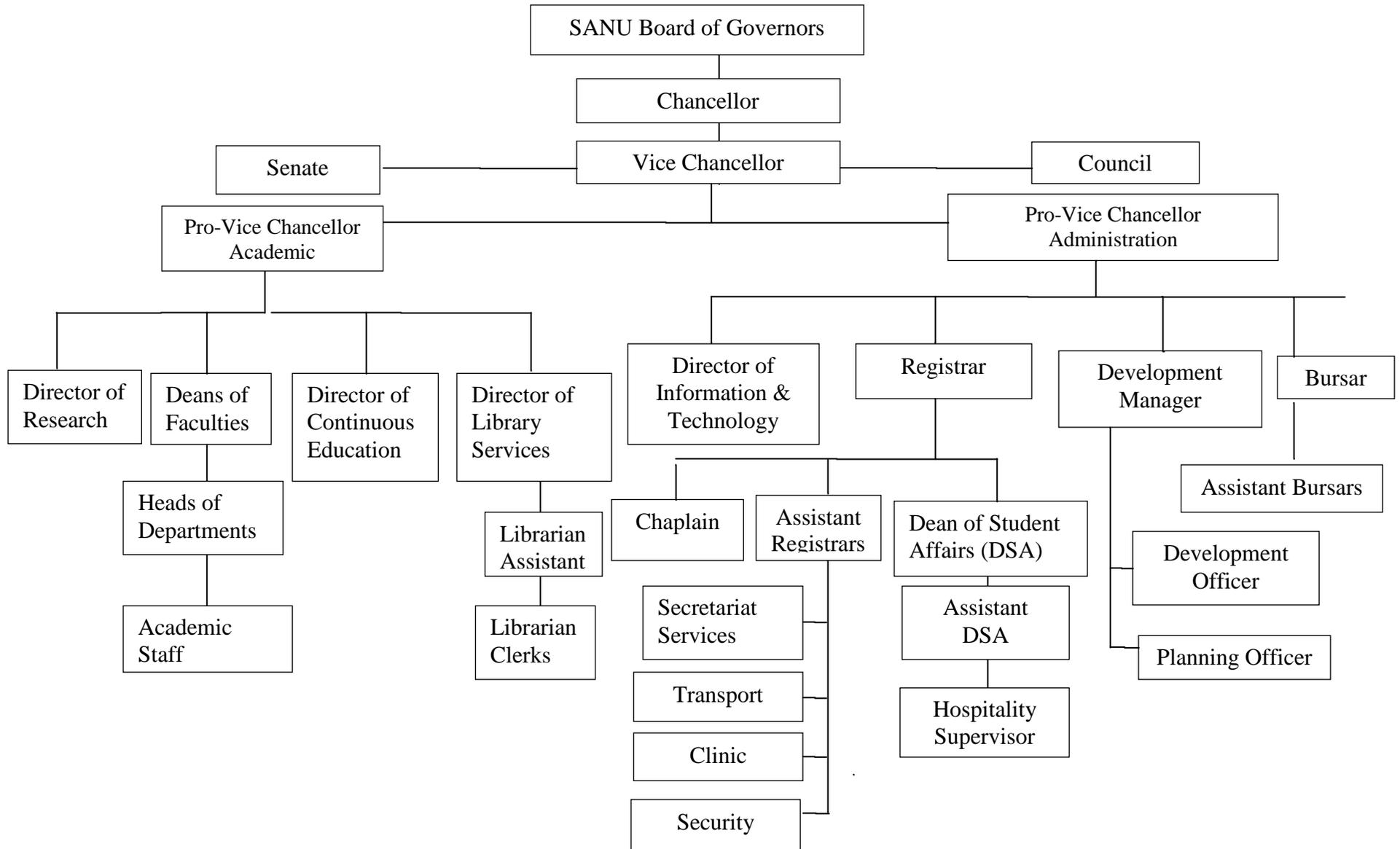
responsibilities of officers are the same as those of UNISWA, as described in chapter 2, sections 2.4.2.1 and 2.2.2.2 of this study.

The participants experienced difficulties and uncertainties when developing the organisational and management structures because the legal framework did not prescribe these aspects. For example, it was only after intense deliberations that the participants decided that the Board of Governors, instead of the University Council, would be the governing body, and allocated the position of Chancellor to a member of the Church of the Nazarene instead of His Majesty the King of Swaziland. Had the legal framework prescribed the organisational and management structure for private higher education institutions, the participants would have been sure about the structure, the guidelines regarding the appointment of the officers of the proposed university.

The organisational structure of SANU will differ in certain respects from the UNISWA organisational structure. Firstly, it will provide for a Board of Governors. This Board will be constituted from the owners of the private university, have the final authority in all matters pertaining to SANU and exercise governing authority over SANU.

Secondly, the organisational structure of SANU will also differ from the UNISWA structure in that it will provide for the appointment of a Chancellor. The SANU Bill indicates that the Chancellor should be a member of the Church of the Nazarene and be appointed by the Board of Governors (SANU 2010, cl 14(1)-(4)). In terms of section 8(1) of the University of Swaziland Act 2 of 1983, His Majesty the King of Swaziland is the Chancellor of the University of Swaziland.

## Organisational and Management Structure of SANU



#### 4.5 PARTNERSHIP BETWEEN SANU AND THE GOVERNMENT OF SWAZILAND

The working relationship between the Government of the Kingdom of Swaziland and private higher education institutions (currently only colleges) (cf. chapter 2, section 2.3.7) includes, *inter alia*, recognition of such institutions, conceding legal authority to their managers and the provision of personnel and financial assistance (High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland 1962, s 11, s 38;<sup>23</sup> Swaziland Government 2005b, pars 7(6), 8, 9, 15). Furthermore, the government signed contractual agreements with those institutions, as mentioned earlier (cf. chapter 1, sections 1.3.1, 1.3.2, 1.3.3; chapter 2, section 2.3.6; chapter 3, section 3.6.1).

The participants desire to establish a collaborative and time-bound temporary partnership with the government. Discussing the topic, Participant B/Admin said:

We want a collaborative partnership ... whether in human resources or any other form. [A partnership] that will respond to the priorities of government ... and enables SANU to reach out to the communities.

Furthermore, the participants indicated that they want to establish a partnership that will ensure the equal participation of all partners. Besides this, the participants desire a relationship which will ensure that the Church of the Nazarene and the government will engage in the promotion of quality education (Mbanze 2010a: focus group discussion using interview schedule; Mbanze 2010b: focus group discussion not using interview schedule).

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<sup>23</sup>

The text references to this source indicate sections because it is a proclamation.

The existing partnerships between government, NCN and NCE were mentioned as examples of the desired collaborative partnership. Speaking about NCE, the Manager of the Nazarene Schools in Swaziland indicated that there is cooperation between NCE and the Ministry of Education. This joint endeavour is evident from the involvement of the college administration in finding solutions to challenges such as the shortage of personnel and the need to improve educational standards at higher education institutions (Magagula 2008: interview). A further description of the collaborative relationship between NCE and the government was presented by Participant C/Admin when he said:

... When the government wanted the colleges to offer ICT modules, the government provided classrooms, computers and hired the ICT lecturers for all colleges ... . When the government wanted French to be included into the curriculum ... the government provided the NCE with human resources and equipment. A few weeks ago the government realised that the NCN does not have a learning centre ... the government is [building] the centre through a private company that partners with the government toward the improvement of educational facilities.

The analysis of these submissions indicates that the partnership between NCE and the government, and consequently the desired partnership between SANU and government, is a broad relationship and incorporates all possible areas, *inter alia*, personnel development, building or upgrading of facilities, purchasing of teaching equipment, teaching and learning materials, and the introduction of new programmes.

A similar experience was echoed by the Principal of NCN and the Financial Director of the Swaziland Nazarene Health Institutions. The aforementioned managers indicated that there is a collaborative relationship between NCN and the Ministry of Health and Social Welfare. The provision of scholarships to personnel, and the working together in conducting in-service training are examples of such cooperation between NCN and the given Ministry (Mabuza

2008: interview; Nhlengethwa 2008: interview).

To safeguard the nature and the continuity of the partnership, participants indicated that a Memorandum of Agreement will be signed. This document will stipulate the terms of the relationships and set the duration of the partnership (Mbanze 2010a: focus group discussion using interview schedule; Mbanze 2010b: focus group discussion not using interview schedule).

#### **4.6 FUNDING OF SANU**

The government uses two methods to finance private higher education institutions: direct payment of salaries and subvention (cf. chapter 2, section 2.3.6). Participants agreed that subvention is the appropriate method for SANU, based on two factors: current practice and the philosophical notion that education is a public service which should be supported by the government (Mbanze 2010: personal notes; Mbanze 2010a: focus group discussion using interview schedule; Mbanze 2010b: focus group discussion not using interview schedule). A third aspect not pointed out by participants, but of great importance, is that the university will need financial assistance in the beginning; thus the need for subvention. These factors are discussed below.

##### **4.6.1 Reasons for the preference for subvention**

The selection of subvention was based on the fact that it is currently the preferred method employed by the government to fund higher education institutions (both private and public) in Swaziland. To support that reasoning, the participants referred to current practices at

UNISWA, NCN and NCE.

Regarding UNISWA, Participant A/Manager, a former employee of UNISWA, said:

UNISWA is an example that receives subvention from the government and it is from that subvention that the salaries and other operational costs are paid.

Speaking about NCE, the Manager of the Nazarene Schools in Swaziland commented:

... the operational funds for NCE are fully derived from the government. The government of the Kingdom of Swaziland is carrying all the cost. There are no funds coming from the Church of the Nazarene. In summary, all the necessary money to run the colleges derives from the government. [For a number of years] the NCE [has been] receiving grants from the government to develop its facilities. Teachers are granted scholarships to further their education. Specialised departments are being equipped with contemporary teaching [equipment]. I expect more developments in the coming years (Magagula 2008: interview).

Describing the NCN experience, the Principal of NCN responded:

The College receives different types of funding from the Ministry of Health and Social Welfare, and some of them are: payment of personnel salaries, scholarships for personnel development and subvention of various projects. [In respect to the funding of various projects], the United Nations Children's Fund through the Ministry of Health and Social Welfare has funded various activities, for example, the training of the Faculty for Prevention of Mother to Child Transmission of HIV, the Integrated Management of Adult Illness and the Integrated Management of Child Illness as well as the development of the Bachelor of Science in Nursing Programme. Another funding that the Ministry of Health and Social Welfare gives to the College is the money for the payment of the tuition for most of the students. It is worth while noting that currently scholarships are being awarded by the Ministry of Education but in the past the Ministry of Health and Social Service Welfare was responsible (Nhlengethwa 2008: interview).

The analysis of these submissions indicates that the participants believe and hope that if the government provides subventions to UNISWA, NCE and NCN, it will also be willing to grant subventions to the university regardless of its status, whether public or private.

The application for subvention and the initial arrangements for the financing of SANU are contained in the document entitled *Proposal for the Establishment of the Southern Africa Nazarene University* submitted to the government (cf. chapter 4, section 4.2.3). In that document the managers of SANU (those managing the establishment of SANU as outlined in chapter. 1, sections 1.2, 1.6.1.5, 1.6.2 and chapter. 3, section 3.5) requested R113.7 million for the payment of personnel and R656.2 million for the payment of tuition fees. These amounts were projected to cover the first five years. It is hoped that after this period, the institution will be self sustainable (NAHEC Board of Governors 2010: ix).

The approval of the application by the Cabinet and the issuing of the letter of approval by the Ministry of Education (cf. chapter 4, section 4.2.3),<sup>24</sup> were viewed as a sign of the approval of the subvention requested. The speeches made by His Majesty King Mswati III, Her Royal Highness LaNgangaza, the Prime Minister and the Minister of Finances during the centennial celebrations of the Church of the Nazarene in Swaziland, the launching ceremony of SANU and during the presentation of the 2011/2012 budget to the Parliament that occurred on 14 August 2010, 22 of October 2010 and 18 February 2011 respectively, corroborate this supposition. In their speeches, the above mentioned dignitaries publicly indicated that the Government of the Kingdom of Swaziland would support SANU in all aspects, money included.

In a speech read by Prince Masitsela, during the centennial celebrations of the Church of the

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<sup>24</sup> In Swaziland it is a tradition that major projects such as the establishment of SANU first be approved by the Cabinet before the issuing of any official document by the ministry responsible. The application document for SANU was submitted to the Ministry of Education which in turn submitted it to the Cabinet. It was after approval by the Cabinet that the Ministry of Education issued an interim letter approving the establishment of SANU.

Nazarene in Swaziland, His Majesty King Mswati III remarked,

... the [Church of the Nazarene] in Swaziland did not only bring evangelism but education and many things that brought development in the country . . . . The [Church of the Nazarenes] has been a true partner of the Government of Swaziland when it came to education . . . . The Nazarenes did not only establish primary and secondary schools but also institutions of higher learning which included three colleges. [Through these colleges] the Church has empowered the Swazi community with education and it has further produced many sons and daughters of the soil whom we are proud of. The prospect of the construction of the Nazarene University in the country is exciting. And I am hoping that the collaboration between the Church of the Nazarene and the Government of the Kingdom of Swaziland will continue.

Speaking at the launch of SANU, the Prime Minister pledged full government support when he said: “the Government would provide the necessary support within its means to see the institution develop”.

Presenting the budget speech in Parliament on the 18 February 2011, the Minister of Finance declared,

I am pleased with the launch of the Southern Africa Nazarene University in October 2010 as it will help in providing an opportunity to students who could not be absorbed by the limited tertiary institutions. I have been assured that preparations for the opening of Limkokwing University are at an advanced stage. I also understand that construction of the Swaziland Medical University will commence this year. The need for tertiary institutions in the country is still far from being met and I would like to encourage the private sector to consider investing in this area (Sithole 2011:19).

Lastly, the preference for subvention is said to be based on the philosophical notion, already mentioned, which stipulates that education is a public service and the government should invest public funds in education institutions regardless of their nature, whether public or private. Considering this point, participants indicated that the government has a social responsibility to the university because SANU will be providing a social service to the

country. Addressing this aspect, Participant A/Manager, said:

UNISWA and the two colleges [under the auspices of] the Church of the Nazarene receive subvention from the government. That subvention shows government's social responsibility.

In addition, Participant B/Admin asserted:

... the government has a social responsibility to the university because SANU will be providing social service to the country. It is expected that the government will come forward through our invitation or its own initiative to play a role in the development of the university.

Even though participants selected subvention as a method to receive income, they were cognizant of the problems that accompany it. Three were identified: possible government control over the institution, possible termination of the subvention before SANU is in a position to be financially independent, and the lack of guidelines and control measures for the use of the funds provided through subvention to private higher education institutions. These disadvantages are discussed in the following sections.

#### **4.6.2 Challenges that accompany subvention**

The first challenge that participants identified relating to subvention is the possible government control over the institution. As Participant B/Admin said:

... Government's financial commitment should come in the form of subvention, not direct payment of salaries. If the government makes direct payment of the salaries, then we are saying that the government should be in charge and manage the institution. But in this case we are a private institution and the government should not be in control. SANU leadership will [have to] manage the institution and allocate the money ... .

The second challenge that participants identified in this regard is the possible reduction and termination of current subvention allocated to private higher education institutions.

In this respect Participant C/Admin commented:

... [New private universities, for example, the Limkokwing University of Creative Technology,<sup>25</sup> and the Swaziland Christian Medical University,<sup>26</sup> are being established in Swaziland and] I don't expect government to pay salaries for personnel [in those institutions]. A time will come when the government will not be led by [the current Premier] and government officials will question the [subvention allocated] to SANU. If there is no subvention for the Linkonkwing University of Creative Technology and the Swaziland Christian Medical University, why is SANU being given subvention?

Presenting the *2011 Budget Speech* in Parliament on 18 February 2011, the Minister of Finance indicated the possible termination of subvention to private higher education institutions. In this regard the minister pointed out that,

... the cost of tertiary education has reached an unsustainable level and this is in the form of scholarships and subventions to tertiary institutions. I wish to encourage such institutions to identify other sources of revenue to sustain their operations as government subvention will be diminishing and completely withdrawn in the future (Sithole 2011:19).

The third challenge that accompanies subvention is the lack of guidelines and control for the use of funds given as subventions to private as well as public higher education institutions (Government of Swaziland 2006, par. 3.4). Twenty-three percent of the education budget is awarded to institutions of higher education in the form of grants, subventions, scholarships, and bursaries (Government of Swaziland 2006, par. 1.8, 3.4). Each institution uses the funds in its own way. An instrument of accountability for the correct and efficient expenditure of public funds subvented to the SANU should be established. By means of this instrument the

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<sup>25</sup> The Limkokwing University of Creative Technology is a Malaysian based university with various campuses around the world. The university intends to open a campus in Swaziland. The government approved the opening of the Swaziland campus in August 2009. By August 2010 the campus was not yet operational. Consequently no government funding could be established.

<sup>26</sup> The Swaziland Christian Medical University is funded by Korean Christians and business people. The government approved its establishment in June 2010 and it was launched on 21 July 2010. It is important to note that the above mentioned universities are still being established. The process being used for their establishment is that of registration. The managers of SANU used the document developed by Limkokwing University of Creative Technology to write the application for the establishment of SANU.

government and the taxpayer will be assured that subvention funds allocated to SANU have been used properly and effectively.

To safeguard the university from such possible disadvantages, participants opted for the use of a Memorandum of Agreement. To accomplish this, the document had to spell out the type of the relationship and indicate which roles are played and by whom, and how long the relationship will last.

### **4.6.3 Methods to secure adequate operational funds**

To secure adequate operational funds and eliminate financial dependence upon the government, the participants adopted a tuition driven system. To complement this, two additional income-generating strategies, namely, commercial farming and the provision of short term occupational training programmes are currently being discussed. It is necessary to note that the university is not limited to these methods; additional methods could be introduced in the future. The three methods are discussed next.

#### **4.6.3.1 Tuition driven system**

To secure adequate operational funds and eliminate financial dependence upon the government, during the tuition driven workshop and focus group discussions, the participants adopted a tuition driven system. This is a system in which the tuition fees are calculated based on the addition of all the expenditure the university incurs to offer a particular module (Mbanze 2010: personal notes). This system was selected because it offers a wide range of benefits, for example, the ability to generate sufficient funds to support the general operation of the university, and assists the institution to be self sustainable. These benefits are now

considered.

#### 4.6.3.1.a *The benefits of a tuition driven system*

The selection of the said system was informed by the wide range of benefits that accompany it, for example, the generation of adequate funds for the general operations of the university, thus making the institution self-sustainable.

Deliberating such a system in a workshop held from 11 to 13 May 2010 at Manzini, the participants concluded that the system would be able to generate adequate funds to pay for the general operations of the university, which include, *inter alia*, payment of salaries for personnel, maintenance of the existing facilities and construction of new ones, the purchase of teaching-learning equipment and material as well as providing funds for personnel development. However, the participants made it clear that to achieve that success the costing must be accurate (Mbanze 2010: personal notes).

The second benefit that motivated the selection of the said system is that it is able to render the institution self-sustainable. During the aforementioned workshop, the participants worked with various hypothetical situations and observed that the system could generate money that would render the institutions self-sustainable. One of the hypothetical scenarios created in that workshop is presented in a table below, which contains projected figures for the next five years indicating various sources of income generation. It is evident that the revenue generated by the payment of tuition fees is greater than the others. Seeing the possible income generated by the system, participants hoped for a time when SANU would be self-sustaining and not dependent on subvention from the government. Besides this, participants believed that the

tuition driven system would enable the university to operate even when the government terminates the subvention given to SANU (Mbanze 2010: personal notes).

The same concept was also observed during the focus group discussions. Mentioning it,

Participant C/Admin noted:

At NCE money received from the payment of tuition fees is used to pay salaries for support staff, expand the facilities and pay for general operation of the college. We are saying that when the government terminates the subvention given to SANU, the institution should be able to continue with its operation.

Also addressing the subject, Participant B/Admin remarked: “If you set the tuition-driven system right then all the problems will be taken care of. The university should be [a] self-sustainable institution. The institution cannot depend on the government.”

## Hypothetical projected cash flow for Southern Africa Nazarene University 2010-2015

<b>INCOME</b>	<b>2009/2010</b>	<b>2010/2011</b>	<b>2011/2012</b>	<b>2012/2013</b>	<b>2013/2014</b>	<b>2014/2015</b>
Revenue Student Fees	17,171,560.00	18,888,716.00	20,777,588.00	22,855,346.00	25,140,881.00	27,645,969.00
College Revenue	1,381,845.00	1,520,030.00	1,672,032.00	1,839,236.00	2,023,159.00	2,225,475.00
Personnel Subvention	6,474,479.00	7,121,927.00	7,834,120.00	8,617,532.00	9,479,285.00	10,427,213.00
Education Grants	4,559,578.00	5,015,536.00	5,517,091.00	6,068,798.00	6,675,678.00	7,343,246.00
<b>TOTAL</b>	<b>29,587,462.00</b>	<b>32,546,209.00</b>	<b>35,800,831.00</b>	<b>39,380,912.00</b>	<b>43,319,003.00</b>	<b>47,641,903.00</b>

Even though participants selected the said system as a method to secure adequate operational funds for SANU it is worth noting that the system also has disadvantages, one of which is the annual increment in fees. This is discussed below.

#### 4.6.3.1.b *Problems with a tuition driven system*

One of the difficulties with the tuition driven system is the annual increment in tuition fees (Mbanze 2010: personal notes). The situation at NCT can be used as an example. Few students are currently enrolled at NCT. The researcher's interactions with the prospective students over the past ten years of service at NCT indicate that one of the disadvantages that hinder students from enrolling is the existing high tuition fees. In addition, the government does not fund students enrolled at NCT.

Discussing this issue, the participants indicated that they were aware of the problem and would do their best to keep the prices affordable. However, they added that it was the students' choice whether to enrol at a public or private higher education institution. The choice of the latter implies the ability to pay the tuition fees charged by the institution. The following discussion alludes to the above.

Researcher: while thinking on those lines, what about the fees? Will the fees not escalate high to a point that people will not be able to pay for their education and opt to enrol at public universities?

Participant B/Admin: it was said that SANU is not a public but a private enterprise. Private enterprises have high tuition fees. The government supports public institutions thus they do not charge high fees. But a private enterprise must sustain itself, and then its costing is different. But if a private enterprise gets subvention from the government, it is expected that the prices are a little lower to allow anybody to be able to come to the university.

Researcher: thank you for the explanation. I have another related question: knowing that our people do not have money and depend on government to pay the tuition fees of their children. Will they afford to pay high tuition fees?

Participant A/Manager: we have other sister universities at Nairobi and other overseas countries. A large number of students enrol with state universities, but still there are those students who enrol at Church related universities and they pay high tuition fees. The Swazis are people who are questing for higher education, consequently money will be forthcoming.

Participant B/Admin: what we should do is to be clear and know what we are doing.

Participant A/Manager: we are not saying that it will be cheap.

Participant D/Admin: the choice of a private institution indicates that the person is capable to pay the tuition fees.

The focus group discussions revealed that the difficulty was not the amount of money to be paid, but the dependency syndrome that some Swazis have developed. For a long time, the Swazi government has been paying the tuition fees for students enrolled for higher education. As a result, currently, most Swazi citizens depend on the government for the payment of educational fees at the level of higher education. However, the participants indicated that the government is planning to introduce new measures that will foster the sharing of the cost with the beneficiaries of higher education (Mbanze 2010a: focus group discussion using interview schedule; Mbanze 2010b: focus group discussion not using interview schedule). The validity of this view is confirmed by paragraph 8.2 of the *National Education Policy* and paragraph 1.10 of the *National Health Workforce Development Plan 2007-2015* (Swaziland Government 1999; Swaziland Government 2006). The measures encompass the reduction of the amount allocated to higher education students as scholarships and bursaries. The participants argued that once the government introduces these measures, the dependency syndrome will come to an end and the parents will pay for the education of their children.

Referring to government support to students at higher education institutions and the measures to foster the sharing of the cost between the government and parents, when presenting the *2011 Budget Speech* on the 18 of February 2011 the Minister of Finance asserted:

... Government is also committed to supporting students in higher education. However, spending on scholarships has become unsustainable. Without changes, Government will be unable to provide scholarships to any students starting university in 2011/12. In 2010, Government approved a new Scholarships Policy, which will guide government support to higher education in future. The policy specifies that government support to students will decrease, while parents bear part of the expenses for the student. The fiscal situation will compel government to accelerate implementation of the policy, with a view to assist more students with the limited resources (Ndlangamandla 2011:1).

Even though the above problems were identified, participants were confident that the Swazi populace would pay for the education of their children. To support that belief, the participants presented four indicators: past experience, practice, the quest for higher education and the willingness of the parents to pay for the tuition of their children. Speaking about these factors, the participants pointed out that some Swazi citizens have already been dedicated to the payment of the educational tuition fees. Such dedication led to families selling the produce of the fields and engaging the children in selling buns and other edible items in order to generate money to pay for the tuition fees. In addition, the participants indicated that a certain percentage of the parents of students enrolled at the NCN and NCT are currently paying the tuition fees for their children. The following submissions support the above aspects:

Participant A/Manager: ...The Swazis are people who are questing for higher education; consequently money will be forthcoming.... Students from the University of Stellenbosch come to Swaziland to sell things in order to get money to pay their education fees.... When I trained as a teacher, there was no scholarship in Swaziland. I and other students had to pay for our education.

Participant B/Admin: many Swazi students are enrolled with various South African universities and those students are paying high fees. My son pays

E20, 000.00 [sic] for accommodation per month. I am paying for that amount. Many other Swazi parents who are not of my category pay such exorbitant amounts of money. The parents will pay for the education of their children at SANU. Our parents were farmers and it was the money from farming that paid for our education. Besides that, after school, the parents sent us to sell cookies and from the money generated the school fees were paid.

As a lecturer at NCN and NCT, the researcher counselled and encouraged students who were paying their own tuition fees. The determination these students display is marvellous and it is encouraging to see their progress. From personal experience, when scholarship money was not available, I worked to pay for my education fees and therefore, valued my education.

#### 4.6.3.2 Other methods for income generation

To augment the tuition driven system, the managers of SANU (cf. chapter 1, section 1.6.1.5,) are planning to develop and operate a commercial farm on the property of NCT at Siteki as well as provide short term occupational training programmes. It should be noted that the last two strategies emerged from the consultative meetings held in July 2010 between SANU managers, the director of Swaziland Partnership Organisation and the director of the Bethany First Church of the Nazarene 2010 GO Team.<sup>27</sup> The strategies are still in their initial stages and thus the discussion is not extensive.

The researcher lived on the NCT campus for approximately twenty-five years. During those years he observed that NCT possesses a vast area of land (about 200 hectares) and a suitable

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<sup>27</sup> The Swaziland Partnership Organisation and the Bethany First Church of the Nazarene 2010 GO Team are non-government organisations based in the United States of America, formed by Christian business people who are interested in sponsoring various institutions and activities funded by the Church of the Nazarene world wide. Having heard about the establishment of SANU, the directors of these organisations came to Swaziland for consultations with the managers of SANU. Meetings were held on the July 23, 25 and 30 at Manzini, Siteki and Manzini respectively. The first meeting was dedicated to concept formulation. The second meeting was exploratory in orientation where the participants visited the NCT site. The third one constituted a follow-up meeting in which the participants attempted to consolidate the ideas. See Addendum M for the report of the meetings.

water supply for a commercial farm operation. While he was still residing there, the college used to operate a farm which produced adequate produce and revenue to support the general operations of the college, especially the student services. He was given permission to use a portion of the land from which he obtained quality harvests. Based on this experience, the researcher concurs with the concept with regards to the development of a commercial farm at Siteki in that the land at NCT is rich and appropriate for farming. With proper management, the farm could yield quality produce that may generate additional funds to support the university.

Another strategy that is being considered to supplement the tuition driven system is the offering of short term occupational courses, such as husbandry, commercial flowers, entrepreneurship, microcomputers and networking administration. These occupational courses will be offered by the faculties of Horticulture and Tourism, Business Management and Entrepreneurship, and Information Communication Technology (Moore 2010: report). It is hoped that besides the training of the population targeted (small business people) the programmes will also equip the students with occupational skills, rendering them more employable and self-supporting upon graduation.

## **4.7 LABOUR-RELATED ISSUES**

SANU is a result of the merger of three colleges, each with different forms of governance, management and financial settings (cf. chapter 1, sections 1.3, 1.3.2, and 1.3.3). The merger of the three institutions implies a transfer of the employees of NCN, NCE and NCT from the Swaziland Nazarene Health Institutions, the Teaching Service Commission and NCT respectively to SANU - a prospect that has left the employees, especially the lecturers, very anxious. There are much uncertainty about terms and conditions of employment, salary scales and retirement packages to be offered by SANU, as well as the fear of losing employment and retirement benefits from the previous employers. With these aspects unclear, the lecturers view the establishment of SANU as a threat.

### **4.7.1 The transfer of personnel**

The transfer of employees from Swaziland Nazarene Health Institutions, the Teaching Service Commission and the NCT to SANU should not occur without their accrued benefits being protected. Either the employees should receive payment of those benefits before transfer takes place or a written agreement accepted by both parties and approved by the Commissioner of Labour needs to be devised (cf. chapter 2, section 2.3.8; Swaziland Government 1980, s 33bis (1)-(2)).

Discussions held by various committees and boards, especially the joint meetings of the officers from the Ministry of Education and officers from NAHEC on the 5 October 2009 and 16 April 2010, and the joint meeting of the Board of Governors of NAHEC, the Rector's Advisory Committee and the representatives from the National Board of the Church of the Nazarene in Swaziland on the 7 September 2009, indicated that the transfer issues are

delicate and the process would take some time (Southern Africa Nazarene University 2009a: minutes; Southern Africa Nazarene University 2009b: minutes).

The focus group discussions and other forums, for example, the meeting of the Board of Governors of NAHEC, the Rector's Advisory Committee and the representatives from the National Board of the Church of the Nazarene in Swaziland, addressed the transfer of personnel. The discussions indicated that the management at the Swaziland Nazarene Health Institutions and the Teaching Service Commission are responsible for dealing with the situation. It was also indicated that the employers would have to discuss the issue with the employees and inform them about the available options (Southern Africa Nazarene University 2009a: minutes; Southern Africa Nazarene University 2009b: minutes). The following options were identified: early retirement, redeployment or continuing employment with SANU. However, recognising the importance of continuity with the present personnel, participants indicated that they would talk, counsel and do their best to retain the existing personnel. To achieve this goal, the managers of SANU (cf. chapter 1, section 1.6.1.5) are planning to offer more attractive terms and conditions of employment than those offered by the current employers. The terms and working conditions are discussed in the following section.

The transfer of personnel at NCT was considered in various meetings, *inter alia*, the joint meeting of the NAHEC Board of Governors Executive Committee, the Rector's Advisory Committee and representatives from the National Board of the Church of the Nazarene in Swaziland and the second focus group discussion (cf. Addendum F, Addendum I). During the proceedings of those meetings the participants indicated that the transfer was not necessary because NCT was an institution governed, managed and financed by the Church of the

Nazarene. To reinforce their argument, the participants indicated that the establishment of SANU officially placed the personnel at NCT under the jurisdiction of SANU (Southern Africa Nazarene University 2009a: minutes).

Addressing this issue during the second focus group discussion, Participant D/Admin averred:

The establishment of NAHEC [and consequently SANU] officially marked the transfer of NCT and personnel from the NCT's Board of Trustees to NAHEC's Board of Governors.

In that session Participant B/Admin argued,

Sir, the transfer of NCT is a case that was discussed and finalised. NCT is a college under the Church of the Nazarene and this is the very same Church that is establishing the university. There is no need for transfer.

Even though this may be true, it is essential to note that the change of institutions means a change of employer; therefore a legal and formal transfer of the employees from NCT to SANU is needed.

#### **4.7.2 Terms and conditions of employment offered by SANU**

Generally, the expression *terms and conditions of employment* is used to mean the legal framework (statutes, policies, employment contract and regulations) that addresses the legal rights of, and establishes working relations between, the employees and their employers. The conditions may include those pertaining to personnel, *inter alia*, hours of work, remuneration, employee benefits (sick leave, pensions, compensations, gratuities, and allowances), and those that form organisation-wide policies, such as the code of ethics, the working environment, disciplinary and grievance procedures and the recruitment and selection

procedures. The discussion in this section focuses on some of these: the working environment; recruitment, selection, appointment and termination of employment; and remuneration and employee benefits.

In this respect, the participants indicated that they are doing their best to establish appropriate and favourable terms and conditions of employment. For quality information, the participants directed the researcher to examine various institutional documents, *inter alia*, the *Policies and Procedures Manual* and the *Proposal for the Establishment of the Southern Africa Nazarene University*. The information in this section was mostly sourced from the aforementioned documents.

#### 4.7.2.1 Working environment

Part 3 of the *Policies and Procedures Manual* outlines the ethical principles to be observed by employees of SANU. Some of the aspects entrenched in this section include: respect for persons, respect for the law and the system of university governance, honesty and impartiality. In regard to respect for persons, items 3.1.1, and 3.1.3 of the *Policies and Procedures Manual* state:

Staff should treat students and other staff members of the community equitably and with respect.

University [staff who supervise] other staff must treat their staff fairly and afford them equal opportunity, and must maintain open and honest communication with them. They must ensure that their [staff understand] performance standards expected of them and evaluation of performance must be undertaken against these standards objectively and without bias (Southern Africa Nazarene University 2009, item 3.1.1, 3.1.3).

Dealing with the subject of compliance with the laws of the country and the rules of the University, item 3.4 in the *Policy and Procedures Manual* of SANU stipulates that “the

University staff, in common with all citizens, has an obligation to observe the laws of the country. Staff should also comply with the rules of the University” (Southern Africa Nazarene University 2009, item 3.4). As regards ethics, the participants indicated that education institutions supported by the Church of the Nazarene hold to a set of ethics that should be adhered to by their employees, and SANU will not be an exception. To ensure effective compliance with these ethics, the participants indicated that on the first day of employment an employee will sign a contract of employment in which the code of ethics forms part of the conditions of employment.

When asked about the situations in which personnel do not uphold Christian ethical principles and the standards of the Church of the Nazarene, the participants indicated that not all people who are employed by the institutions are mature Christians.<sup>28</sup> Consequently, it is the responsibility of the mature Christians to help others. In addition, the participants indicated that they would develop and implement programmes that will promote and inculcate Christian ethics and culture, for example, holding weekly services, and conducting seminars in which Christians’ beliefs and the doctrine of the Church of the Nazarene are discussed.

The implementation of the programmes that will promote and inculcate Christian ethics and culture as well as the precedents that the university will mostly hire Christians raises questions with respect to the constitutional right to religious freedom and as regards labour legislation regarding religious segregation. One of the questions is: will the required

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<sup>28</sup> Various churches and religions use the expression “Mature Christians” differently. In this context it is used to mean a person who has a Christ-like character, believes in God and does His will accordingly. The managers recognise the right to freedom of religion but also that they have an obligation to protect the ethics of the Church of the Nazarene, thus people employed by SANU will be obliged to abide by the code of ethics of this church.

attendance to these programmes and the employment based on religious affiliation withstand constitutional scrutiny? In terms of this issue, the Constitution specifically accords religious bodies the right to establish and manage educational institutions as well as to conduct religious activities. In this regard, section 23(3) of the Constitution states that:

A religious community is entitled to establish and maintain places of education and to manage any place of education which that community wholly maintains, and that community may not be prevented from providing religious instruction for persons of that community in the course of any education provided at any place of education which that community wholly maintains or in the course of any education which that community otherwise provides (Swaziland Government 2005: s23 (3)).

Two other legal sections that can be used to support this argument are section 2 of the Unified Teaching Service Proclamation 34 of 1962, and paragraph 16 of the Agreement between the Government of the Kingdom of Swaziland and the National Board of the Church of the Nazarene in Swaziland (The High Commissioner 1962, s2; Swaziland Government 2003, par. 16). The above sections oblige the owners of a private institution (a religious one included) to operate and manage educational institutions according to the labour and organisational regulations.

#### 4.7.2.2 Recruitment, selection, appointment and termination of employment

Regarding this matter, participants adopted a systematic and equitable approach based on merit. Item 4.2(i)-(v) of the *Policies and Procedures Manual* states that SANU seeks to:

- i) maintain the principle of open competition on the basis of merit to appoint the best candidates
- ii) provide equal opportunity for all candidates
- iii) ensure that selection procedures are efficient and effective
- iv) ensure that the selection process does not discriminate in employment on the basis of sex, disability, marital status, race, colour, religion or ethnic origin
- v) be an equal opportunity employer (Southern Africa Nazarene University 2009, item 4.2(i)-(v)).

To achieve this goal, comprehensive recruitment, selection and appointment procedures were developed. These include the advertising of the vacancies, shortlisting of the applicants, interviews, recommendation for appointment by the interview panel, approval of appointment, and the sending of letters of employment, which indicate the name of the employee, date of engagement, the nature of employment, the salary, and the period of probation (Southern Africa Nazarene University 2009, items 4.3, 4.4).

Before commencing work, the newly employed personnel will undergo induction that will provide them with the relevant information regarding their responsibilities and duties and introduce them to relevant legislative requirements (Southern Africa Nazarene University 2009, item 4.5).

#### 4.7.2.3 Remuneration and employee benefits

In regard to remuneration and benefits, policies aimed at the retention of personnel by providing remuneration that takes into account the academic qualifications, performance, skills and responsibilities of the employees, were developed. The salaries are more competitive than formerly, in that the baseline salary of all ranks is formed by the current mid-point salary scales offered by the University of Swaziland. In an endeavour to retain personnel with scarce and critical skills, a variety of allowances and leave benefits were introduced. The allowances include, *inter alia*, a settling allowance for expatriates, a retention allowance (10% of the basic salary and payable after every two years), a housing allowance (12% of basic salary), a car allowance for contracted senior management, a car loan scheme for middle management, allowances for acting staff, and educational assistance for the

immediate family of the academic, administrative and long serving staff of the university (Southern Africa Nazarene University 2009, items 5.1, 5.1.3, 5.6, 5.9-5.11.7).

With regard to leave, employees will be entitled to study and research leave with pay (12 months when the study or research is beneficial to both the employee and the University), sick leave on full pay (14 days in a year), maternity leave with pay (3 months), compassionate leave (7 days in a year), long service leave (for every 10<sup>th</sup> year of service the employee will be given 2 days), sabbatical leave (for the professional development of the faculty and limited to 12 months) and duty leave with pay (for a period of time the employee is requested to attend as a witness or as a complainant before a court, a government commission of enquiry, royal duty or national duty, provided that the request is supported by written evidence) (Southern Africa Nazarene University 2009, items 5.1.5-5.11.7).

#### **4.7.3 The loss of employment and retirement benefits from the previous employers**

In conversations with this researcher, as indicated the employees of NCN, NCT and NCE raised concerns with regards to the loss of employment and retirement benefits from the previous employers. Taking into consideration these concerns, I asked the participants about the precautions and measures taken to address them. They regarded the matter as baseless, imaginary and biased. To support that argument, the participants indicated that there was 'no proper research' conducted and that there was no forum in which the researcher or the management of SANU meets with the employees to discuss loss of salaries, benefits or other labour related issues.

When reminded that these issues were raised at the Thabankulu Strategic Planning Workshop

in which the participants and the heads of departments from the three colleges participated, the participants indicated that the attendants of the workshop did not represent the personnel. Discussing this issue, Participant D/Admin claimed, “The number of people who were at Thabankulu was a small fragment .... and that cannot be considered representative”. Even though the participants did not regard the number of the participants at this workshop as representative, the decisions made by the group affected the entire process. Furthermore, the issues raised at the said workshop form part of the obstacles that the management of SANU must resolve for the success of the First Year Action Plan October 2009 – 31 December 2010 (Southern Africa Nazarene University 2009c: strategic planning).

These and other questions are critical and need to be tackled for the smooth transition and proper functioning of the University. It is recommended that the people entrusted with the establishment of SANU, especially the members of the Rector’s Advisory Committee and members of the Executive Committee of the Board of Governors of SANU, reconsider such issues.

#### **4.8 SUMMARY**

In this chapter the findings were conveyed. For a clearer presentation, the researcher revisited the research questions and objectives and examined those in conjunction with the processed data.

The chapter comprised five major sections: the legal framework within which private higher education institutions are established in Swaziland, the implications of the paucity of the legal framework for the establishment and management of private higher education institutions, the proposed partnership between SANU and the government of Swaziland, the funding of the SANU, and labour-related issues.

A private Act of Parliament was selected as the instrument to be used for the establishment of SANU. Practice and recommendation from various stakeholders constituted the factors that informed this route; subsequently, a prototype Bill for a higher education institution was presented. The lack of information and uncertainty regarding the legal procedures, as well as the lack of defined organisational and management structures for private higher education institutions were identified as challenges resulting from the paucity of the legal framework.

A collaborative and temporary partnership between SANU and the government of Swaziland is envisaged. It was said that the collaborative partnership will enable both parties to be responsible for promoting quality higher education in this country.

Subvention was selected as the method for funding SANU. Practice, past experiences and the philosophical notion that regards education as a public service were identified as factors

which influenced the selection of subvention as a method for the generation of income for SANU. Three challenges that accompany the subvention method were identified: possible control of the institution by the government, the possible termination of the subvention, and the lack of guidelines and control methods for the use of funds allocated to higher educational institutions. The tuition driven system was identified as the means to secure adequate operational funds. To supplement such a system, two strategies were identified: the operation of a commercial farm on the property of NCT at Siteki and the offering of short term occupational training programmes.

The transfer of personnel of NCN, NCE and NCT from the Swaziland Nazarene Health Institutions, Teaching Service Commission and Nazarene College of Theology to SANU; the lack of information about terms and conditions of employment offered by SANU; and the fear of losing employment and pension benefits from the previous employers were discussed as labour problems that may affect the establishment of SANU.

These findings are synthesised in the next chapter. In addition, the conclusions and recommendations are furnished.

## **CHAPTER FIVE**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **5.1 INTRODUCTION**

In this chapter the researcher refocuses the study and makes recommendations. As part of refocusing he restates the questions and objectives of the study, presents the synopsis of the findings and describes the conclusions. This is followed by the recommendations which are categorised into two groups, those concerned with the improvement or solving of the research problem and those for further research. Finally, the researcher presents the summary of the whole exercise.

#### **5.2 REFOCUSING THE STUDY**

It is a norm that a researcher concludes a study by analysing what he set out to do and what he has achieved. Therefore, in this section the research questions, the objectives of the study and the synthesis of the findings are furnished. As the findings are dealt with, the answers to the research questions are given.

##### **5.2.1 Research questions and objectives**

In chapter one, the researcher identified the research questions and developed specific objectives that guided the study. The said questions were:

- What legal framework exists within which the establishment of SANU should take place? What are the implications of the existing legal framework for the establishment of SANU and in particular for the management and governance structures of the new

institution?

- What organisational and managerial aspects should be entrenched in the Act of Parliament?
- What type of partnership should be established between the Government of the Kingdom of Swaziland and the Church of the Nazarene with respect to the governance and management of SANU?
- What should be done to secure adequate operational funds for SANU and eliminate its possible financial dependence upon the government?
- What labour-related problems could result from the transfer of the employees of NCT, NCN and NCE from their present employers to SANU and how could these problems be resolved?

The objectives were to:

- explore the legal framework within which private higher educational institutions, and especially SANU, could be established in Swaziland in order to:
  - determine which legal and management processes should be undertaken to acquire the appropriate legal instrument that would establish (the legality of) SANU
  - examine the implications of using the existing legal framework for public education for the establishment of a private higher education institution in Swaziland, and in particular the drafting of a pro-type Bill for the management and governance structures of SANU
- develop a prototype Bill that can be used as a reference for establishing private higher education institutions in Swaziland, and especially for establishing SANU
- define the type of partnership that should be established between the Government of the Kingdom of Swaziland and the Church of the Nazarene in the governance and management of SANU
- outline potential methods that could be used to secure operational funds for SANU
- discuss labour-related problems emerging from the transfer of the employees of NCT, NCN and NCE to SANU.

To successfully achieve the first objective and answer the first question, the researcher conducted a systematic study of Swaziland's educational legislation, the Agreement already mentioned and various scholarly sources. In addition, he conducted in-depth interviews. Both the literature review and these interviews afforded a comprehensive understanding of the legal framework for the establishment and management of private higher education in Swaziland, and in particular SANU.

To achieve the second, third, fourth and fifth objectives, and to answer the second, third, fourth and fifth questions, the researcher conducted an empirical study by means of focus group discussions and participant observation. The said discussions provided data used for the compilation of a prototype Bill that can be used as a reference for the given purposes; elicited the type of partnership that could be established between the government and the Church of the Nazarene in respect to the governance and management of SANU; identified the type of funding method for SANU; and discussed labour-related problems emerging from the transfer of the employees of NCT, NCN and NCE to SANU. Participant observation provided additional information that substantiated the information provided by the participants.

Synopses of the findings of the study are now furnished.

### 5.2.2 Synopsis of the findings

The results of the analysis indicated that:

- There is a scarcity of management and legal frameworks for the establishment of private higher education institutions. It was noted that education legislation that will govern, regulate and manage higher education, especially private higher education in Swaziland is being developed.
- The managers of SANU indicated that a private Act of Parliament was needed for the establishment of SANU. Practice indicated that an Act and a Certificate of Registration are both required for the establishment of a higher education institution. An Act legally establishes the institution while such a Certificate makes it operational. However, it was found that the Certificate functions when the provisions of a general Act are used. The Higher Education Bill of 2010 recommended the use of a Certificate of Registration for the establishment of private universities in Swaziland.
- There are bilateral relationships between the Government of Swaziland and private higher education institutions. It was decided that a cooperative partnership between the government and SANU be established.
- The government provides subvention to private higher education institutions. Subvention was identified as the method to fund SANU.
- There is a need to supplement the subvention. It was decided that the subvention will be supplemented by tuition fees, the operation of a commercial farm and the offering of short term occupational training programmes.
- Two sets of labour-related problems emerging from the transfer of the employees of NCT, NCN and NCE to SANU were identified: the fears of losing employment and

pension benefits from previous employers and the employees being not informed about the terms and conditions of employment offered by SANU. As a rejoinder to those problems two responses emerged. First it was decided to retain most of the employees and that the previous employers address the problems of pension benefits before the transfer was effected. Second, the terms and conditions of service offered by SANU were developed and employees informed about them.

The conclusions stemming from these findings are now provided.

### **5.2.3 Conclusions**

The organisational structure of this section is directly aligned to the discussions presented in the previous section.

#### **5.2.3.1 Paucity of legal framework**

The study indicated the lack of legislation regulating the establishment of private higher education institutions in Swaziland. Besides that, it was also found that the existing relevant legal framework exhibited serious shortcomings.

The minimal legal framework and its shortcomings had severe implications for the establishment process of SANU. The major ones were the uncertainty about the legal instrument to be used, the legal procedures to be followed for the establishment of SANU and the lack of defined organisation and management structures for private higher education institutions in Swaziland. The uncertainties about the legal procedures led to the following of both the two existing legal procedures: the drafting of the SANU Bill and application for

registration. The lack of prescribed organisation and management structures for private higher education institutions led to the development of a structure that is similar to that of a public university. However, there were various differences, *inter alia*, in that the Board of Governors, instead of the University Council, would be the governing body and the position of the Chancellor was allocated to a member of the Church of the Nazarene instead of His Majesty the King of Swaziland.

Even though the SANU team and the participants encountered those difficulties, the researcher would like to commend their efforts and accomplishments as these prompted the government officials to address the problem. Consequently, the Higher Education Bill and other related education policies are being developed, reviewed and processed accordingly.

#### 5.2.3.2 The use of a private Act of Parliament

A private Act of Parliament was selected as the instrument to be used for the establishment of SANU. Practice and recommendation from various stakeholders informed its selection, and the SANU Bill was developed. It contains provisions on organisation and management structures.

The preference for an Act rather than a Certificate raises many questions, for example, where does the Certificate fit into the process? When is an Act of Parliament appropriate? The findings indicate that both are necessary.

Even though the Act was preferred and the procedures outlined, the researcher, basing his reasoning on the findings of the study (especially the existing gaps in the legislation, the

manner in which government officials are handling the process and the statements made by these officials), believes that the establishment of SANU should be carried out in terms of a general Act as proposed by the Higher Education Bill of 2010.

As indicated in chapter 4 section 4.2, the researcher acknowledges that both instruments are required, serve different purposes and are complementary. In addition, he is cognisant that the registration process is an 'internal' legal process within the Ministry of Education, whilst an Act of Parliament is more national in nature. However, during the present situation in which education legislation is still being developed and the government officials are following the procedure of a general Act, registration is the viable option for the establishment of SANU.

The content of the SANU Bill is another aspect that should be discussed. As indicated in chapter 4 sections 4.2.3 and 4.3, various aspects were incorporated. However, transitional provisions were not fully covered. As a result issues pertaining to academic awards, the transfer of executive powers from the organisational and management structures of the colleges to those of SANU, the examinations conducted by the colleges and the validity of the certificates, diplomas and degrees offered by the colleges, to mention a few issues, were legally not covered. Being aware of this limitation, the researcher notified the members of the *Legal Advice Team*. However, the members did not share the concern and did not address the issue. The inclusion of such a provision could pave the way to a smooth transition and eliminate legal disputes about the ownership of the colleges, labour disputes and academic disputes between students and SANU in relation to the transfer of the students from the colleges to SANU as well as the validation of the examinations passed under previous arrangements.

### 5.2.3.3 Partnership between SANU and the Government of Swaziland

The study revealed that there are amiable relationships between the Government of Swaziland and private higher education institutions and a collaborative partnership between SANU and the Government of Swaziland was envisaged. The said partnership would be governed by contractual agreements. Such a partnership would encompass various aspects, *inter alia*, joint participation between SANU and the Government toward the finding of solutions to challenges affecting higher education in Swaziland and joint decision-making in all managerial issues and aspects.

Over the years NCE and NCN entered partnerships with the government. However, those were not always of a collaborative nature. As the major financing agency of the colleges, the government imposed certain decisions: for example, the Teaching Service Commission was made the employer of the lecturers at NCE, government's organisational and management structures were introduced to NCE and NCN, the Chief Executive Officer for the Swaziland Nazarene Health Institutions was appointed by the government and the employees of NCE and NCN were declared to be civil servants.

The researcher acknowledges the fact that contractual agreements will be used to regulate the partnership. However, history indicates that such agreements may be crafted to suit the objectives of one partner only. For example, the terms and conditions incorporated into the agreement between the National Board of the Church of the Nazarene in Swaziland (on behalf of the NCN) and the Government of the Kingdom of Swaziland are favourable to the government. For instance, the government benefits from a higher representation (in terms of

numbers) in the Board of Trustees of the Swaziland Nazarene Health Institution than the Church of the Nazarene. This unequal representation between the two partners was strategically decided to safeguard the interest and finances of the government.

#### 5.2.3.4 Funding of SANU

The study indicated that the Government of Swaziland provides subvention to private higher education institutions; this was preferred as the method for funding SANU. Practice and past experiences influenced the choice of subvention as a method for the generation of income for SANU.

Three challenges that accompany the subvention method were identified: possible control over the institution by the government, possible termination of the subvention allocated to private higher education institutions, and the lack of guidelines and control methods for the use of funds allocated to such institutions. To safeguard the university from the adverse consequences that could be brought about by the first and second challenges, the participants resolved to use contractual agreements.

The reduction and possible termination of government's subvention to higher education institutions were observed when the 2011/2012 budget allocations for higher education were presented by the Minister of Finance. The Scholarships Board was allocated R248,553,538.00 for tertiary scholarships and grants. The University of Swaziland was allocated R241,585,109.00. This amount demonstrates a decrease by R30,703,291.00 from the 2010/2011 budget. SANU was allocated R18,355,669.00 (Geldenhuys 2011:13). This was less than had been budgeted. In section 4.6.1 of this chapter it was indicated that R113.7

million was budgeted and requested for the payment of personnel. This amount was the total figure for the first five transitional years. If it is divided by five, the resulting figure shows that for each year SANU will spend about R23 million for the payment of personnel. If this is true, the current allocation is less by R5,355,669.00 for the payment of personnel during the 2011/2012 academic year.

As the Minister of Finance has indicated that government's subvention to higher education institutions will systematically be reduced and completely withdrawn in the future, the following two major questions are inevitable: (1) being a newly established institution, will SANU be able to raise the difference without crippling other essential services? (2) If the government does implement its plan of a yearly reduction of allocation to higher education institutions and a possible yearly decrease in allocations during the next four transitional years, how will SANU cope with its operational expenses?

On the other hand the R18, 355,669.00 allocated to SANU raises another question in relation to a collaborative partnership. To the knowledge of the researcher, there was no contractual agreement signed between SANU and the government. If this is accurate, could the government not use that opportunity to dictate the terms and conditions for the use of the funds? Or might the government at any given time use the absence of such contractual agreement to withhold part of the funds?

In regard to the lack of guidelines and control methods, it was resolved that further consultations with the government departments responsible be held and policies developed. The approval of the scholarship policy, which occurred in 2010, is a positive step toward the

solution of the problem. The researcher commends the government drive towards the implementation of the policy and the regulation of the scholarship issues.

#### 5.2.3.5 Securing adequate operational funds for SANU

The tuition driven system was identified as the means to secure adequate operational funds for SANU and eliminate its possible financial dependence upon government (cf. chapter 4, section 4.6.3.1.1). In addition, as indicated, two other strategies were identified: operation of a commercial farm on the property of NCT at Siteki and the offering of short term occupational training programmes.

The participants acknowledged that there were difficulties with the payment of tuition fees. However they believed that such fees would be paid. The quest for education, the engagement of students in seasonal or part time work, the willingness of the parents to sell produce to meet the cost of tuition fees and the payment of such fees by the government served as reasons to support the stand of the participants (cf. chapter 4, section 4.6.3.1.2). However, opposing factors pointed out by the participants and the prevailing reality has to be considered. These include amongst others the high cost of higher education, government's inability to continue to offer financial support to students of higher education, the dependency syndrome and the current high cost of living. The quest for higher education and the willingness of parents to pay for it may be a reality, but the above mentioned adverse factors present a challenge that cannot be neglected.

The approval of a new scholarship policy by the government – a policy that advocates the sharing of the cost of higher education between government and the beneficiaries and the

reduction of the financial support given to students for the payment of tuition fees – in the year 2010 and its immediate implementation brings about a change that may affect SANU. It is worth noting that tuition fees are the major source of income for SANU; for example during the 2014/2015 academic year SANU is expected to generate R187 million from tuition fees (cf. chapter 4, section 4.2.3). If the government reduces the financial support given to students, a reduction of the amount SANU will receive from the government will ensue. If this occurs the operations of SANU will be affected. Should this be the case the following question is inevitable: what will be the impact of the effect upon the operation of SANU in this transitional stage?

#### 5.2.3.6 Labour-related problems emerging from the transfer of the employees

The transfer of personnel from NCT, NCN and NCE to SANU raised labour-related problems, *inter alia*, fear of losing employment and pension benefits from the previous employers and the lack of information about terms and conditions of employment offered by SANU (cf. chapter 4, section 4.7). The analysis of the findings indicated that the issues were delicate and the process could take time. Three options from which the employees could choose were identified: early retirement, redeployment, and transfer to SANU. The first option provided the lecturers with possible payments of full retirement benefits from their previous employers. The second offered those who did not want to retire or join SANU the option to be posted to other education agencies or sectors, with similar employment posts and salary scales. The transfer option provided the lecturers who wanted to continue serving at a particular institution under SANU with a possible transfer to SANU, retaining all retirement benefits from the previous employer. The transfer of lecturers from NCE, NCN and NCT to SANU is a sound option. However, the researcher would like to point out that there is a need

to re-orientate lecturers to the new focus. Teaching in an academic climate is different from doing so in a vocationally-orientated climate.

Regarding the terms and conditions of employment, various policies were developed. These established adequate terms and conditions of employment in that they advocated for the observance of ethical principles by all employees of SANU; respect for the laws of the country; implementation of appropriate and transparent procedures during recruitment, selection, appointment and termination of employment; and provision of competitive remuneration packages.

The conclusions reached above necessitate specific recommendations; these are now made.

### **5.3 RECOMMENDATIONS**

The recommendations are divided into two: those that address the research problem, and in particular SANU, and those concerning further research.

#### **5.3.1 Recommendations for the improvement of or solving the research problem**

The recommendations presented relate to the acquisition of the appropriate legal instrument for the establishment of SANU, development of transitional arrangements included in the SANU Bill and regulation of partnerships between the government and SANU.

##### **5.3.1.1 Acquisition of appropriate legal instrument for the establishment of SANU**

The Act of Parliament was selected in this respect, but the data indicated the managers of

SANU undertook dual processes, as indicated earlier.

To resolve the above described problem, the researcher proposed that the managers of SANU follow procedures prescribed by the Higher Education Bill. He is aware that a Bill is not a law until assented to. Hence a reconsideration of the whole process under the terms and conditions outlined by the Higher Education Bill is essential for the establishment of SANU and the acquisition of the legal instrument. In other words, the establishment of SANU as well as any other private university in Swaziland should be carried out in terms of a general Act as proposed by the Higher Education Bill of 2010. The following are the procedures to be followed:

- Applying to the Permanent Secretary in the Ministry of Education for permission to establish a private university
- Granting of provisional authority
- Application to the Permanent Secretary in the Ministry of Education for registration
- On approval, the university is registered, gazetted and a Certificate of Registration issued.

#### 5.3.1.2 Transitional arrangements

As the SANU Bill was developed, it was found that transitional provisions were barely included in it. It is recommended that the managers of SANU should consider the improvement and expansion of such provisions. Under these provisions items dealing with aspects relating to students, academic awards, organisational and management structures, terms and conditions of employment and many others should be considered. Some of the provisions that could be incorporated include: the validity of degrees, diplomas or certificates

obtained from a previous institution; transitional arrangements regarding agreements, awards, contracts, deeds and other instruments that existed before the establishment of the new institution; the transfer of powers from the previous organisational and management structures to the newly established bodies of the new university; and terms and conditions of employment. The inclusion of such provisions will pave the way to a smooth transition and eliminate unnecessary disputes.

Further, the researcher would like to implore the team responsible for the establishment of SANU to carefully monitor the current global financial crisis and consider its implications for SANU in this transitional stage. As the Minister of Finance indicated in his *2011/2012 Budget Speech*, Swaziland is greatly affected by this crisis, which has resulted in cuts regarding the subvention given to various departments or ministries. The reduction in the budget requires that a clearly demarcated strategy for the acquisition of additional funds to support the university during the transitional period be developed.

#### 5.3.1.3 Regulation of partnership between SANU and the Government of Swaziland

Desiring something is not the same as possessing it. It is, therefore, recommended that the managers of SANU be cautious about the relationships SANU establishes with the stakeholders and especially the government. As the major funder (in terms of subvention and payment of the tuition fees) the government may have a greater say in the management of the university than the Church of the Nazarene. If this occurs, the university may be called a private institution and use the label “Southern Africa Nazarene University” but in reality it will become a public one.

### 5.3.2 Recommendations for further research

The minimal management and legal frameworks, the limited methods used to fund private higher education institutions and the labour-related problems affect not only SANU but also other private institutions and their employees. Therefore, the researcher resolved to place the recommendations addressing these aspects at a wide context.

#### 5.3.2.1 Development of higher education law

In the light of the legal issues, the researcher proposes that an intensive study be undertaken on the process used to develop education legislation, especially the higher education legislation, in Swaziland. In that study, factors such as “who” develops such legislation, “when” and “how” should be addressed. Parallel to that, research into the importance of current and relevant higher education legislation for the twenty-first century in the Swaziland context is necessary. The study of these and other related aspects should enhance the development of higher education legislation which will improve its management and consequently its quality.

#### 5.3.2.2 Development of guidelines for the establishment of private university under a general Act

It was observed that officers in the Ministry of Education and other government departments regarded the Higher Education Bills as the instrument to be used for the establishment of private universities. However, the Bill does not contain all the prescribed requirements. It is consequently recommended that guidelines for the establishment of private universities under a general Act be developed. These will assist prospective founders and enable the

government officials to make sound decisions based on approved procedures. The guidelines should include *inter alia*, the nature of the person allowed to establish a university, the nature of the application, to whom the application should be submitted, the documents required, specific requirements (for example financial resources, personnel, land, and facilities), programmes of study, evaluation of the application and compliance.

#### 5.3.2.3 Research on transitional arrangements in cases of merger of higher education institutions

It has been pointed out that SANU was a result of the merging of three education institutions. In the early 2000s a similar phenomenon occurred when the (then) Mbabane Institute of Health Sciences merged with the University of Swaziland. In the year 2010 it was proposed that all public colleges should merge with this University. The above trend indicates that the merger of higher education institutions is one of the factors to be considered in the establishment of future universities. However, the researcher is not aware of existing transitional arrangements that guide the processes. Therefore it is recommended that research into such arrangements, in cases where higher education institutions merge, be conducted.

#### 5.3.2.4 Improvement of the methods used to fund private higher education institutions

The analysis of data indicated that a large proportion of the funds of private higher education institutions was derived from government's subvention and payment tuition fees. A study of other methods that might be used to improve the funding of private higher education institutions (as well as public higher education institutions) in Swaziland should be conducted. In such a study aspects such as the establishment of bodies, policies and regulations that govern and manage the funding of higher education institutions should be

explored. Parallel to this, an investigation of the implication of the lack of guidelines and control for the use of funds given as subventions to private as well as public higher education institutions should be undertaken.

#### 5.3.2.5 Compliance of private higher education institutions with labour legislation

Many private higher education institutions, for example, Limkokwing University and Swaziland Medical University, are being established in Swaziland. The existence of these institutions creates employment opportunities. A study investigating the compliance of private higher education institutions with labour legislation and compliance with the terms and conditions of employment offered by these institutions to personnel, especially the lecturers serving in these institutions, is essential.

With respect to institutions that resulted from the merger of two or more institutions, in this case SANU, a study of the involvement of the employees and the choices given to them is vital. Their adequate involvement is recommended for a better determination of the choices that could be made available to them.

#### 5.4 SUMMARY

The research method used for this study is regarded as having been appropriate. This was evident in various aspects, *inter alia*, intensive involvement of the researcher and participants, establishment of trust, openness and honesty between participants and the researcher and the production of scientific information needed for the study. From this information the SANU Bill was drafted and submitted to the Ministry of Education. Parallel to that, an application for registration was submitted. The application was approved and SANU was granted interim authority to begin to operate, and allocated a budget by the government.

In order to be able to function properly, organisational and management structures of the university were established and focal managers, *inter alia*, the Vice Chancellor, the Deans of the Faculty of Education, Faculty of Nursing and Faculty of Theology, and the Bursary were appointed. Even though these two steps were taken, the transitional provisions were not developed. Their absence, the limited legal framework and the gaps within the minimal existing higher education legislation were the major hindrances that the newly appointed managers faced. To safeguard the initial operation of the university the managers developed institutional policies and regulations.

Making deductions from the information presented above, the researcher can confidently state that the results adequately fulfil the aim of the study and offer ways to approach future situations.

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**ADDENDUM A**  
**VERBATIM TRANSCRIPTION OF THE INTERVIEW**  
**WITH THE DIRECTOR OF EDUCATION<sup>29</sup>**

The interview with the Director of Education was held on the 1 and 8 of February 2009. The interview was conducted over two days because the busy schedule the Director had on the time. The major component of the interview was conducted on the 1<sup>st</sup> of February 2009. On the 8<sup>th</sup> of February the discussion was focussed on the charts presenting the organisational structures of education in Swaziland.

1. From the reading of education legislation (Acts, policies and bills) I was not able to identify charts presenting (1) organisational structures for the education system in Swaziland and (2) organisational and management structures for the institutions of higher education. However, I developed the following diagrams:

(a) Are these charts portraying the correct picture of the organisational structures?

Response: You have made a good presentation. However, I cannot see the section of Open and Distance Learning. This is a new development and should be included. This department is developing tremendously and all structures are being developed. Let me take these papers and I will bring them to church next Sunday.

(b) What structures are missing and should be incorporated?

Response: The organograms present a true picture of the organisational structures. As I mentioned before, the missing structures that of Open and Distance Learning and administration. (NB: the Open and Distance Learning was included in the first drafts of the research but it was removed because of the focus of the discussion on the study. The study was geared toward higher education. The existing distance education in Swaziland is focussed on secondary education.)

(c) What structures should be eliminated and why?

Response: All the structures are appropriate. Nothing should be eliminated. Let me

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<sup>29</sup> The Director of Education interviewed was transferred to be the Permanent Secretary to the Ministry of Youth and Sports.

think about that and I hope to give more information next Sunday.

2. Section 16(1) of the Education Act 9 of 1981 (Swaziland Government 1981) mentions the existence of the National Board of Higher Education. To my understanding this body is the one that is responsible for the regulation of higher education. However, section 5(1) and section 7 of the same Act, indicate that the National Board of Education is the entity responsible for all educational matters (higher education included). Can you clarify this “discrepancy” and indicate which body is responsible for the functioning of higher education in Swaziland?

Response: It is true that section 16(1) of the Education Act 9 of 1981 speaks about the National Board of Higher Education. But I would like to say that this body was never established. Consequently, all educational matters, including higher education institutions are managed by the National Board of Education. However it is important to mention that the National Board of Education has sub-committees that deal with different issues. In that way specific issues of higher education are handled by appropriate sub-committees and the board as a whole make final decisions. Let me indicate that there is the Higher Education Bill that is being discussed. That bill established the Council of Higher Education as a body that will be responsible for higher education. Once the bill is made into law all matters relating to higher education will be handled by the council.

**Probing Question:** You spoke about a Higher Education Bill; may I have a copy of the bill?

Response: I will give you a copy next Sunday.

3. Education legislation with the exception of the Higher Education Bill of 2007 (Swaziland Government 2007) is silent regarding the organisational and management structures of the institutions of higher education, especially private colleges. What organisational and management structures exist to govern and manage these institutions?

Response: Government cannot prescribe organisational structures for private institutions. There is no private university in Swaziland. The private colleges that we have were established long ago and their organisational structures proved to be effective. Seeing the effectiveness of the structures, the government did not try to change them. Truly speaking

it was on the basis of those structures that the government formulated the organisational structures of the public colleges. That is demonstrated by the fact that both public and private colleges have similar organisational structures. There may be minor differences between the two types of institutions.

4. What other information can you provide which can help me as I study the management of private higher educational institutions in Swaziland?

Response: My office does not have much information in that regard. The recommendation that I can give is that you contact the institutions themselves and I hope that the principals will be able to provide more information. What I can say is that, the Ministry of Education is on good terms with the colleges that she has a relationship with, for example, the Nazarene College of Education and the Nazarene College of Nursing.

**ADDENDUM B**  
**VERBATIM TRANSCRIPTION OF THE INTERVIEW WITH THE**  
**MANAGER OF THE NAZARENE SCHOOLS IN SWAZILAND**

The interview with the Manager of the Nazarene Schools in Swaziland was held on the 17 of March 2008 at his office.

1. Presently, the Nazarene College of Education (NCE) is under the management of the Ministry of Education.

a. When was the NCE transferred to the Ministry of Education?

Response: Before I answer your questions let me say that the NCE was never transferred to the Ministry of Education. What happened is that the government committed herself to finance the college and other educational institutions (primary and secondary) sponsored by the Church of the Nazarene. That occurred in the year 1962.

b. What circumstances led to the transfer of the college from the Church to Government?

Response: That is a long story, but let me make it short. In the year 1962 there was a protest held by all teachers in protest to the salaries and conditions of service given to teachers working in private educational institutions. Prior to the 1960s the *government-aided institutions* (whether primary or secondary or college) received a grant from the government that helped with the payment of salaries, construction of school facilities, buying of school equipment and furniture as well as the construction of teachers' accommodation. Due to rising cost of life, the church-related schools could no longer afford to match government's salary and working conditions given to teachers working in public schools. In an attempt to address the problem, a commission was established. The commission was composed by people from the government and other educational agencies for example the church of the Nazarene. Dr. David Hynd a missionary in the Church of the Nazarene was a member of the commission. Knowing that Rhodesia now Zimbabwe, had faced a similar problem, the commission went to

Rhodesia to learn how the Rhodesian government dealt with the problem. From its findings, the commission recommended that government should regulate teachers' salaries and make direct payment of their salaries regardless of the type of the institution whether university or college, primary or secondary, and public or private by which they were employed. As a way forward the government of the Kingdom of Swaziland committed herself to payment of teacher's salaries, payment of money related to staff development, and tuition fees.

2. Is there an official document that formalised the transfer of the college to the Ministry of Education?

Response: To my knowledge there is no official document that formalised the transfer. But I know that there was a proclamation called the Unified Teaching Service Proclamation of 1962 issued by the government that formalised the transfer of all educational institutions. I do not have the document myself; please contact the Ministry of Education for a copy of the document.

3. Was the transfer beneficial to the Church and personnel?

Response: Yes!

4. If the answer is yes what benefits were brought by the transfer? Please include benefits for both the Church and personnel.

Response: There are many benefits both to the Church and personnel. As I mentioned earlier on let me speak about the payment of teacher's salaries, money for staff development and student's tuition fees. The payment of teachers' salaries made the teachers in our schools, the college included, to earn adequate salary. On the other hand that action relieved the Church from the payment of salaries which was a burden. As you know the Church is a non-profit making organization, thus she does not have money to pay adequate salaries. The church of the Nazarene has many educational institutions in Swaziland. These schools needed qualified teachers. The Church did not have money to send the teachers for training. The government's staff development helped the church to better equip the teachers. As you know, in the past the Swazi people could not afford to pay for their training. The Church of the Nazarene had to finance its students. As the

student enrolment grew, the Church could not afford to pay tuition fees anymore. The payment of the student's tuition enabled more Swazi young people to enroll for the diploma and also brought more money to the college. It was that money that was used to improve the facilities of the college. Another thing that I would like to add is that the transfer made the teachers to be eligible for retirement benefits given to civil servants.

5. If the answer is no, what were the disadvantages brought by the transfer? Please indicate the problems experienced by the Church and personnel.

Response: The answer to the previous question was "yes", therefore, this question is irrelevant. However, it would be a mistake to think that there are no disadvantages that accompany this act. Let me just mention one. As the financing party, the government is the employer. To validate that one of the Acts or Policies (please I can not pinpoint it at the moment) states that the Teaching Service Commission is the employer of the teachers on behalf of the government. Because of that my office has encountered some problems with certain teachers whose behaviour is not acceptable in our institutions.

6. What type of funding does the institution receive from the Ministry of Education?

Response: Presently the operational funds for NCE are fully derived from the government. The government of the Kingdom of Swaziland is carrying all the cost. There are no funds coming from the Church of the Nazarene. In summary all the necessary money to run the college derives from the government. [For a number of years] the NCE [has been] receiving grants from the government to develop its facilities. Teachers are granted scholarships to further their education. Specialised departments are being equipped with current [equipment]. I expect more developments in the coming years. For more information please contact the principal of the college.

**ADDENDUM C**

**VERBATIM TRANSCRIPTION OF THE INTERVIEW WITH THE  
PRINCIPAL OF NCN AND THE FINANCIAL DIRECTOR OF SWAZILAND  
NAZARENE HEALTH INSTITUTIONS**

The interview with the Principal of the NCN and the Financial Director of the Swaziland Nazarene Health Institutions was held on the 18 of March at the office of the Principal, at Manzini.

1. Presently, the NCN is under the control of the Ministry of Health and Social Welfare.

a. When was the NCN transferred to the Ministry of Health and Social Welfare?

Response by the Principal: I cannot remember the exact year but it occurred in the early 1980s.

Response by the Financial Director: Yes I agree with that.

b. What circumstances led to the transfer of the NCN from the Church to Government?

Response by the Financial Director: The political instability experienced by African countries during the 1970s and 1980s also affected Swaziland and the Church of the Nazarene. As a result, the Church of the Nazarene re-called its missionaries. The departure of the missionaries left the hospital, the clinics and the college in financial crisis. Recognising the services provided by these institutions the Government of the Kingdom of Swaziland decided to step in and rescue the institutions by providing subvention. As part of the Nazarene Health Institutions, the Nazarene College of Nursing was also included in the government's subvention. I would like to mention that the transition was not easy. There were times in which the institutions experienced shortages of funds and the institutions experienced various strikes.

Response by the Principal: There is another aspect that is of utmost importance that also served a key for the subvention. In the year 1978 the *Alma Alta Conference* was held. The Conference stipulated the provision of health services

to all people by the year 2000. In its attempt to achieve that goal, the Government of the Kingdom of Swaziland saw it fit that health services should be made accessible, acceptable, available and affordable to all Swazi citizens. To achieve that goal the government had to fund all health facilities in Swaziland including church-related hospitals and clinics. For a better provision of the funds, the Ministry of Health made an oral agreement with the *Swaziland Nazarene Health Institutions* (SNHI) in which the government committed itself to the payment of monthly subvention for the operation of these health institutions. As indicated before, the agreement was verbal but the government provided the necessary funds. In September 2003 the agreement was formalized by the signing of the Agreement between the Government of the Kingdom of Swaziland and the National Board of the Church of the Nazarene in Swaziland.

2. Is there an official document that formalised the transfer of the college to the Ministry of Health and Social Welfare?

Response by the Financial Director: Yes there is the Agreement between the Government of the Kingdom of Swaziland and the National Board of the Church of the Nazarene in Swaziland.

3. What advantages were brought about by the transfer? Please include advantages for both the Church and personnel.

Response by the Financial Director: The agreement brought various advantages to the SNHI, the Church and personnel. The benefits for the SNHI include the following: financing of medical supplies and drugs, maintenance and renovation of infrastructure, replacement of obsolete medical equipment, payment of personnel salaries and terminal benefits of all employees of the SNHI. The benefits to the Church include the following: relief from the burden of payment of salaries and other related financial constraints. The benefits to the personnel include: inclusion of the personnel to the category of civil servants with all its benefits, for example, adequate salaries and terminal benefits and being entitled to government's scholarships for personnel development.

4. Apart from the benefits, what problems were experienced as a result of the transfer? If there were problems please indicate the problems experienced by the Church and personnel.

Response by the Financial Director: Let me not speak on behalf of the Church but for the SNHI. The transition period was not easy. There were months in which we did not have enough funds to run the hospital, especially payment of salaries and purchase medication. Consequently, SNHI experienced strikes and some personnel left the institutions.

Response by the Principal: The leaving of personnel made the college to experience shortage of lecturers. Remember, NCN was a private college operating with minimal qualified personnel. As the personnel left positions were not filled. That made the remaining faculty to carry a heavy load. In addition to that, NCN had to develop the educational facilities and the teaching-learning materials as well as the teaching equipment. During the first years the college did not have adequate funds for such development. Out of the little and with the help of various organisations, the college built several facilities (for example, computer lab, technicians' laboratory, nursing skills laboratory, science laboratory, administration offices, a conference room, a library and the auditorium), developed its faculty and improved the teaching-learning equipment.

5. What type of funding does the institution receive from the Ministry of Health and Social Welfare?

Response by the Principal: The College receives different types of funding from the Ministry of Health and Social Welfare, and some of them are: payment of personnel salaries, scholarships for personnel development and subvention of various projects. [In respect to the funding of various projects], the United Nations Children's Fund through the Ministry of Health and Social Welfare has funded various activities, for example, the training of the faculty on Prevention of Mother to Child Transmission of HIV, the Integrated Management of Adult Illness and Integrated Management of Child Illness as well as the development of the Bachelor of Science in Nursing Programme. Another funding that the Ministry of Health and Social Welfare gives to

the college is the money for the payment of the tuition for most of the students. It is worthwhile noting that currently the scholarships are being awarded by the Ministry of Education but in the past the Ministry of Health and Social Welfare was responsible.

**ADDENDUM D**  
**VERBATIM TRANSCRIPTION OF THE INTERVIEW WITH THE**  
**CHAIRPERSON OF THE MANZINI NAZARENE SCHOOLS COMMITTEES**

The interview with the Chairperson of the Manzini Nazarene Schools Committees was held on the 18 of March 2008 at Manzini in the office of the researcher.

1. You are one of the few living people who were directly involved in the establishment and development of the education institutions of the Church of the Nazarene in Swaziland. Having searched and found no official record about the exact date on which the Nazarene College of Education was established can you tell when the college was established?

Response: The Nazarene College of Education was established at Bremersdorp (now called Manzini) in 1936 by Miss M. K. Latta. From 1936 to 1939 lessons and other educational activities were held inside a church building. In 1940 the college was moved to a newly-completed building. The new building accommodated three educational institutions, namely, the Teachers Training College (presently known as Nazarene College of Education), the Nazarene Primary School and the Nazarene Secondary School. That arrangement lasted from 1940 to 1952, and in 1953 the college was relocated to a newly constructed adjacent facility. The college occupied those premises until 1967, and early in 1968 it was relocated to a new site and has remained there to date.

2. Who established it?

Response: As I indicated before, the college was established by Miss M. K. Latta a missionary of the Church of the Nazarene in Swaziland.

3. What motivated the establishment of the college?

Response: From the 1930's the church of the Nazarene in Swaziland had established a number of primary schools. To be able to operate those schools there was a need to train suitable candidates who could teach in those schools. At the beginning the college offered a one year Elementary Vernacular Teachers Certificate (EVTC).

Completing students were qualified to teach the first four grades at primary schools. In 1940, the course was upgraded to two years and in 1953, a new certificate entitled Primary Lower Certificate (T4) was introduced. Along the years a demand for higher qualified teachers grew. In response to that demand new courses were introduced, for example, the Primary Higher Teachers Certificate (T3), the Primary Lower Certificate and the Primary Teachers Certificate (PTC).

## ADDENDUM E

### VERBATIM TRANSCRIPTION OF THE FOCUS GROUP DISCUSSION USING INTERVIEW SCHEDULE

The first focus group discussion was held on the afternoon of the 28 of May 2010 from 15:00 to 16:30 in the board room at Nazarene College of Nursing, Manzini, Swaziland. Four members of the focus group discussion participated. Two participants were not able to participate due to unforeseen work and physical related difficulties. To begin the session the researcher welcomed the participants and presented the reasons for the meeting. In addition he requested permission to record the discussion. In compliance with the ethical principles adopted for this study (see chapter 3) the researcher did not use the real names of the participants. Instead pseudonyms were used to protect their identities. Three of the participants held administrative posts and the acronym *Admin* was added. One held a managerial post and the word *Manager* was added. The list of the pseudonyms given to the participants follows:

Participant A/Manager

Participant B/Admin

Participant C/Admin

Participant D/Admin.

The questions outlined in the schedules for the focus group discussions guided the discussion. The probing questions that arose during the discussions were explored and feature in the transcript.

#### **Introduction**

Researcher: You all know that I am writing a dissertation for the Doctor of Education. The dissertation is related to the establishment of SANU. I have written chapters 1, 2 and 3. Chapter one provides the overview of the study, chapter two presents literature review and chapter three deals with research methodology. The chapters have been provisionally approved by the supervisors and I was given permission to collect data.

Two weeks back I sent you an e-mail message asking your participation in the focus group discussions. In that message I outlined the objectives of the study and included the aspects

that will be discussed. Yesterday I tried to remind you about the meeting, but I found that some of your numbers were changed. I did plan for us to start at 2pm but now it is 3pm. Can we continue or postpone?

Participant B/Admin: Can you call us here and not do anything?

Researcher: I am asking for permission from the members.

Participant B/Admin: We can continue.

Participant C/Admin: the only thing we have to do is to be fast.

Researcher: Thank you.

Participant B/Admin: Are we going to have Participant E/Admin with us? I know that he has a class at 3pm?

Researcher: I don't know. Participant F/Admin sent his apology.

Participant B/Admin: We are a substantial number and I think we can continue.

Participant D/Admin: Yes, I think so.

Researcher: I am recording the discussions and the tapes will be submitted with the paper.

Participant B/Admin: Why should the tapes be submitted with your paper?

Researcher: It is part of the requirement.

Participant D/Admin: I think that it is a proof that the discussions took place.

Participant B/Admin: Will you not transcribe and summarise the discussions?

Researcher: I will transcribe and summarise the discussions. However, if the university will want a proof of the discussions, I should be able to present the tapes.

Participant D/Admin: That is the proof that the discussions indeed took place.

Researcher: Yes, can we start with the questions.

### **Establishment of the Institution**

Researcher: There are two legal instruments (the Act of Parliament or a Certificate of Registration) used to legalize education institutions in Swaziland. Which legal instrument is the most suitable to establish the SANU? Why do you regard that as the most suitable instrument?

Participant A/Manager: I think that there is only one instrument used to [establish] higher education institutions in Swaziland - that is the Act of Parliament, for example the act that established the University of Swaziland. I do not know about other universities. The parliament has been engaged on debate about the forthcoming private universities. Therefore, I don't think that there is a contradiction between the Act of Parliament and the Certificate of Registration.

Participant B/Admin: Are you asking us a specific question on how SANU will be legalized?

Researcher: yes.

Participant B/Admin: We have never talked about registration in regard to SANU, but the Act of Parliament.... That is the instrument we have discussed with the Prime Minister, the Minister of Education and the Church leadership....

Researcher: So we are saying that the Act of Parliament is the best.

Lecturer C/Admin: That is the one that will be used to establish SANU.

Participant A/Manager: Is there a choice?

Participant B/Admin: We do not know [if there is] a choice. Registration is just a registration to enable the institution to exist as a legal entity. But here we are talking about being legislated as a legal entity to provide higher education. I don't know if registration can establish you as a university.

Participant D/Admin: The registration only grants you legal status in terms of being recognised and to sue or being sued as an institution. Not necessarily giving the institution authority to offer higher education. The paper that we are preparing for the Cabinet will...

Participant A/Manager: May be we can assist you [sir]. We do not have an established procedure [for the establishment of a higher education institution] ... . There is the Higher Education Bill that is in the process. Besides that there is nothing that exists that direct individuals on how to establish institutions of higher education. Higher education in Swaziland falls under the Education Act an act that governs all educational institutions. The Higher Education Bill will be the first of its kind. But we know that an Act of Parliament was used to establish UNISWA. That is the instrument we are pursuing.

Researcher: Participant D/Admin mentioned that registration grants an institution a legal status. Will that act grant SANU that status?

Participant D/Admin: These are two different things that should not be compared.

Participant B/Admin: To exist as a legal entity can be done any time. Today someone can go and register a college as a legal entity. To this day Swaziland does not have an instrument that makes an institution of higher education to be recognised as legal entity offering higher education apart from the Higher Education Bill that is still on the process. When the Higher Education Bill becomes an act it will regulate the process. And an institution that wants to exist as an institution of higher education will have to conform to the requirements of that act.

Researcher: My question derives from the contents of that bill. Will SANU be established by an Act of Parliament or Certificate of Registration?

Participant A/Manager: We are pursuing the Act of Parliament.

Participant B/Admin: [The Act of Parliament] is what we want, but we wait for the people with legal expertise to tell us what else we can use to establish SANU. But what else does exist [apart from the Act of Parliament]?

Participant A/Manager: That is why I said we can assist you. In your background information you have to report this situation by reflecting that there are higher education institutions which are still governed by the Education Act rather than the something related to higher education. It is possible that the government officials have done something in that regard as they are now talking about the Ministry of Education and Training.

Researcher: It is a known fact that Swaziland does not have specific laws (with exception of the University of Swaziland Act 2 and the Higher Education Bill 1 of 2007) upon which private higher education institutions will be established and operate. What are the implications of the unavailability of such laws for the establishment of the Southern Africa Nazarene University and, in particular, for the management and governance of the new institution? And how do you plan to overcome such problems?

Participant A/Manager: the application is what we have said. We are seeking for an Act of Parliament. If the Higher Education Bill was already approved we would follow the procedures outlined by the bill.

Participant D/Admin: If we were encountering problems- whereby we knock on doors and no one addresses the issue - that would be disastrous. But presently, the Ministry of Education is supporting us, encouraging us, guiding us and leading all the way. It may be the writing of the proposal or the Cabinet paper or any other document.

Researcher: Can I conclude then that even though there is collaboration between officials of the government and SANU, still there are no defined procedures.

Participant D/Admin: [Sir] as precedence, there are other institutions that have done a similar

exercise [and we are following the same procedures] [participants were seen talking to each other]

Participant B/Admin: I want to... [Participants talked amongst themselves, the researcher could not establish what was being said exactly. But the researcher could feel the disagreement].

Participant A/Manager: You cannot say that there are no clear and prescribed procedures. We are following defined procedures. We are not speculating. There are established procedures [that are] being followed toward the establishment of SANU ... . The [Limkokwing University of Creative Technology] was discussed by the Parliament. Uniswa is an existing institution and an Act of Parliament was used to establish that university and we are following a similar process. [Other participants were seen and heard whispering that there are prescribed procedures]

Researcher: I would say that Uniswa is a public institution and that is a different case. As a public institution, the government took care of the legal aspects. But SANU and other new institutions are private. To me that is... [Interruption]

Participant B/Admin: What is the issue? What Participant A/Manager is saying is that whether private or public institution, even though there is no Act of Parliament, government is clear on how to establish any entity that will become a university in Swaziland. [Other members were heard saying yes!]

Researcher: Can you outline the procedures please?

Participant B/Admin: I will give you an example. When the Institute of Health Sciences had to become a Faculty of Health Sciences of the University of Swaziland, there had to be a legal instrument to make the institution a legal entity. Besides that, the government had to make a provision within the Nursing Act to ensure that there is that kind of higher education, because it had implications for the Nursing Act, and the act that regulates nursing profession. The government had to make an amendment clause in the Nursing Act to ensure that the

Department of Nursing within the Faculty of Health Sciences exists legally. May it be a private or public institution, the government uses an Act of Parliament to regulate an entity that will become a legal higher institution in Swaziland.

Participant A/Manager: Here we are looking at entities rather than either public or private. Is this really an entity? Let us forget about the differences between private or public. Let us focus on the fact that is it any entity that will operate in Swaziland. Any entity of higher education has to operate under the umbrella of all institutions that are similar. There may be detailed differences but the legal operations have to be sanctioned by an Act of Parliament.

Participant B/Admin: There are set procedures that the Participant A/Manager was referring to and those procedures are being followed. These are the procedures ... [interruption]

Researcher: That is what I want to know. What are the steps involved in the procedure? What should be done?

Participant A/Manager: I think that we have answered that question. We should move to the next question.

Participant D/Admin: It seems that you are not clear. Are you clear sir?

Researcher: Yes. I did not get the procedures clear and that is what I want to know so that I may include in my paper. Adding to that the procedures should guide us as we pursue the Act of Parliament.

Participant B/Admin: What is it that you are not clear about? You have disrupted me while I was trying to explain...

Researcher: I am sorry.

Participant B/Admin: I was saying that SANU management discussed [the] procedures with the Ministry of Education. The procedures are as follows:

- SANU leadership prepares the draft charter,
- The charter is submitted to the Ministry of Education,
- The Ministry of Education engages the chamber of the Attorney-General to [consider the bill] in collaboration with our legal experts,,
- Approval of the charter by the Cabinet
- Submission of the charter to Parliament by the Ministry of Education,
- Establishment of the Portfolio Committee to work on the charter. Some charters, depending on the nature, have to be made public before being deliberated by the Parliament. But that is debatable. I am not sure about that aspect because there is no Act of Higher Education that gives us such information and regulations,
- Deliberation and approval of the charter by Parliament,
- Submission to and approval of the charter by Senate,
- Submission of the charter for assent by the King.
- The King assents the charter and officially it becomes law.

Researcher: Can I verify if I took the correct steps as you outlined them? First... [Interruption]

Participant B/Admin: The steps may change... [Interruption]

Participant A/Manager: You do not need to speculate. Find out from the Parliament. The parliament has procedures that are followed in the making of laws.

Participant B/Admin: Note that the steps may change [from time to time] and you need to verify the procedures with the appropriate officers, for example, the officers at the Ministry of Education. We can not speculate the procedures. What we know is what we should do and that is,

- drafting the charter,
- the Board of governors of SANU approves the proposed charter,
- the charter is submitted to the Ministry of Education.

That is how far we can go. Beyond the Ministry of Education we are not involved.

Participant A/Manager: The draft will go to the Ministry of Education because that is the ministry responsible for education. If we were doing something else like agriculture we could go to the Ministry of Agriculture.

Participant D/Admin: Depending on the nature and scope of the project the organisation concerned has to go to the relevant ministry. The paper will go back and forth between the organisation and the ministry responsible until the officials are satisfied with the content of the document.

Researcher: Thank you for the input, can we move to the next question please?

### **Partnership**

Researcher: What type of partnership would you prefer to be established between Government of the Kingdom of Swaziland and SANU? Why do you prefer that type of partnership?

Participant C/Admin: Let us improve the pace please!

Participant A/Manager: I wish you could assist us in that aspect. The government has a stake in what we are doing – the training of the Swazi people- and we are interested understanding the government's aspirations on higher education so that we incorporate those issues. However, we are a Church related institution and want to reflect our Christian principles. That is the kind of partnership I would like to present.

Participant D/Admin: We are a private entity and we would not like to cease as a private institution. But we will continue to provide the services.

Participant B/Admin: We want a collaborative partnership. We do not want to become a public enterprise. This is a Church related institution- a missional institution- so we want collaborative relationship, whether in human resources or any other form. After the government has approved the university, we will have to evaluate the existing partnership.

[The participant paused for a moment]. [A partnership] that will respond to the priorities of government and enables SANU to reach out to the communities. The government has a social responsibility to the university because SANU will be providing social service to the country. It is expected that the government will come forward through our invitation or its own initiative to play a role in the development of the university. Not in terms of control but to collaborate with us. We hope that the government will provide the subvention that we will ask for. It may be support of personnel, support to students by paying their tuition fees and many other aspects.

Researcher: Thank you. Can we move to the next question please? Let us bring some of the aspects that we have been discussing. Those aspects are related and address the issues raised in the following section.

### **Finances**

Researcher: The Government of the Kingdom of Swaziland uses two methods to finance private institutions of higher education: direct payment of the salaries of staff and subvention. If the government will finance the university which type would you like to be adopted? Give reasons for your choice.

Participant A/Manager: I think it is easy. We are talking about subvention here. Uniswa is an example that receives subvention from the government and it is from that subvention that the salaries and other operational costs are paid.

Participant B/Admin: In fact that is what I alluded to when talking about collaborative partnership with the government and governments' social responsibility. Government's financial commitment should come in the form of subvention, not direct payment of salaries. If the government makes direct payment of the salaries, then we are saying that the government should be in charge and manage the institution. But in this case we are a private institution and the government should not be in control. SANU leadership will [have to] manage the institution and allocate the money. However, we are looking at a time in which the university will be self sustaining and not dependent on subvention from government. That

will come into effective as the institution adopts the tuition-driven system. And I guess you know the difference between the two because we discussed it when Rev. F. Otto was here.

Researcher: Thank you. Can we move to the next question please?

Researcher: In the absence of specific policies that regulate the funding of private institutions, what assurance do you have for the continual sustainability of the government funds?

Participant C/Admin: Participant B/Admin has already answered this question when she said that the university plans to become a tuition-driven institution

Participant B/Admin: When drawing a memorandum of agreement for example, the memorandum between the Government of Swaziland and the Raleigh Fitkin Memorial (RFM) Hospital, the agreement has to spell out how long will the relationship last so that there is a time frame; in other words the relationship should be time bound. When the time comes for the agreement to expire the partners will review it and decide whether to continue or terminate the relationship. At the same time SANU will evaluate herself to see if she is able to sustain herself or pursue another term of government's support. I would like to emphasise that the relationship should not be based on money alone. It could be that the government is interested in starting a particular programme which is a priority. In response to that SANU leadership will express its limitations, for example, in terms of funds, personnel and facilities; then the government may respond by the possible provision of money, hiring personnel, provision of facilities and bringing partners to the university who could provide more services.... it may be paying of the salaries, buying equipment, personnel development, building of facilities and many other things. The relationship should be broad. The subvention should not be limited to money. The subvention in monetary funds can come to an end. But there are other aspects as I outlined before that can serve as form of subvention.

Researcher: Will that aspect be featured on the act?

Participant B/Admin: No that will feature in the Memorandum of Agreement.

Participant C/Admin: What is being said has already happened. When the government wanted colleges to offer Information Communication Technology (ICT) modules, the government provided classrooms, computers and hired the ICT lecturers for all colleges, NCE included. When the government wanted French to be included into the curriculum of the colleges, the government provided the NCE with human resources and equipment. Few weeks ago the government realised that NCE does not have a learning centre while other colleges have it. The government is [building] the centre through a private company that partners with the government toward the improvement of educational facilities.

Participant B/Admin: That is not direct money from the government coffers but from friends. These days the relationships between two entities are written in a Memorandum of Agreement. The memorandums of agreements should not be specific because if they are specific that limit the accession of resources elsewhere. The memorandums are made broad to accommodate any aspect may it be human resources and/or funds that may come from the different supporters.

Researcher: Can I say that the Memorandum of Agreement is a separate paper from the Act of Parliament?

Participant A/Manager/Participant B/Admin/Participant D/Admin: Yes!

Participant B/Admin: The Memorandum of Agreement is signed with a particular individual; consequently, the agreements can be many for example with the Ministry of Agriculture, Home Affairs and many others.

Researcher: I think that the current discussion is addressing the following questions: (1) what other methods could the university use to generate income? And (2) what should be done to secure adequate operational funds for the university and eliminate its possible financial dependence upon government? So please can we discuss.

There was agreement.

Researcher: Two participants mentioned the concept “tuition-driven” institution. Can you elaborate on that aspect please? Indicating how it will function.

Participant C/Admin: At NCE money received from the payment of tuition fees is used to pay salaries for support staff, expand the facilities and pay for general operation of the college. We are saying that when the government terminates the subvention given to SANU, the institution should be able to continue with its operation.

Participant B/Admin: The University should be a self-sustainable institution. The government does not have money. The institution can not depend on the government. We have to set our costing right. Few weeks back we asked Rev. F. Otto to come and help us with that aspect.

Researcher: Can I have a copy of the minutes of that meeting?

Participant A/Manager: That is not for public consumption. We will supplement the subvention with other forms of income generating strategies.

Participant C/Admin: [New private universities, for example, the Linkonkwing University of Creative Technology and the Swaziland Christian Medical University are being established in Swaziland and] I don't expect government to pay salaries for personnel [in those institutions]. A time will come when the government will not be led by [the current Premier] and government officials will question the [subvention allocated] to SANU. If there is no subvention for the Linkonkwing University of Creative Technology and the Swaziland Christian Medical University, why is SANU being given subvention?

Researcher: While thinking on those lines, what about the fees? Will the fees not escalate to a point that people will not be able to pay for their education and opt to enrol at public universities?

Participant B/Admin: it was said that SANU is not a public but a private enterprise. Private enterprises have high tuition fees. The government supports public institutions thus they do not charge high fees. But a private enterprise must sustain itself, and then its costing is

different. But if a private enterprise gets subvention from the government, it is expected that the prices are a little lower to allow anybody to be able to come to the university. If SANU will get subvention from government, the costing must be right. That is why I said the subvention that we are talking about here is time bound. When that time comes SANU officials should ask themselves the following question: 'can the institution sustain itself now? Or does the institution have to continue with the current relationship with the government?'.... One example that I can mention is that of the Swaziland Water Services Corporation. The Swaziland Water Services Corporation was supported by government but now it is supporting itself. The challenge that self-supporting companies have is that the management should have in place quality strategies to generate income. If those strategies are not in place the enterprise collapses. For example, the RFM hospital began as a private institution but because it did not have proper and good supportive strategies the institution became a public enterprise. ... The community was made to understand that the RFM hospital is a public enterprise and uses charges like the ones set by the government.

Researcher: The example and the explanation given in regard to RFM hospital addresses the issue raised by question no. 7. Question no. 7 states: What should be done to secure adequate operational funds for the university and eliminate its possible financial dependence upon government?

Participant B/Admin: I have explained that.

Participant D/Admin: The answer is tuition-driven system.

Participant B/Admin: If you set the tuition-driven system right then all the problems will be taken care of.

Researcher: Thank you for the explanation. I have another related question: knowing that our people do not have money and depend on government to pay the tuition fees of their children. Can they afford to pay high tuition fees?

Participant A/Manager: We have other sister universities at Nairobi and other overseas countries. A large number of students enrol with state universities, but still there are those students who enrol at Church related universities and they pay high tuition fees. The Swazis are people who are questing for higher education, consequently money will be forthcoming.

Participant B/Admin: When problem is that Swazis developed a dependence syndrome in that the government should pay for the education of their children. If the government ceases to pay, people will still come and pay for their education.

Participant A/Manager: Students from the University of Stellenbosch come to Swaziland to sell things in order to get money to pay their education fees.

Participant B/Admin: Many Swazi students are enrolled with various South African universities and those students are paying high fees. My son pays E20,000.00 for accommodation per month. I am paying for that amount. Many other Swazi parents who are not of my category pay such exorbitant amounts of money. The parents will pay for the education of their children at SANU. Our parents were farmers and it was the money from farming that paid for our education. Besides that, after school the parents sent us to sell cukies and from the money generated the school fees were paid.

Participant A/Manager: When I trained as a teacher, there was no scholarship in Swaziland. I and other students had to pay for our education.

Participant C/Admin: SANU will not only be for Swaziland, other students will come from other Southern African Development Community (SADC) countries. Students from these countries will pay their tuition fees in dollars.

Participant B/Admin: What we should do is to be clear and know what we are doing.

Participant A/Manager: We are not saying that it will be cheap.

Participant D/Admin: The choice of a private institution indicates that the person is capable of paying the tuition fees.

Participant A/Manager: Can we move to the next section please?

Researcher: Thank you for the motion. If accepted, I propose that we proceed to the next section. Let me say that the next section was to be discussed during the second focus group discussion. As you have noticed our discussions are divided into categories and we have been moving from one this category to another. This section deals with labour related issues.

### **Labour Issues**

Researcher: Presently, the Teaching Service Commission and the Management of the Raleigh Fitkin Memorial Hospital (on behalf of the Board of Trustees of the Swaziland Nazarene Health Institutions) are the employer of the lecturers at NCE and NCN respectively. As the employer, the Teaching Service Commission and the Raleigh Fitkin Memorial Hospital have power and authority more than any management structure, the Board of Governors of the university included. If the Teaching Service Commission and the Management of the Raleigh Fitkin Memorial Hospital will continue to be the employers, who will have the power to appoint and dismiss the staff?

Participant A/Manager: SANU will be the employer. Not Teaching Service Commission (TSC), not the National Board of the Church of the Nazarene in Swaziland or any other body. The Board of Governors will be the employer and it will be that body that will have power to hire, promote and dismiss lecturers as well as any other officers of the university.

Researcher: As SANU will be getting subvention from government will that not be a problem?

Participant B/Admin: No.

Participant D/Admin: Participant B/Admin has pointed out that the subvention will be time-bound. If we are talking about five years, do you think that we will wait until the five years

have elapsed before we scout for money? We will ask for review of the term outlined by the Memorandum of Agreement.

Participant B/Admin: This is what you have to understand; the Memorandum of Agreement has to indicate who is managing the institution. The subvention does not mean that government must take control. The government will only [give subvention]. The government [gives subvention to] the institution, because she has a social responsibility. To provide social services, the government uses institutions like SANU. Therefore, the government is responsible to provide that subvention.

Researcher: I like the example made by Participant B/Admin about the government [giving subvention to] RFM hospital. Tradition indicates to us that when the government gives subvention to] an entity is likely that at the end it takes control and manages the institution like in the case of the RFM hospital. What precautions can be taken to prevent such mistake to occur?

Participant B/Admin: The government does not take control of the institution, but the management of that particular institution gives the power to the government. The situation at the RFM hospital is abnormal. The current management was not there when the relationship with the government was initiated and at that time the government did not manage the hospital. The government began to manage the hospital as it was trying to restructure the institution. The government had to restructure the hospital because of institutional inefficiency. When the government puts money into a particular institution she expects clear evidence that indicates that the money is used properly and accordingly. In the case of RFM that was not observed and the government deployed its personnel, inter alia, the financial personnel and the Chief Executive Officer (CEO). To this day the government did not send any officer to UNISWA even though it puts millions of Emalangeni.

Researcher: Thank you for the explanations.

Participant C/Admin: Can we move to the next question?

[The copies of the schedule for the second focus group interview were provided to the participants.]

Participant C/Admin: Let me make this observation: the whole structure of this section is not correct.

Participant A/Manager: I agree, this section is out of place. I suggest that we give the researcher the policies of SANU.

Researcher: Can you help me to restructure the section.

Participant B/Admin: What do you want to know?

Researcher: Let us consider the case of NCE; the TSC is the employer of the lecturers. As the employer the TSC has powers to hire, transfer and do whatever...

Participant C/Admin: That does not happen. The management at NCE has a hand on the recruitment of academic personnel at the NCE. The TSC consults us and the NCE recommends. The TSC does not transfer lecturers without consulting the management.

Participant A/Manager: Even if you are hired and paid by RFM or government. Each educational institution has a set code of ethics that should be adhered to by the employees. But you cannot change a person. The change should come from within that individual.

Participant A/Manager: It is now four o'clock

Researcher: A concern was raised about time. Can we agree on that aspect?

Participant A/Manager: When talking about the ethics of the Church of the Nazarene, the individual has to decide. About time I can allow for another thirty minutes.

Participant A/Manager: I think that question no. 2 was addressed. Now let us address question no. 3.

Researcher: Being a private and a Church related institution, it is imperative that the personnel hired be fully in accord with the ethos of the Church of the Nazarene. How will that be taken care of if TSC will be the employer?

Participant A/Manager: If you are talking about the ethos of the Church of the Nazarene, the officers employed by SANU will have to sign a document containing the ethics of the Church of the Nazarene. The signing of the document commits the employees to adhere to the codes of ethics of the Church of the Nazarene.

Participant C/Admin: A SANU officer must uphold the ethics and the standards of the Church of the Nazarene.

Researcher: I was once a teacher at one of the high schools of the Church of the Nazarene. In that school, teachers were doing things that are not in accord with the ethics, for example drinking and many other things.

Participant B/Admin: Drinking is one thing, but also you may find a character that does not portray Christ-like character. That is worse. How do we inculcate a culture that will display Christ-like character in a Christian institution like SANU?

Participant A/Manager: That is a serious problem. If that is the case, one is prompted to ask, 'What is the use of the instrument that the employees sign at the beginning of their work?' To my understanding, the instrument has a list of conditions that the employer should observe while working for a Nazarene institution. As a pastor, you know that even in a church there are members who may smoke, drink and do other things. However SANU will strive to remind the employees about the ethics of the institution. Other things that we should do are to develop organs that will help us to address the problem and discipline personnel if necessary.

Participant B/Admin: Not all employees will be mature Christians. It is the responsibility of those who are mature Christians to help the others by living a Christ-like life.

Participant C/Admin: Why is the emphasis in this section on TSC?

Researcher: The major aspect that I am trying to address here is the authority of the employer over the employee. The case of TSC has been resolved when it was said that the SANU will be the employer.

Participant C/Admin: Why did you only focus on TSC while other institutions for example, the SNHI as the employers of the lecturers at NCN.

Participant B/Admin: The questions are biased. Presently various entities employ personnel at different institutions, but they do not feature here, for example, the SNHI [Swaziland Nazarene Health Institutions] and the NAHEC BOG [Board of Governors of the Nazarene Higher Education Consortium]?

Researcher: Thanks for the observation.

Participant C/Admin: Can we move to question four?

Researcher: Question eleven reads thus: SANU is established as a result of the merger of three institutions. The merger may not be favoured by some individuals who may opt for early retirement. What plan do you have to counteract that event from happening?

Participant C/Admin: It was established that each institution has its own employer; it is the responsibility of that employer to tackle this problem.

Participant A/Manager: That is the responsibility of individual institutions and not the merged institutions.

Participant B/Admin: I think the board should decide depending on the merit of each case as presented by the employees.

Participant C/Admin: For lecturers at NCE the TSC will inform the employees about the available options. The options are: taking early retirement, deployment or joining SANU.

Participant B/Admin: The employees of SNHI will be given the same opportunities and they will choose either to continue with SNHI, or being deployed or join SANU. In regard to the pension, the management at SANU will request the government or any other former employer to transfer the pension packages of the personnel that will join SANU. We do not want to disadvantage anyone. We do not want to lose the employees who have technical skills. SANU will talk, counsel and do everything possible to retain the employees. If it goes according to the plan, the packages offered by SANU are more attractive and that may help SANU to retain personnel.

Participant A/Manager: That answer also addresses the issues raised by questions five and six.

Researcher: Question twelve reads thus: The faculty raised concerns about the loss of retirement benefits from the previous employers and the uncertainty about salary scales and other benefits offered by the university. What measures are being taken to address these concerns?

Participant B/Admin: When did you do the research? Where did the faculty raise such questions and concerns about salaries and benefits? Did you dream about this question? Did you discuss these issues with the faculty?

Researcher: Please remember the workshop we had at Tambankulu. The question about salaries and benefits was raised at the workshop. [The researcher had conversation with other lecturers of the colleges about this aspect and they raised this problem].

Participant B/Admin: The structure of the question is negative and biased.

Participant D/Admin: The number of people who were at Tambamkulu was a small fragment of the entire faculty. And that cannot be considered as being representative. [The participants were seen whispering something that supports this submission].

Researcher: Can you help me restructure this question?

Participant C/Admin: Truly speaking is this question necessary?

Researcher: The concern has been raised if we ignore it that will be detrimental to SANU. People need to know about the salaries that will be offered by SANU and what may happen with their retirement benefits. Let us not say that the concern does not exist. What I am asking you now is how can I structure the question the way you want it to be?

Participant B/Admin: My concern here is the implications of the question. The question suggests that you have interviewed a large number of the faculty and they have voiced these concerns. Here you are more specific in talking about NCE. May be the principal of NCE knows something about the problem [The principal of NCE responded saying "I do not know about the issue raised by the researcher] and the conclusion you had is shown by the question. Rather be positive as you address this issue.

[NB. At this time the participants asked not to continue with the meeting and asked the recording to stop. The meeting was adjourned.]

**ADDENDUM F**  
**VERBATIM TRANSCRIPTION OF THE**  
**FOCUS GROUP DISCUSSION NOT USING INTERVIEW SCHEDULE**

The second focus group interview was held on 15 July 2010 from 10:00 to 13:30 in the boardroom at Nazarene College of Nursing, Manzini, Swaziland. To start the discussion the Rector of the Nazarene Higher Education Consortium welcomed the participants and introduced the researcher, as well as the work that he was doing, and requested permission to record the proceedings.

In this session major aspects that emerged during the first discussion session were identified in order to refine the findings on the SANU Bill and to elaborate on aspects not sufficiently covered during the first discussion session.

Apart from the initial participants scheduled to participate in the discussions, three new participants, namely, two attorneys and an officer from the Africa Regional Office of the Church of the Nazarene, participated. Their inclusion was necessitated to replace two of the initial participants, namely, the deputy principal and the academic dean, who could not participate due to reasons beyond their control. The new participants met the requirements for selection because they were directly involved in the establishment of the SANU; they were well informed about the organisational and management structure of higher education institutions; they were legal experts; and they were knowledgeable regarding the formulation of legislation. In compliance with the ethical principles adopted for this study (see chapter 3) the researcher did not use the real names of the participants. Instead pseudonyms were employed to protect their identities. Two of the participants held administrative positions and the acronym *Admin* was added. Two were practising attorneys and the word *Attorney* was added. One of the participants held a managerial position at SANU and the word *Manager* was added. Another was the representative of the Africa Regional Office and the word *Officer* was added. The following lists the pseudonyms given to the participants:

Participant A/Manager

Participant B/Admin

Participant C/Admin

Participant D/Admin  
Participant F/Manager  
Participant G/Attorney  
Participant H/Attorney  
Participant I/Officer  
Researcher

The people who participated in both sessions of the focus groups discussions carried one and the same pseudonym. For example, Participant B/Admin and Participant D/Admin are the same people in both focus group discussions.

Participant B/Admin: Today's meeting has two functions: serve as the SANU development meeting and serve as a focus group discussion for the collection of data by Carlos Mbanze. Carlos is doing his study with UNISA and is writing a research. To collect the data he will write notes and tape record the proceedings. There might be submissions that will be highly sensitive, for such, the members have the right to ask Carlos not to record what is being said. Let me ask the attorneys to make the presentation and the group will ask questions.

Participant G/Attorney: Thanks for the opportunity given to us in the drafting of the SANU charter. As mandated by the last meeting I and my colleague have done our best and reviewed the charter and suggested amendments. I would ask the members to direct me as for the method we want to use. Do I read the whole document (page per page) or do I point to the problematic items and ask for your clarification or vise-versa?

Participant B/Admin: I think it is best to deal with the specific items.

The members were seen to agree with the proposal.

Participant G/Attorney: I would like to alert you to the change of the structure. After great consideration I and my colleague have re-structured the document. There were some aspects that the team had to resolve, for example, farm numbers, the position of the National Board of the Church of the Nazarene in regard to power relation with SANU, ownership of property

and especially land, the person to fill the position of the chancellor, and the Patron of the university.

The attorney presented all the structural changes that they have incorporated and asked participants to present their comments or questions.

Participant B/Admin: I think it was a good presentation and invite the participants to make their comments or ask questions.

Researcher: Under the item “vesting of property” it is indicated that the SANU Board of Governors (BoG) will own the land upon which the university will be constructed. To my understanding the National Board of the Church of the Nazarene in Swaziland is the owner of all property (land) included and the boards of the local churches serve as trustees. Taking that into considerations, the BoG of SANU (like any other board) serves as a trustee of the property and land. If the BoG is attributed the status of the owner, is that not a contradiction being created?

Participant H/Attorney: That is a question that should be addressed by the managers of SANU present in this meeting. May those who are responsible address the issue at hand?

Participant D/Admin: I think that we have deliberated and various consultations made in regard to the concern. The BoG of SANU will be the owner of all the property.

Participant B/Admin: I concur with you. The BoG of SANU will be the owner. There is no institution of higher education that can be established and it does not have the ownership of its property and land included. From the day the Charter will be promulgated, there will be division between the two bodies. The National Board will oversee the work of the Church of the Nazarene in Swaziland but the BoG of SANU will own and will be responsible for all that pertains to the institution. With this I want to make it clear that the BoG of SANU will not report to the National Board, but only to the International Board of Education through the Commissioner of Education of the Church of the Nazarene.

[The other respondents were seen nodding their heads in agreement with the previous participant and heard whispering something among themselves].

Participant B/Admin: To support my submission and what [Participant D/Admin] has said recently the Africa Regional Office gave SANU its property which includes the regional offices, flats and houses found in the mission station.

Researcher: Thanks for bringing that information to us. The offices at the Regional Building are currently being used by various departments of the Church of the Nazarene and others were rented to various organizations. What will happen to tenants especially the departments of the Church? Let me say that I am a “people oriented” and I am concerned about relationship between the tenants and SANU managers.

Participant I/Officer: Let me say that what has been said about the Regional offices is true. The offices of the Field Director and Africa Regional Offices have notified me about this transition. However, I did not yet communicate or notify the occupants, the church officers included about the issue. I have to get a clear direction about how to action.

Participant B/Admin: The directive has been given. I propose that the officer responsible, develop a descriptive map of the offices indicating who is occupying a particular office, and notify the tenants about termination on their contracts and the possible relocation of the departments of the Church. Also I propose that the SANU managers visit the building to familiarize themselves with the situation.

Participant F/Manager: I am following the discussion and I like what is being said. It is good that we take into consideration the relationships, but not into the expense of work. However on the other side it may not be good to consider work and ignore relationships. There is a need to balance the two aspects.

Participant C/Admin: That is right.

Participant G/Attorney: I think that much has been said about that aspect. Can we move to the

other aspects?

Researcher: There are two positions that presented some difficulties in the last meetings and no conclusions were reached. The positions are those of the chancellor of the university and the Patron of the university. If I recall properly the Higher Education Bill of 2010 does not provide for such officers for a private university. The University of Swaziland Act 2 of 1983, states that the Chancellor of the University shall be His Majesty the King of Swaziland. Having that in mind my question is do we need to have these positions and who will occupy the positions?

Participant H/Attorney: From the legal aspect this is a private Act of Parliament. The particular institution has the right to establish its own officers and organisational structures.

Researcher: There is an aspect that I need its clarification. The aspect is about the transfer of NCT and its personnel to SANU. To my understanding there are negotiations being held between the Swaziland Nazarene Health Institutions and the Teaching Service Commission about the transfer of personnel from NCE and NCN to SANU. But there is nothing being said about the transfer of NCT and its personnel from the previous employer to SANU. Can you clarify that aspect?

Participant D/Admin: The establishment of NAHEC [and consequently SANU] officially marked the transfer of NCT and personnel from the NCT's Board of Trustees to NAHEC's Board of Governors.

Researcher: Thanks for that information. Were the personnel informed about that transfer?

Participant B/Admin: Sir, the transfer of NCT is a case that was discussed and finalised. NCT is a college under the Church of the Nazarene and this is the very same Church that is establishing the university. There is no need for transfer.

Researcher: To my understanding there was no official communication given to personnel about the transfer. It is a custom that when an organisation or a company is transferred to

another owner, in this case the SANU Board of Governors, the previous employer should notify the employees about the move. Was that done?

Participant F/Manager: What are you inferring with that question?

Participant D/Admin: Do you mean that the NCT Board of Trustees should be revived to write letters to personnel at NCT about the transfer? That board was dissolved and it can not be revived. The NAHEC Board of Governors is in charge and this board properly managing NCT.

Participant F/Manager: There is a need to carefully address this issue. I am not well invested about the details of the issue at hand. But taking from what has been said, I think that the transfer of NCT to SANU has been well documented and believe that the Board of Governors of SANU will do its best to manage all the colleges appropriately.

[The other participants were heard whispering to each other and nodding their heads showing agreement with the previous response.]

**ADDENDUM G**

**NAHEC SWAZILAND: REPORT TO THE COMMISSIONER OF THE  
INTERNATIONAL BOARD OF EDUCATION (IBOE) OF THE CHURCH OF THE  
NAZARENE ON THE PROCEEDINGS OF THE BOARD MEETING,  
28 – 30 AUGUST 2008**

1 Introduction

- 1.1 Nazarene Higher Education Consortium (NAHEC) in Swaziland is in its infancy. It has a newly constituted Board of Governors which has assumed an enormous responsibility of guiding this newly established consortium of three colleges, which are working together for the first time in their history. This Board also has to lead NAHEC on the path to the proposed establishment of NUS (Nazarene University in Swaziland). It will, in due course, have to make a carefully judged decision whether to proceed to recommend the establishment of a university, or decide that this would be a step too far.
- 1.2 The National Board of the Church of the Nazarene in Swaziland established the Working Committee charged with launching NAHEC as the first stage in the process to a Nazarene university in Swaziland. The Working Party's efforts culminated in the launch of NAHEC in October 2007. It has been re-constituted as the NUS Development Committee with terms of reference set out in the NAHEC Constitution.
- 1.3 The IBOE appointed an advisory team to act as consultants and to advise on steps to the proposed university. Their work began in 2005 and continues. An initial visit was followed by a return visit of the missional review team that visited the three colleges in 2007. In addition, in my role as chair of the IBOE Advisory Committee, I have been consulted regularly by the Rector of NAHEC and the Africa Regional Education Coordinator, and have attended several meetings in Swaziland including the inaugural meeting of the Board of Governors in February 2008 and this meeting in August 2008.
- 1.4 This report outlines progress and some of the issues that face NAHEC in its initial stages and the NUS Development Committee as it works towards the goal of a

Nazarene University in Swaziland.

## 2 Progress

### 2.1 NAHEC Strategic Goals for 2008

#### 1 *Develop appropriate organisational structures*

- Academic and administrative structures now operational.
- Contracts have been duly signed by the Board and Rector.
- The Rector's Advisory Committee (RAC) is an effective support for the Rector.
- Vacancies in positions of Vice-Principal of NCN and Registrar of NAHEC are unfilled.
- Office and meeting space are available but not yet furnished.
- The Africa Region has offered NAHEC use of one house and possibility of renting another; NAHEC wishes to propose an alternative arrangement.

#### 2 *Strengthen intercollegiate relationships*

- Relationships are good between the three institutions in NAHEC.
- The pace of integration of planning and procedure is somewhat uneven, but commitment to the project and personal relationships amongst leaders seems to be solid.
- Financial integration is proceeding according to the Memorandum of Agreement but is not yet complete.
- Harmonisation of the existing collegiate structures to the integrated NAHEC structure is ongoing, and essential for the development of NAHEC and NUS.

#### 3 *Develop competent team that reflects NAHEC values*

- The current leadership teams reflect NAHEC values and vision.
- Progress continues in changing the culture of the three colleges to think of themselves as part of NAHEC.
- Progress in assimilation and ownership of NAHEC vision and consciousness is slower and uneven amongst the colleges' academic and ancillary staff.
- Work on a NAHEC chaplaincy team is ongoing.
- Strategic planning for future staff is occurring at the college level. This needs to given a higher priority in NAHEC development. Nazarene College of Theology (NCT) is particularly in need of attention at the NAHEC level.

- Support of the Africa Region Education Coordinator has been significant and important for future. The Africa Regional Director offers strong support as well. The Board is arranging its meetings so that the RD can attend one of the two in each year.

4 *Ensure effective management of resources to support NAHEC policies and objectives*

- The reports presented to the Board by the Rector and colleges were full and professional. Scrutiny of these reports by the Board needs to be significantly enhanced.
- Auditors have been appointed by the Board.
- A partnership with Nazarene Bible College has evolved that is an exceptionally important development for NAHEC and allows NAHEC access to resources otherwise inaccessible to it.
- Enhanced ICT connectivity for NCT is particularly urgent but discussions on this need to take place as part of the wider debate on campus development.
- Some aspects of decision-making, especially in terms of facility development, need to work through NAHEC rather than on a college basis. This is part of the ongoing cultural adjustments that colleges are making in their collaboration.
- Reporting to the Board of college's plans and developments should be through NAHEC and the Rector.

## 2.2 Board Development

### *1 Board of Governors Inauguration*

- The new BoG was inducted and held its inaugural meeting in February 2008.
- The Board held a two-day workshop on board development during the inaugural meeting. A decision was taken to develop a Board Policy Manual to guide it in its governance.

### *2 Board Policy Manual*

- A draft document prepared for the Board by the Chair of the IBOE Advisory Committee drew together information and policies that were incorporated into an adaptable template.

- This document was considered carefully in three separate meetings by the RAC, then by the Executive Committee of the Board, and finally by the Board itself (on 29 August 2008) for recommendation to be adopted as amended by the Board.
- The BPM was duly adopted by the Board at its meeting on 30 August 2008. It will be implemented in a prudent manner by the Board over the next few months.

### 3 *Board Operation*

- The NAHEC Board is at the beginning of a trajectory in which the culture of governance will be different from that usually experienced or practiced by some members of the Board. These changes are in process and will take some time.
- The Board has agreed to operate by the Board Policy Manual (BPM), but the Board Chair and Rector will need to help the Board follow its own policy. The IBOE Advisory Committee chair will continue to be available for support as requested.
- The Board has set up a committee structure that will make its operation effective and efficient, but the committees will need to be diligent in their operation if they are to exercise proper governance according to policy.

### Other points of note

#### 1 *Swaziland partnerships*

- International partners are in various stages of offering assistance to Raleigh Fitkin Memorial Hospital (RFMH), Nazarene College of Nursing (NCN) and, to a much lesser extent, the development of NAHEC.
- The key link of all of these is the HIV/Aids crisis in Swaziland, the parlous state of RFMH, and the motivational work done by Jerry Lambert with some people (James Copple, in particular) who facilitated fund raising in the US. As a consequence of some visits to RFMH and NCN as well as rural clinics, followed by a return visit to the USA of the Rector and others, a major grant of up to \$4 million USD for HIV/Aids related work is in the final stages of preparation.
- These are important to NAHEC institutionally in various ways. Most positively impacted will be NCN. But it is anticipated that the infrastructure legacy will be of wider benefit to NAHEC.
- NCN has many good partnerships and relationship with health-related

agencies and programmes including SOAR, UNICEF, UNFP, MOHSW

- Benefits to Nazarene College of Education (NCE) and NCT are indirect. It will require considerable effort to ensure that this aid has a positive effect for all NAHEC institutions, with increased RAC involvement in discussion.

## 2 *Southern Nazarene University and Bethany First Church of the Nazarene.*

- NCE is working with SNU in the development of degree-level work for validation by UNISWA. This is a welcome assistance; care is required to ensure that this maps on appropriately to existing degree courses at UNISWA with enhancement at appropriate places to include the values and ethos of NAHEC.
- BFC is working along with the bigger HIV/Aids programmes especially RFMH and the 17 Nazarene clinics.
- It might be helpful to have further discussions with SNU/BFC about the infrastructure needs of NAHEC that cannot be met through the HIV/Aids programmes.
- It might be worth reviving the discussion at some level about the support of the Rector's salary so that a greater proportion of her support comes from NAHEC and therefore she is able to devote more time to NAHEC. The current 90/10, NCN/NAHEC ratio for salary needs to move as quickly as possible to a more balanced contribution as a signal for readiness for NUS.

## 3 *Individuals*

- Special support has been given by generous volunteers. Shirley Aldrich has been instrumental in the development of the BNS in Midwifery that the NCN is submitting to UNISWA for approval.
- Bob Aldrich has been working to develop the NAHEC chaplaincy.

## 3 Outstanding issues

### 3.1 NAHEC Development

#### 1 *NCN transfer from SNHI to Ministry of Education*

- A major impediment to the development of NAHEC has been the delay in SNHI in releasing NCN to the Ministry of Education. This is a serious problem. NAHEC could well be stillborn without the National Board helping the SNHI board to facilitate this transfer of NCN to the Ministry of Education so that NCN

can fill vacant posts and pay appropriate staff, including the Vice-Principal at NCN and the Registrar.

**Action:** The Chair of the Board should write to the Chair of the National Board of Swaziland to ask the National Board to instruct the SNHI Board to act immediately on this transfer.

## 2 *Board development*

- Significant development in Board practice needs to take place.
- A key element in the success or failure of NAHEC will be the self-discipline of the Board in holding itself accountable for the conscientious and consistence performance of its duties.

**Action:** The Policy and Ethics Committee of the Board needs to be proactive in working with all Board members to encourage strongly their active and full participation in the development of NAHEC including conscientious attendance and involvement in meetings of the Board.

## 3 *Human Resource Development*

- NAHEC needs to develop appropriate and effective policies for human resource development.
- NAHEC-led planning for faculty replacements is essential.
- Simple but effective health and safety policies and practices at all colleges need to be put in place.

**Action:** The Rector and RAC need to:

- a) develop clear plans for NAHEC-wide faculty replacements.
- b) review and revise Health and Safety policies as appropriate.
- c) develop a Human Resources Manual for academic and ancillary staff.

## 4 *Institutional development*

- NAHEC needs to make progress on a NCE degree to be launched by 2010.
- International partnerships may be encouraged to offer financial support for human resource development such as support for Rector.
- The Rector and college Principals need to find ways of moving all of the colleges forward in NAHEC vision and values, with particular attention to academic and ancillary staff.

- ICT development needs to build upon the excellence support of NBC to achieve excellence at all colleges.
- In so far as it is possible, NAHEC should encourage Nazarene Compassionate Ministries International (NCMI) to be in full control of all money donated to projects through SNHI.

### 3.2 NUS development

Now that NAHEC has been launched and that the reality of evolving into a consortium of three colleges is becoming clearer, the necessity of sustaining momentum towards the goal of NUS is important. To this end, some of the following points might be included in plans for the future:

- 1 Re-launching of the NUS Development Committee within the early part of this academic year. An interim report should be presented at the March 2009 meeting of the Board.
- 2 Full review of the Strategic Plan with a view to re-prioritising, if need be some of the goals and action plans in light of experience. The Board Development Committee should review this revision and report on it to the September 2009 meeting of the Board. The review might include
  - Plans for property and campus development.
  - Plans for financing the strategic plan.
  - Establishing a date for the decision whether or not to proceed to NUS.
  - If the decision to proceed is made, initiate plans for the next visit of the whole advisory group from IBOE to assess the viability of the plans.
- 3 Assurances are needed from the Ministry of Education on the way in which the subvention to NCE and, in due course, to NCN, will be sustained under the NUS framework. This negotiation needs to be done carefully but it is essential for determining the level of government support for the proposed NUS.
- 4 Discussions should be started as soon as possible on the legal framework necessary for the proposed NUS. Will it require legislation in the form of an Act of Parliament? Will it need a Royal Charter? Definitive advice on these needs to be sought, perhaps through the good offices of the former Prime Minister and the Vice-

Chancellor of the University.

#### 4 Conclusion

Only a few pertinent comments are needed in summary of this visit:

- 4.1 The development of NAHEC and its efficient management is evident. The professionalism and preparation of the Rector and the RAC for this Board meeting were exemplary. This augurs well for the strengthening of NAHEC and its emergence into a university in due course.
- 4.2 The Board is beginning to grasp the significance of its role in guiding NAHEC and leading it towards NUS. But there is still some way to go before the commitment in principle is fully implemented in good practice. The Board will wish in the future to match the professionalism and commitment of its Rector and other leaders.
- 4.3 Momentum needs to be sustained. That will require considerable energy and commitment on the part of the Rector and the RAC. Critical to that is the resolution of the staffing issues at NCN and the appointment of a Registrar. When this need is coupled with the impending retirement of key people at NCT especially, the issue is one to which the Board will need to give careful attention.

Once again, it has been a great privilege to be part of this exciting development that has so much potential for the future of the Church and people of Swaziland, southern Africa and even beyond.

Respectfully submitted

Kent Brower, Chair

IBOE Advisory Committee

11 September 2008

**ADDENDUM H**  
**REPORT TO THE COMMISSIONER FOR EDUCATION, CHURCH OF THE**  
**NAZARENE ON THE PROCEEDINGS AND MEETINGS OF NAHEC'S BOARD OF**  
**GOVERNORS, 27 – 29 APRIL 2009**

1 Introduction

- 1.1 NAHEC has now been officially in existence for about 18 months. This was the third meeting of the Board of Governors. Its inaugural meeting included a board development seminar (February 2008); its second meeting in September 2008 was the subject of the earlier report to you.
- 1.2 During this period, I attended three meetings. First, the Rector's Advisory Committee convened on 27 April 2009, then on 28 April, the Executive Committee of the Board of Governors met followed by a full meeting of the Board on 29<sup>th</sup> April.
- 1.3 In each of these meetings, I have listened and in my role as chair of the IBOE Advisory Committee, have contributed as appropriate. In addition, between meetings I continue to be kept informed by receiving minutes and also in regular contact with the Rector of NAHEC, Dr Winnie Nhlengethwa and the Africa Regional Education Coordinator, Dr Filimao Chambo.
- 1.4 This report outlines the progress that has been made towards reaching a decision to recommend that NAHEC be authorized to become the Nazarene University in Swaziland (NUS). The report also outlines key issues yet to be addressed fully by the Board in preparation for the launch of NUS.

2 2008-09 Strategic Goals: issues remaining

In February 2008, the Board set out four strategic objectives. In her report to the Board, the Rector set out the progress that has been made in achieving these objectives. The work of the Rector and the RAC has been impressive, entailing a great deal of personal commitment and sacrifice. Nevertheless, some significant challenges remain in fully realising these goals. This report highlights these issues without listing the achievements. My additional comments in italics give some more personal reflections.

- 2.1 Develop appropriate organisational structures. The key challenges as outlined by the Rector and others may be set out as follows:

2.1.1 Establishing the NAHEC/NUS office. The NAHEC office has been established but is not yet fully furnished and operational.

2.1.2 Appointing and funding key personnel. The key posts of Registrar, Bursar and Development Manager are neither filled nor funded.

To compound the problem, the post of deputy-principal of NCN remains unfilled. This delay is partly due to the fact that a full transition of the administration of NCN to the Board of NAHEC from SNHI has not yet occurred. In principle, the NCN has already been transferred to the Ministry of Education from the Ministry of Health, but this has not yet become operational. The result is that the Rector of NAHEC retains full responsibility for the operation of NCN as well as leadership of NAHEC. The search for the Deputy-Principal is about to begin, with the use of outside consultants, a process insisted upon by the Board of Trustees of the SNHI.

While the fact that this is now underway is a very positive development, it is absolutely imperative that the person hired is fully in accord with the ethos of NCN, NAHEC and the Church of the Nazarene, and is appointed through the due process set down in the Constitution of NAHEC.

In addition, the accountant at NCN, who was acting on behalf of NAHEC, has not been employed by NCN since December 2008. No replacement has been appointed to date

2.1.3 Defining the nature and scope of the University. To what extent will the move from NAHEC to NUS affect the institution in a positive way? Will NUS serve Swaziland; embrace the fifteen member states of Southern Africa Development Community (SADC) or the whole of Africa?

The latter is an important conversation at the Regional Level. Will NUS become the southern Africa equivalent of ANU in Nairobi? Clearly an additional university in Swaziland would scarcely meet the need for university places in the Kingdom. But the bigger question of the relationship to the mission of the church in the southern fields needs to be discussed. It does have implications for

the development of the constitution and a board of governance for NUS.

- 2.1.4 Ensuring Sustainability. NAHEC can be sustained as it is currently configured through the input of the three colleges. Indeed, efficiency savings will be made by sharing some resources. But the step to a university will require more than maintenance resources: it needs to be positioned for growth in numbers, range of programmes on offer and enhanced quality. Can NUS generate enough revenue through donations, subvention and fees to launch and sustain a viable institution?

While the launch of NAHEC was managed within existing resources and it continues to operate sustained by the commitment of the colleges, new money will be required to establish NUS. The Marketing, Finance and NUS Development Committees are all working on this, but have only really begun their work in the past two months. Action plans are not yet formulated.

- 2.1.5 Obtaining Government Approval. The government has reaffirmed its support for the establishment of NUS and has transferred NCN to the Ministry of Education.

This is a positive development. This momentum needs to be sustained through the office of the PM (who was a member of the original NAHEC Working party) and the MOE so that appropriate (no strings attached) governmental funding is in place.

- 2.1.6 Developing the NUS Strategic Plan. The outstanding and revised parts of Phase One (NAHEC) need to be completed as appropriate and the strategic plan for the development of Phase Two (launch of NUS) needs to be revised and action plans, dates and responsibilities established.

- 2.1.7 Developing NUS Constitution. The NAHEC constitution will serve as a template but may need to be revised in light of experience of NAHEC and the vision for NUS. The models for Charters at ANU and UNISWA may be useful for developing a 'Made in Swaziland/Africa' form for the NUS Constitution.

#### 2.1.8 Approving of NUS by IBOE.

If the Church takes the view that NUS is NOT the founding of a new institution, but the development of an already existing degree-level institution of the church (NAHEC) which is governed by its Board of Governors and operates under an approved constitution of the Church of the Nazarene, then the key decision may be approval by IBOE and recommendation to the Board of General Superintendents.

If the Church takes the view that NUS is a new institution that requires General Assembly approval, timing will be an issue. This proposal will not be ready for General Assembly in 2009; 2013 is at least two to three years later than the desired launch date. The launch of the approved NUS would ideally occur during the 2010-11 academic years and the first intake of students to NUS for the 2011-12 academic years, that is, August 2011.

The view of BoG and Rector of NAHEC is that any delay beyond that time runs the risk of dissipating enthusiasm and eroding governmental and public confidence.

#### 2.1.9 Obtaining legal status for land. There remains some lack of clarity on the title and ownership of land and property. The National Board of Swaziland and the Africa Region of the General Church need to work towards a just and appropriate resolution of these issues as well as the possible request for land from the king.

#### 2.2 Strengthen intercollegiate relationships. This seems to be an area of genuine achievement both within the three colleges and in partnerships outside of Swaziland with SNU and BFC. While not directly directed to NAHEC, the projects at NCN from external donors as well as the major PERFAR initiative will have positive affects on NAHEC.

The reinvigorating of AIE may be a very timely occurrence. It could be that NUS could be an important beneficiary of appropriately motivated and prepared volunteers who can help launch new programmes. Great care, however, will need to be taken to ensure that this assistance is not simply the launch of clone programmes of those run successfully in the US or elsewhere, or programmes that are unsustainable in the long run.

- 2.3 Develop a competent team that reflects NAHEC values. Progress is being made in changing the culture of three colleges to think of themselves as part of NAHEC. But this remains a huge task as NAHEC moves to NUS, not least in terms of ‘university culture’.
  - 2.3.1 Enhancing educational standards. The move to NUS will require an uplift of qualifications of many current staff and addition of a range of more highly qualified staff. Funding for education and support during release time are issues.
  - 2.3.2 Shaping and gelling a NUS staff from three separate institutions will require careful management. This has not yet been achieved since all three institutions function under different terms and conditions of service.
  - 2.3.3 Human Resource planning. A consultant has been identified and will begin developing policies.
  - 2.3.4 The need for a chaplain within the structure has been identified.
- 2.4 Ensure effective management of financial and physical resources. A unitary budget was approved by the Board. The accountancy firm of Ndlallahwa and Co has been appointed and is preparing a Financial Policy Manual for NAHEC/NUS.
  - 2.4.1 Campus development. The cost of a new campus is well beyond the capacity of NAHEC – quotation for plans alone has run to \$150,000. Contacts with BFC and SNU may be useful in taking this forward. But NUS needs an identity that is not governed by entry to the campus through RFM Hospital entrance, for instance.
  - 2.4.2 Campus maintenance is a challenge.

## 2.5 Board Development

The Board of Governors is emerging into its role of ownership at the emotional/psychological as well as the formal sense. The Board Policy Manual is operational and gaining in use and familiarity.

2.5.1 Committees are functioning and need to be developed in practice so that committees bring recommendations to the Board for action rather than decisions taken at committee level that properly belong to the board. The Board, in turn, needs to act on recommendations brought by the committees. This enhanced level of accountability is essential for the responsible governance of a university.

2.5.2 A key element in the success or failure of NAHEC will be the self-discipline of the Board in holding itself accountable for the conscientious and consistence performance of its duties. The Policy and Ethics Committee of the Board needs to be proactive in working with all Board members to encourage their full participation in the development of NAHEC/NUS including conscientious attendance and involvement in all meetings of the Board and its committees. The Board is taking this very seriously and had a healthy discussion about how to deal with people who are elected but do not attend regularly.

2.6 Develop financial stability. Without question, this will prove to be the thorniest issue. Swaziland as a nation is poor.

2.6.1 To its credit, the government is committed to spending on higher education and is supported in this endeavour by international agencies. The successful launch and long-term viability of NUS will partly depend upon government commitment to subvention of private universities in a fashion comparable to that of UNISWA.

2.6.2 NUS is only one of three new universities being proposed in Swaziland. Two other church/private-sponsored universities are being founded and receiving significant support from their overseas partners (one is supported from South Korea).

In the developed world, the launching of a new private university may be seen

as competition to the state-supported institutions. But in a country where university places are at a premium and where many candidates must go abroad to study, UNISWA has taken the view that NUS would be a welcome colleague rather than a competitor.

The Church of the Nazarene will need to ask itself to what extent it will support the launch of NUS through a variety of means: releasing and using existing infrastructure, supporting AIE, encouraging links with established educational institutions without any sense of control or ownership. The government will be looking for some indication of this sort of international response from the church to this need.

### 3 NAHEC and NUS Development: Recommendations for consideration

Now that NAHEC has been launched and that the reality of evolving into a consortium of three colleges is becoming clearer, the necessity of sustaining momentum towards the goal of NUS is important. To this end, some of the following points might be included as action plans before the proposal to move to NUS is placed before the Board of Governors:

- 3.1 Review and Develop Strategic Plan. The strategic plan should be reviewed and revised on an annual basis with rolling projections for the next decade. Goals and action plans may need to be re-prioritised in light of experience and resources.
- 3.2 Decision concerning the future of NAHEC/NUS. A range of actions and issues may need to be considered in making this decision.
  - 3.2.1 Initiate discussion at the Regional level about how the mission and purpose of NUS will enhance the mission of the Church of the Nazarene in Swaziland. This is a crucial discussion particularly in terms of the fifteen SADC countries. But it also needs to include reflection on the relationship of NUS with ANU, which heretofore has marketed itself as the University for all of Africa. It is also closely tied to the mission of developing leaders for the church, so the ordination programme deliverers of the Africa Region COSAC should also be part of this discussion. Dr Chambo has already initiated the conversation.

3.2.2 Develop supporting documentation demonstrating how the proposed university will be viable and sustainable in terms of human and financial resources.

3.3 A timetable for reaching a decision needs to be established.

3.3.1 Decision on a move to NUS may be placed on the agenda of the October 2009 meeting of the Board of Governors. In light of the documentation placed before the Board, the Board could reach one of five decisions.

- a) return to separate colleges as in pre-NAHEC period
- b) postpone decision until March 2010 meeting of BoG
- c) continue with status quo of NAHEC indefinitely
- d) approve move to NUS in principle and set launch at a date to be determined
- e) approve move to NUS with launch in October 2010 and first new student intake in August 2011.

If one of decisions a – d is taken, then the timing is less crucial. If option e) is the decision of the Board, a timetable needs to be established:

a) 30 November 2009: recommendation of Advisory Panel to IBOE.

LeBron, you will need to decide whether another site visit to Manzini by the IBOE advisory panel is essential. Three options suggest themselves: a) recall the original panel to conduct an on-site visit [You may wish to consider replacing Dr Streit – perhaps with Dr Gresham, since he will already be in Swaziland]. Dr Pusey and Professor Marangu were also on the original panel; b) have a document-only review of the proposal; c) have the three of us (Dr Gresham, you and me) make the decision on the recommendation.

b) February 2010

Depending on how the church wants to treat this

c) Approval by BGS: (subject to ratification by GA?)

You've already had important conversations about this.

d) October 2010: Launch of NUS

e) August 2011: First intake to NUS

3.4 Miscellaneous outstanding issues. NAHEC and the Rector have identified a range of issues which are in process of being addressed or which need to be addressed as part of the proposal to move to NUS

3.4.1 Transfer of employment contracts to NAHEC.

Critical staffing issues have worsened, if anything, since the last BoG meeting. NCT has seen the retirement of the Fribergs, long-standing missionaries who have worked there for twenty years; NCN has yet to appoint a Deputy-Principal and the accountant's post is vacant. NCT is likely to lose its accountant before the next BoG meeting. In all of this, the CEO of SNHI has been less than helpful, highlighting the imperative need to transfer all staff responsibilities to NAHEC. At the moment, NAHEC BoG is legally in control of the NAHEC staff; in practice, none of the institutions has full control of its staff. NCT employs Swazi staff but mission personnel are under DWM contract and are paid through the DWM. NCE staff are paid directly by MOE; NCN staff are paid through the SNHI which is the body governed by the National Board and the Ministry of Health for all health services of the church. However, some light is appearing at the end of the tunnel. Approval has finally been given by SNHI for the appointment of a Deputy-Principal. [See comment above.]

3.4.2 Review of Rector's performance as per contract

3.4.3 Continuation of discussions with Ministry of Education and Prime Minister regarding appropriate support for NUS.

Meeting with Prime Minister and Ministry of Education while you are in Swaziland in October is important if at all possible. While this will be a courtesy visit, the importance of continuation of good relations with the Office of the Prime Minister and the Ministry of Education is essential for the financial support of NUS and its students from government. The government will need to know how the church views this institution as well, and the degree to which it will offer support. (This might be an area where AIE is particularly important for NUS, at least in its initial stages.)

Human Staff Development. This remains a very significant outstanding piece of work. This may well be an important AIE project.

- 3.4.4 Continuation of discussion on the legal framework for Discussions should be started as soon as possible on the legal framework for NUS.
- 3.4.5 Continuation of good relations with UNISWA and, in particular, managing the transition of students between UNISWA validated awards and NUS's own awards.
- 3.4.6 Programme Development. The NUS Development Committee may well reflect on whether a new programme with a new intake should coincide with the launch of NUS. Each of the current colleges has dreams of future qualifications to be added. Careful reflection on the identification of need, marketability, sequencing needs to be given to this possibility. Once again, AIE could prove invaluable here.

#### 4 Conclusion

The vision and determination for NAHEC to become NUS is growing in intensity and breadth. The commitment and energy of the Rector and her RAC in driving this process forward is unmatched. They are believers in this project. And the Board has moved significantly from legal ownership and responsibility to passionate ownership. At the same time, the reality of the size and scope of the challenges facing the Board and NAHEC in making this move is being acknowledged.

Momentum seems to be being sustained despite increasing pressures on the people who are doing most of the work. Without doubt, NCN has made a huge commitment to this project, not only through the release of the Principal to be the (part-time) Rector but through the deployment of its infrastructure.

I keep reminding the BoG and the Rector that the responsibility of the Advisory Committee is to scrutinise the proposal and insist on sufficient evidence to allow the plan to go forward. While the evidence is not yet sufficient to reach that conclusion, I am more optimistic than ever before that a viable proposal will be forthcoming and that this will prove to be a development that will be of enormous significance for the work of the Church in serving God by serving the people of Swaziland, southern Africa and even beyond.

**ADDENDUM I**

**MINUTES OF THE JOINT MEETING OF THE NAHEC'S BOARD OF GOVERNORS EXECUTIVE COMMITTEE, RECTOR'S ADVISORY COMMITTEE AND REPRESENTATIVES FROM THE NATIONAL BOARD OF THE CHURCH OF THE NAZARENE IN SWAZILAND, 7 SEPTEMBER 2009**

Time: 10:00 a.m.

Venue: NCN Conference Room

**Present:** Dr. Anderson Nxumalo (Chairman), Dr. Winnie Nhlengethwa (Rector), Mr. Stanley Ngqwane (ExCo), Rev. C.S. Magagula (RAC), Mrs. Samaria Mbingo (RAC), Rev. D.L. Harding (ExCo), Miss B.S.B. Lukhele (RAC), Mr. Elias Ndwandwe (ExCo) and Mr. Carlos Mbanze (RAC).

**Apologies:** Rev S Mahlalela

The meeting was convened with prayer by Dr. Nhlengethwa

**1. Strategic Planning for Meeting with Ministry of Education 8 September**

- Dr. Nhlengethwa gave a brief historical overview of the request to transfer the Nursing College from MOHSW to the Ministry of Education. Out of this overview the following matters arose:
  - Primary Issues:
    - ❖ Transfer NCN to MOE then to Southern African Nazarene University (SANU)
    - ❖ Transfer of NCE to SANU
    - ❖ Transfer NCT from NAHEC to SANU
  - No academic staff at NCN and NCE should be left insecure and worse off regarding their salaries, etc.
  - The transfer of NCN to SANU must go smoothly between SANU and SNHI.

- **Questions:**

- Do we really want to pursue the proposed transfer of the NCN from MOHSW to MOE at this time, or will that option actually stall the launch of SANU?
- When will SANU be launched or when will it become an actual entity?
  - It has been commonly agreed that the launch will take place in October 2010. This is the intention but that does not mean that we will suddenly become a University at that time, it simply means that we will be ready to launch the proposed SANU and give ourselves the required time to be fully functional.
  - This being the case, the crucial question is “What must be done to make this launch a reality?” The answer to that question then forms the basis of the Strategic Plan for SANU.
- Can the MOE assist us in getting NCN, NCT and NCE to SANU...the goal is SANU. We are the prime movers of this project but we must be clear in what we want from Government in order to make this launch a reality?
- Our position is that if the proposed transfer is still in the process of happening, we are grateful, but our goal is ultimately SANU and we will continue to look to the MOE for assistance in reaching this goal.
- Government is already involved in a move of other Colleges to the University of Swaziland and the question is what will happen to NCN and NCE when these transfers take place. Where will the Nazarene Colleges be transferred to? Our request is that they be transferred to SANU with the continuing subventions assured (academic staff and students). This raises the issue of what can be expected with regard to NCT?
- What form will the subventions take? Staff, students, other resources? MOE can direct us in what they will support and what they will not support.

### 3. Next Meeting

Depending on the outcome of the meeting of the 8, a meeting will be set to propose the most strategic way forward.

DATE: We will attempt to meet after the MOE meeting tomorrow to strategize.

4. Support from the U.S.A. Homer Knight, the Haynes and the Mills are prepared to come in November for an initial developmental meeting. The Development Committee, the RAC and ExCo will need to pursue this in order to have something to present to the Board of Governors as an agenda item for the meeting in October.

The meeting was adjourned at 12:15 with prayer by Rev. Magagula.

Chairman\_\_\_\_\_ Secretary\_\_\_\_\_

**ADDENDUM J****MINUTES OF THE JOINT MEETING BETWEEN THE OFFICIALS FROM THE  
MINISTRY OF EDUCATION AND OFFICIALS FROM THE NAZARENE  
HIGHER EDUCATION CONSORTIUM, 5 OCTOBER 2009**

Venue: Ministry of Education, Conference Room

Time: 09:00 - 09:30 p.m.

Present: Mr. Pat Muir (Permanent Secretary of the Ministry of Education), Mr. Peterson Dlamini (Chief Inspector Tertiary Education), Mr. Vusi Simelane (Education Planning), Mr. P. Masinga (Acting Chief Inspector Primary Education), Mr. EQ Mavuso (Schools Manager for Government), Mr. Israel Simelane (Director of Education), Mr. B. Ndlovu (Chief Inspector Secondary Education), Dr. LeBron Fairbanks (Commissioner of Education in the Church of the Nazarene), Dr. Kent Brower (Member of the International Board of education of the Church of the Nazarene and NAHEC's Advisor), Dr. Winnie Nhlengethwa (Rector of NAHEC and Principal NCN), Dr. Anderson Nxumalo (Chairperson of the NAHEC Board of Governors), Mr. Stanley Ngqwane (Vice Chairperson of the NAHEC Board of Governors), Mr. Elias Ndhwandwe, (NAHEC Board Member), Rev. DL Harding (NAHEC Board Member) and Rev. Siphon Ncongwane (NAHEC Board Member).

The meeting was convened with prayer led by Mr. S. Ngqwane.

On behalf of the Minister of Education Mr. Pat Muir chaired the meeting.

1. The PS made introductions of the officials from the Ministry of Education
2. The Chairman of the NAHEC's Board of Governors made introductions of the officials from the International Church of the Nazarene and the members of the NAHEC Board of Governors.
3. Dr. Kent Brower gave a brief history of the formation of the NAHEC structure, particularly from the perspective of the Church of the Nazarene. He highlighted the

process that has been started and will continue as the next stage will bring about the launch of the Southern Africa Nazarene University in Swaziland.

4. Dr. Fairbanks gave an overview of the higher education facilities world-wide in the Church of the Nazarene. The role of the IBOE is to make sure that institutions around the world follow governmental guidelines, as well as Church requirements. IBOE provides the support systems for advisory Personnel to assist with the development of the NAHEC and the proposed SANU. He pointed out that as he makes recommendations to higher boards within the Church structures he will be able to do so in a more informed manner following his on-site visit and this meeting with government officials.
5. Mr. Israel Simelane briefed the meeting regarding the request to transfer the NCN from MOHSW to the MOE. A formal application from the Church of the Nazarene for the establishment of the university must be made. When this takes place, the MOE will look at the legalities involved in transferring NCN from the MOE to the proposed University.

The MOE has a legal advisor who is available for assisting NAHEC in drafting the necessary documents for making application.

Dr. Brower: will there be an Act of Parliament to establish SANU?

PS: A Higher Education Bill is being developed and it will cater for the establishments of other Universities in Swaziland. It is hoped that this Bill will be out very soon.

Dr. Fairbanks: it is hoped that NAHEC will be presenting a formal application to the MOE the first part of November.

6. The PS encouraged everyone to proceed with the planning and keep in touch with the MOE as attempts are made to reach the target dates

The meeting was adjourned with prayer led by Dr. Kent Brower

The Recorder \_\_\_\_\_

**ADDENDUM K**  
**REPORT FROM THE 6-YEAR STRATEGIC PLANNING WORKSHOP HELD AT**  
**TABANKULU FROM 26 - 30 OCTOBER 2009**

**Background Information**

Three Nazarene Colleges (Theology, Education, and Nursing) have been serving the Church and the country in educating Nazarene and non-Nazarene individuals in becoming professionals in the areas of theology, teaching and nursing. The Nazarene Higher Education Consortium (NAHEC) was launched in October 2007 with the purpose of developing higher education in Swaziland. In that same year, the newly established NAHEC developed a 3-year strategic plan running from October 2007 to October 2010. In the past two years, NAHEC had implemented activities and events that lead to the birth of the Southern Africa Nazarene University (SANU).

**Summary**

As a continuation but with the new vision of developing SANU, a 6-year strategic planning meeting was organised for the week of 26-30 October at Tabankulu. The Rector and Principals from the three Colleges established that the period for the new 5-year strategic plan should run from 1 October 2009 to 31 October 2014. Even though the period planned for covers 6 years, the first year should be seen as an overlapping period to strengthen the current strategic plan. The newly developed strategic plan cannot and should not be seen as an isolated plan by itself. The Rector and Principals through sound judgment provided guidance throughout the planning process.

A question that was raised in different occasions was: are we starting a complete new plan or are we continuing to implement the old plan? After three days of working on the *Practical Vision, Obstacles, and Strategic Directions* (all attached) and just before moving to developing the *Action Plan For The First Year*, the Rector and Principal of the Nazarene College of Nursing presented a report on the current status as to where NAHEC is in reference to the 3-year strategic plan (report kept by the rector). In addition she emphasised that the Board of Governors and other NAHEC stakeholders were in full support of the initiative to develop a continuation of the original strategic plan but with a new focus in

mind, that, is enhancing the development of SANU. The newly developed Strategic Plan is attached with supporting documents.

The time frame for the first year covers 15 months running from 1 October 2009 to 31 December 2010. The first 9 months (October 2009 - June 2010) will be considered interim. The third quarter of the calendar year (July-September 2010) will overlap with the last quarter of the expiring current 3-year strategic plan from NAHEC. The last quarter of the calendar year (October-December2010) will run by itself.

### **Dynamic**

The methodology used was participatory workshop with emphasis in small brainstorming and discussions. Then each small group presented their written ideas to the plenary for further discussion and considerations.

There were 17 participants (plenary) in total representing all three Colleges (Attendance registrar is kept by Rector).

The context question for the planning week was: How can SANU better fulfil its mission in providing higher education to the country and SADAC Region?

To enable an environment for an organisational discussion, focus questions were developed for each session to be analysed. These were:

Practical Vision: What do we want to see in place 5 year from now?

Obstacles: What is blocking us from achieving our vision?

Strategic Directions: What specific actions will enable us to overcome our obstacles and achieve our vision?

First Year Action Plan: What specific steps do we need to take during the first year to move towards our vision?

Reflection:

Which one category will do the most to overcome our obstacles and move us toward our Vision?

Which actions build on our strengths?

Which represent a whole new direction?

Have we addressed each of our visions?

Have we addressed each obstacle?

Do we need to add anything?

Do these strategic directions and action plans adequately answer our Context Questions?

Why is it important we stay on target with these tasks?

### **Monitoring and Follow Up**

The facilitators strongly recommend that quarterly meetings be held by an appointed member from the Board of Governors, the Rector, and the Principals to monitor progress and/or delays. The number of members of this body should not exceed 5 people.

Progress must be analysed seeking to enhance strengths, while the cause of weaknesses/delays must be identified for immediate adjustment of the plan. Follow up of the annual action plan must be proactive with immediate decision making to enable progress.

In addition we recommend a participatory working review every six months bringing together all participants who attended the strategic planning meeting and some members of the Board of Governors. This meeting could easily be held in one full day work.

Development of the second year action plan should take place next year November or December 2010, just before the first year action plan expires, this planning meeting should be in the form of a participatory workshop.

The information compiled during this participatory planning workshop is attached.

### Practical Vision

**Focus Question: What do we want to see in place in 5 years from now?**

<b>Diversified Programmes</b>	<b>Improved Infrastructures</b>	<b>Legalised and Accredited</b>	<b>Christian Hospitable University</b>	<b>Research Lead Institution</b>	<b>Qualified Personnel</b>	<b>Financial Viability</b>	<b>Organisational Structure</b>	<b>Inspired People</b>
Undergraduate and Postgraduate degree	Main Campus on a new site	Accredited by reputable institution	Unique Christian University	Leading research and knowledge generation	Adequate qualified personnel	Financial independent	Established SANU administration	Highly inspired value laden personnel
Fully established IT	Student accommodation	Well established	Good relationship with SADAC Governments	Establishment of research centre	Highly trained staff	Established SANU Foundation	Existing organised structures	
Established new programmes	Good facilities	Fully accredited University	Hospitable environment					
New programmes	Main Campus	To be legalised						
Include students from other countries	Constructed administrative building							
Diversified programmes	Improved means of transport							

### Obstacles

Focus question: What is blocking us from achieving our vision?

<b>Limited Academic Capacity</b>	<b>Inadequate Teaching &amp; Learning Resources</b>	<b>Communication Barriers</b>	<b>Unbalanced Participation in Planning</b>	<b>Conflicting Allegiances</b>	<b>Undivided Relevant Academic Programmes</b>	<b>Inefficient Administrative Systems</b>	<b>Job Insecurity</b>	<b>Shortage of Qualified Academic Personnel</b>	<b>Work Overload</b>	<b>Inadequate land and Infrastructure</b>
Overuse of Traditional methods	Inadequate resources	Communication problems	Ambiguous ownership	Conflicting allegiances	Undiversified programmes	Outdated academic policies	Fear of the unknown	Inadequate qualified personnel	High student lecturer ratio	Uncertainty on land issues
Inexistent research collaboration opportunities	Inadequate library resources	Communication breakdown	Limited ownership of NAHEC strategic plan	Conflicting agendas	Limited Academic programmes	Inefficient recruitment systems	Negative attitudes	Shortage of qualified academic personnel	Overstretched teaching responsibility	Upgrading infrastructure lagging
Limited capacity to teach based on research	Unavailability of Research Center	Undisseminated information	Poor planning	Different employers	Unavailability of Bachelor's Degree programmes	Absence of research motivation and recognition	Job insecurity	Job insecurity	Work overload	



Limited institutional capacity to implement the plan							
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**ADDENDUM L**

**REPORT OF THE JOINT MEETINGS BETWEEN SANU OFFICERS AND  
REPRESENTATIVES FROM SWAZILAND PARTNERSHIP  
ORGANISATION, 23, 25 AND 30 JULY 2010**

Subject: Business as Missions concept using Great Commission Companies to Build the Kingdom of God, July 29, 2010

**Themes of sessions, dates of the meeting, place and participants**

- Concept meeting Saturday, July 23, 2010 at Tums George Hotel, Manzini, Swaziland  
Participants:  
Rev. Cosmos A. Mutowa, NCM Africa Regional Coordinator  
Rev. Collin Elliot, Church of the Nazarene South Field Coordinator  
Dr. Winnie N. Nhlengethwa, Rector, Nazarene Higher Education Consortium  
Rev. Collen S. Magagula, Principal, Nazarene College of Theology  
Rev. Ronald Miller, Special Assignment Missionary  
Ms. Sphelela Magagula-Shabangu, Representing Dr. Beauty Makhubele, NCM  
Country Coordinator  
Ms. Anna Mdluli, Community Linkages Project Coordinator  
Rev. David Busic, Pastor, Bethany First Church of the Nazarene, Bethany, Oklahome,  
USA  
Ms. Barbi Moore, Director Swaziland Partnership for Bethany First Church of the  
Nazarene, USA  
Mr. Bill Dillard, Bethany First Church of the Nazarene (BFC) July/August 2010 GO  
Team
  
- Exploratory meeting Monday, July 25, 2010, at Nazarene College of Theology, Siteki,  
Swaziland  
Participants:  
Dr. Winnie N. Nhlengethwa, Rector, Nazarene Higher Education Consortium  
Rev. Collen S. Magagula, Principal, Nazarene College of Theology  
Mr. Bill Dillard, Bethany First Church of the Nazarene (BFC) July/August 2010 GO

#### Team

- Exploratory meeting Wednesday, July 27, 2010, at Tumm's George Hotel, Manzini, Swaziland

#### Participants

Mrs. Mary Magagule, Project Coordinator, Church of the Nazarene Evangelism and HIV/AIDS Task Force

Ms. Barbi Moore, Director Swaziland Partnership for Bethany First Church of the Nazarene, USA

Mr. Bill Dillard, Bethany First Church of the Nazarene (BFC) July/August 2010 GO Team

#### **Summary of the discussions**

1. A concept meeting was held on July 23, 2010, to review the Business As Missions concept of Great Commission Companies as presented by Bill Dillard of the Bethany First Church of the Nazarene (BFC) 2010 GO Team. Mr. Dillard presented the concept of building the Kingdom of God by investing in starting and building Great Commission Companies to employ and lead people to Christ in the least evangelised and least developed countries. There had been some discussion among the Church of the Nazarene Swaziland Partnership members about the possibility of developing a commercial farm operation on the property of the Nazarene College of Theology to support the development of the Southern African Nazarene University. This meeting was to explore the concepts and determine if there were opportunities to move forward in this direction. The following issues and actions were discussed:
  - a) The need to develop additional revenue resources particularly to support the continued growth enrollment of students at NCT;
  - b) The availability of several acres of land and suitable water for a commercial farm operation on the NCT property;
  - c) The conceptual feasibility of developing a commercial farm or other commercial operation on the property and other education and training programmes to provide additional revenue for the university and its students as well as develop occupational skills, making the student more employable and self-supporting upon graduation;

- d) The existence of unauthorised residents on the property of NCT, currently conducting either subsistence or commercial farming;
  - e) It was recommended that a site visit by Bill Dillard would be beneficial and was scheduled for Monday, July, 25, 2010;
  - f) A follow-up meeting was tentatively scheduled at 08:30h, Friday, July, 2010 at the Tums George Hotel;
  - g) The possibility of casting the vision to be a larger scope than the nation of Swaziland and extend it to all of the regions of Southern Africa (with specific mention of Lesotho);
  - h) The congruence between the mission of planting great Commission Companies training and business with the Church of the Nazarenes 5-year strategy planning for planting new churches;
  - i) The possibility of developing and promoting a regional (5 countries) Business As Missions conference for pastors and business leaders invited by the pastors. This idea could be more fully discussed and developed as part of the Pastors Conference to be held in Johannesburg, South Africa, in September 2010;
  - j) Other possible business opportunities such as a recycling/scrap company and tailored fashion clothing were discussed.
2. An exploratory meeting was conducted at the Nazarene College of Theology in Siteki, Swaziland, for the specific purpose of a site visit and review of the facility and utility infrastructures for developing a commercial farm or other revenue-producing commercial operation. The following issues and actions were considered:
- a) The campus location and resources are ample and well situated to support commercial farming operations on that property without degrading or interfering with the core mission of NCT. The property is located on a main highway entering Siteki with highway frontage sufficiently removed from the NCT campus entry allowing commercial access without detracting from the collegial atmosphere of the NCT campus;
  - b) There is a very large and successful immediate commercial farm adjacent to the property and there is evidence of successful farming on the NCT property

in the past and currently;

- c) There is an existing water retention lake (water acres unknown) of considerable size on the property sitting in the middle of a valley dissecting the NCT property. The water source appears to be a spring-fed creek. There is electricity to the earthen dam with one or more pumps and plumbing pipe up to the two hillsides already in place. The serviceability of the pumps and plumbing is unknown;
- d) The land has significant elevation on each side of the valley but significant areas of land that are relatively flat and ready for clearing and planting operations with minimal dirt work or infrastructure preparation. There is electricity and water supply at some field locations that would allow sufficient operations and security;
- e) There are several houses (five or more) that are currently being rented that could be developed into housing for commercial farm managers or workers;
- f) The land is under the control of the Board of Governors of the Southern Africa Nazarene University consisting of 23 individuals. One-half of the board members are elders in the Church of the Nazarene and the other one-half are primarily academicians. There has been no active discussion to this point with the Board of Governors concerning the possibility of commercial farming operations;
- g) Dr. Nhlengethwa and Rev. Magagula have primarily considered the possibility of vegetables and flower gardens and perhaps some animals for food production as commercial operations. There was considerable discussion of the possibility of combining the strategic goals of commercial operations of horticulture and/or agriculture to the offered curriculum of the University. Diligence in accounting and record-keeping would be required to assure that the commercial, for-profit operations and activities are not co-mingled with the educational operations of NCT. This would allow the University to apply for grants and other funding vehicles without compromising the operations and mission of NCT;
- h) There was significant discussion of the prospect of forming a separate corporation to conduct profitable commercial farming operations with the

University holding an equity position in that company as a founding investor using a lease agreement contract as the capital for subscription to shares of equity or partnership in a Limited Liability Company. Other investors could be sought to provide intellectual and financial capital in the concern. The University would have no management responsibility for day to day operations of the commercial enterprise and would have dominant representation on the Board of Directors. This would allow the University to control the selection of the operational leadership (Kingdom Professionals) of the commercial enterprise and keep the vision and mission of the enterprise congruent with those of the University and the Church of the Nazarene. The University would share proportionately in the gain or losses from profitable or unprofitable operations of the commercial enterprise;

i) The following academic disciplines and business opportunities are conceptually suitable to this campus:

- Horticulture and Agriculture (plant and animal)
- business and Commerce (entrepreneurial)
- Mechanical (Hydraulics, gasoline power, diesel power, and electrical power)
- Information and Technology (microcomputers and network administration)

The possible applications of those disciplines to allow occupational opportunities are:

- Commercial flowers/vegetables production, chicken, beef or pork production
- Bookstore and office supplies and micro-computer sales and service (entrepreneurial & IT)
- Agricultural equipment sales and service (tractors, implements, irrigation pumps, and wind turbines);

j) The following skill sets will be required to accomplish a start-up business operation: Operations Manager (entrepreneurial)/Finance and Accounting (internal budgeting and expense control) and Spiritual and Human Relations (recruiting, staffing, and training). The question was posed as to whether there

were existing qualified persons with these skills available in staff positions at the colleges or the university. These people could be tasked to participate in a feasibility analysis of the business proposition and the ministry proposition for commercial farm operations at NCT;

- k) There is a Bursar position included in the request for authorised and funded staffing in the proposed budget for University operations. However, a qualified person was not identified and recruited. There is a candidate for developing into the position of Bursar, but does not have skills, experience, or knowledge to operate without direct supervision. As for Operations Manager, there is an instructor in the Agriculture Branch of the NCE, but the management is not aware of the skills sets, experience, or knowledge of the entrepreneurial commercial operations of that individual;

- l) Way forward:

- Determine whether there is a qualified, experienced bursar for a Christian University in the 5-nation region of Southern Africa available to serve as a consultant and mentor for the developmental candidate for the Bursar position consider adding the responsibilities for financial planning and budgeting of a commercial farm operation as part of the duties of the new University Bursar (Dr. W. Nhlengethwa);
- Determine the skills, experience, and knowledge of entrepreneurial, commercial, farm operations of the current instructor in the Agriculture Branch of NCE (Dr. W. Nhlengethwa);
- Develop s straw-man proposal for the development of a business plan and missions plan for the commercial enterprise for consideration and review by a steering committee of the leadership of the University and the Church of the Nazarene (Bill Dillard);
- Propose the formation of a steering committee to guide the work and process of investigating and proposing action to the University and the Church of the Nazarene (church leadership)

**ADDENDUM M**  
**PERSONAL NOTES TAKEN DURING THE TUITION DRIVEN SYSTEM**  
**WORKSHOP HELD AT MANZINI FROM THE 11 - 13 MAY 2010**

**Objectives of the workshop**

1. Development of a business model for SANU with related draft cash flow projections which should take SANU to 2015.
2. Development of a draft 5 years business plan with timelines, responsibilities and accountable persons/bodies.

**Revision of the vision and mission statements**

Revision of the vision and mission statements was intended to make the team acquitted with the vision and mission and determine its flow into the financial planning. Discussions made and the need for proper financial planning needed.

**Vision**

As an institution of higher education within the Church of the Nazarene the University aspires for academic excellence through a balanced combination of faith, teaching and learning within the Christian holiness context

**Mission**

The University is committed to the Great Commission and exists to provide excellence in higher education within a vital Christian Wesleyan holiness context where minds are engaged in innovative teaching, learning, leadership, and research and community service.

The University aspires to be a learning community where character is modelled and shaped, and service becomes an expression of faith and where individuals of high moral character and integrity are prepared to meet the challenges of their world.

**Definition of tuition fees**

Various definitions of tuition fees are available. One of the definitions is that tuition is the fee charged for educational instruction. The tuition fees include, inter alia, room and board,

research funds, books, and travel expenses. Normally tuition fees are charged per module and it is calculated based on the cost the university has to pay to offer that particular module/course/subject. Elements such as the personnel salaries, electricity bills, lab equipment, facility upkeep, the cost of teaching and learning materials and many others are used to calculate the amount payable. Students, who register for more or fewer modules are charged accordingly.

### **Benefits of tuition fees**

Various benefits were identified. Three major benefits were identified for SANU and these were (1) tuition fees will raise the revenue of the university and lessen the burden placed on the government, (2) tuition will provide additional funds to be used for the expansion of the university and improvement of quality, and (3) tuition driven system will make the institution to be self-sustainable.

### **Problems noted**

Most students do not have enough savings to pay or to pay in full the amount needed. Those who cannot pay are dependent to the government scholarship. Those who can afford to pay part of the fees have to borrow money from various sources, *inter alia*, banks and employers.

There is a lack of students financial programmes, *inter alia*, student awards, student loans (from financial institutions or educational institutions) and student assistance (from companies, individuals, organisations and others) that may be used to defray the cost of higher education. There is also a lack of policy regulating tuition fees in Swaziland. In this regard it was agreed that SANU management will have to lead in the development of such policies that will regulate and guide tuition fees.

### **Development of a business model for SANU**

Revision of the proposed financial policies for SANU were made and the adopted.

SANU organisational structures reviewed. From the organizational units, the team costed various positions and activities. It is important to note that throughout the costing exercises (which began in the afternoon of the second day to the end of the workshop) the facilitator

emphasised the importance of having accurate prices and fees which was echoed in the expression “we have to set our costing right”.

To determine money for the commodities, for example, water, maintenance and electricity bills, current bills were used and a projected increment figure of 10% per year was adopted. The 10% was used to determine the cost for operating the university in the next five years that is from 2011 to 2015. Based on those aspects E45,000.00 was proposed as the tuition fees for the next five years.

The following figures summarise the work done by the group.

**Projected cash flow for Southern Africa Nazarene University 2010-2015**

<b>INCOME</b>	<b>2009/2010</b>	<b>2010/2011</b>	<b>2011/2012</b>	<b>2012/2013</b>	<b>2013/2014</b>	<b>2014/2015</b>
Revenue Student Fees	17,171,560.00	18,888,716.00	20,777,588.00	22,855,346.00	25,140,881.00	27,645,969.00
College Revenue	1,381,845.00	1,520,030.00	1,672,032.00	1,839,236.00	2,023,159.00	2,225,475.00
Personnel Subvention	6,474,479.00	7,121,927.00	7,834,120.00	8,617,532.00	9,479,285.00	10,427,213.00
Education Grants	4,559,578.00	5,015,536.00	5,517,091.00	6,068,798.00	6,675,678.00	7,343,246.00
<b>TOTAL</b>	<b>29,587,462.00</b>	<b>32,546,209.00</b>	<b>35,800,831.00</b>	<b>39,380,912.00</b>	<b>43,319,003.00</b>	<b>47,641,903.00</b>
<b>EXPENSES</b>						
Consumables	4,829,887.00	5,312,876.00	5,844,163.00	6,428,580.00	7,071,438.00	7,778,581.00
Personnel costs	16,076,887.00	17,684,576.00	19,453,033.00	21,398,337.00	23,538,170.00	25,891,987.00
Professional and Special Services	3,367,879.00	3,704,667.00	4,075,134.00	4,482,647.00	4,930,912.00	5,424,003.00
Travel and communication	476,327.00	523,960.00	576,366.00	633,991.00	697,390.00	767,129.00
Fixed Assets /Durables	4,835,482.00	5,319,030.00	5,850,933.00	6,436,026.00	7,079,629.00	7,787,592.00
Drugs and medical supplies	1,000.00	1,100.00	1,210.00	1,331.00	1,464.00	1,611.00
<b>TOTAL</b>	<b>29,587,462.00</b>	<b>32,546,209.00</b>	<b>35,800,839.00</b>	<b>39,380,912.00</b>	<b>43,319,003.00</b>	<b>47,650,903.00</b>

Aspects that were taken into consideration when developing the cash flow projection:

- This projection was based on 2009/2010 budget for all the members of NAHEC.
- The inflation rate is 10% across
- Personnel subvention as opposed to personnel costs is used in the income part.
- The Project Fund from the Nazarene Compassionate Ministry International was excluded as it was funds in transit.

Other calculations were not included in this document as they were only used as training in the formulation of various aspects of the budget.

**ADDENDUM N****E-MAIL FROM THE RESEARCHER TO THE PARTICIPANTS REGARDING  
TRANSITIONAL PROVISIONS**

**From:** Kent Brower [mailto:[kbrower@nazarene.ac.uk](mailto:kbrower@nazarene.ac.uk)]

**Sent:** 14 August 2010 00:22

**To:** Carlos Mbanze

**Cc:** [nhlengethwaw@ncn.sz](mailto:nhlengethwaw@ncn.sz); [mbingosamaria@yahoo.com](mailto:mbingosamaria@yahoo.com); Collen Smith Magagula; Stanley M. Ngqwane; Mark Louw; [ashisa@swazi.net](mailto:ashisa@swazi.net); Elliott, Rev. Collin,; Rachelle (Shelly) Miller; Filimao Chambo

**Subject:** Re: Transitional and Labour clauses for the Proposed Draft act 30.07.10

Colleagues

I think that the comments of Mbanze should be considered by the legal team to see if the concerns they express are given adequate provision in the draft Act, and if they have not, that they be incorporated in the section dealing with transition between NAHEC and SANU. It seems crucial that the transition be seamless, so that there is no disadvantage for either students or staff solely caused by the winding up of NAHEC and the full vesting of its powers in the new University.

KEB

On 9 August 2010 09:15, Carlos Mbanze <[carlosm@ncn.sz](mailto:carlosm@ncn.sz)> wrote:

Dr. Nhlengethwa and Colleagues,

Last week I questioned some aspects of the programme and their implementation in the light of the SANU Bill and noted that the SANU Bill does not address labour relations aspects and the transition from current existing organisational and management structures of the NAHEC/colleges. Dr. Winnie asked me to put down my thoughts. Here are my submissions

for considerations:

(1) Until Statutes and regulations have been made under this Act, the Constitutions and regulations and administrative directives made or given under the legal documents repealed by section X shall, subject to such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act, as the relevant authority may determine, continue to have effect.

(2) The Board of Governors of NAHEC, the Council of NAHEC, the Senate of NAHEC and forums of colleges which existed at the commencement of this Act continue and perform the functions which they performed prior to such commencement but must comply with the provisions of this Act by a date determined by the Minister by notice in the Gazette. (Note that if this clause is included in the SANU Bill, there will be recognition of the BoG of SANU during the Launch because the SANU Bill is not yet enacted and the BoG of SANU can not be established).

(3) The Rector of NAHEC and the officers of the Consortium established in terms of the Constitution of NAHEC shall continue to exist and perform his duties as if that Constitution had not been repealed, until the officers are appointed in terms of this Act. (Note that if this clause is included in the SANU Bill, there will be recognition of the Vice-Chancellor of SANU during the Launch because the SANU Bill is not yet enacted and the BoG of SANU can not appoint a Vice-Chancellor).

(4) Members of the academic staff and all officers and employees of the former colleges in receipt of salaries or other payment, shall hold substantially the same offices in the University as they held in the former colleges immediately before the commencement of this Act and on terms and conditions not less advantageous or on such varied terms and conditions as the Board of Governors may determine but without prejudice to any existing rights as to tenure of office, salary or other emoluments.

In His service,  
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