Statement of the Council on Higher Education on the Employment of Foreign Nationals by South African Public Universities

1. Introduction

1.1 The Council on Higher Education (CHE) is a statutory body whose legislated mandate includes developing and implementing a national system of external quality assurance of higher education institutions and their learning programmes and qualifications; monitoring developments within the national higher education system; and advising the Minister of Higher Education and Training on higher education matters, at the request of the Minister or on the CHE's own initiative.

1.2 The CHE has noted the ongoing national debate on the matter of employment of foreign nationals by South African public universities, and hereby issues this statement that articulates its position on the matter. As the debate is sharply focused on public universities, this statement is similarly focused on public universities, although most of the positions it articulates could also apply to private higher education institutions.

2. Statement

2.1 The CHE is acutely aware of the debilitating challenges of unemployment, poverty and inequality, which the country continues to face more than three decades into democracy. Finding solutions to these challenges is a national priority that requires the active participation of all sectors, including the higher education sector. The National Development Plan and other national policies, plans and strategic frameworks correctly place higher education at the centre of the national initiatives and programmes aimed at addressing these challenges. Higher education in general, and higher education institutions in particular, develop the intellectual abilities and aptitudes of individuals thereby empowering them to make the best use of opportunities in the country and to contribute to resolving the developmental challenges that the country faces. Higher education institutions also develop the skills

and competencies needed by the labour market in an increasingly knowledge-driven and knowledge-dependent economy; prepare individuals to fulfil specialised social functions, enter learned professions, pursue various vocations; and contribute to the socialisation of enlightened, responsible, and constructively critical citizens. Therefore, higher education institutions are playing an active role in the fight against unemployment, poverty and inequality. They are not ivory towers or bystanders that do not care about the country's critical challenges.

2.2 The higher education sector recognises that transformation is a national imperative that has to be pursued vigorously and relentlessly. One dimension of transformation within the higher section space is about changing the staffing composition of public universities to reflect inclusivity, diversity and equity. All public universities are required to include matters of inclusivity, diversity and equity as important guiding principles in their recruitment policies. However, the higher education sector also takes counsel from the policy documents which emphasise that transformation is not the antithesis of the pursuit of quality and excellence, and that transformation should not be used as pretext for compromising quality of higher education, and for lowering the standards of excellence that are important for the higher education system to produce the graduates that the country needs. In this regard, during the first decade of democracy, the National Plan for Higher Education, 2001, recognised that achieving employment equity was a long-term goal considering the limited recruitment pool because of the paucity of black and women postgraduates, competition from the public and private sectors, and alienating and untransformed institutional cultures at the time. It, therefore, explicitly encouraged universities to,

> *recruit academics actively from the rest of the Africa. Although this should not divert attention from the importance of recruiting and retaining black South Africans, it could play an important role in the short-term to providing role models for black students and in helping to change institutional cultures. It would also contribute to the broader development of intellectual and research networks across the Continent, thus contributing to the social and economic development of Africa as a whole.* p44

The CHE, therefore, notes that the employment of foreign nationals by public universities in democratic South Africa during the early 2000s was encouraged by a government policy position which, as the above quotation clearly indicates, considered this initiative as complementary to the process of transforming the racial and gender composition of academic staff at the universities to align with the South African population demographic.

2.3 The CHE also notes that there has been significant progress in transforming the race and gender composition of permanent academic staff in public universities, since 1994. The proportion of permanent black academic staff increased from 34.1% in 2005 to 65.4% in 2024; and the proportion of permanent female academic staff increased from 41.5% in 2005 to 49.5% in 2024. The process of transforming the racial and gender composition of the academic staff within public universities continues to be a work in progress as the public universities actively participate in programmes funded by the Department of Higher Education and Training (DHET), the Department of Science, Innovation and Technology (DSIT), the National Research Foundation (NRF) and the National Institute for the Humanities and Social Science (NIHSS), among others, which seek to develop an adequate pipeline of well-qualified and experienced academics and researchers to take up teaching and research positions in the universities. These initiatives and programmes are making positive impact, and the CHE and the sector at large call for the expansion of such programmes because they represent a responsible approach to transformation, an approach that does not compromise the quality of higher education, and that does not lower the standards of excellence required for high productivity and competitiveness.

2.4 Public universities are autonomous public trust institutions. The autonomy of universities is anchored in the right to academic freedom and freedom of scientific research which is enshrined in the Constitution of the Republic of South Africa, 1996. In its preamble, the Higher Education Act 101 of 1997, as amended, confirms the autonomy of higher education institutions. The provisions in the Act take into cognisance the autonomous status of the universities. For example, regarding employment, the Act stipulates that it is the council of a university that must appoint employees of the university; and determine the conditions of service, disciplinary provisions, privileges and functions of the employees, subject to the applicable labour law. One of the labour laws that university councils must comply with when recruiting staff is the Employment Services Act No. 4 of 2014 (and its regulations). This legislation does not have a provision that bans the employment of foreign nationals in the South African public universities. Instead, it stipulates conditions that should be fulfilled to facilitate the employment of foreign nationals. Such conditions include that recruitment of foreign nationals must be strategically linked to scarce skills, specials research capacity requirements, national development needs; and that institutions should demonstrate how the foreign nationals would contribute to developing South African academics and researchers. The CHE expects public universities to comply fully with the letter and spirit of the law, including the Employment Services Act No. 4 of 2014, and Immigration Act No. 13 of 2002, as amended, and their regulations, when recruiting foreign nationals. If there are any public universities that employ foreign nationals without fully complying with all

relevant laws and their regulations, with no regard for the imperative of transformation, and without taking into consideration the need to address the scourges of unemployment, poverty and inequality in the country, they must be called to account.

2.5 The currency of higher education is knowledge. Universities are enduring institutions for the pursuit of knowledge through disciplined inquiry, critical reasoning and the open exchange of ideas. They shape how societies understand themselves, respond to complexity and imagine their futures. Knowledge has always travelled across borders, languages, cultures and civilisations. The root of the appellation 'university' is the Latin word '*universitas*' which can be loosely translated as 'universality' which means the state or quality of being universal. Something is universal if it applies to all situations and people, and transcends boundaries. Universities are therefore both national institutions, with responsibilities to the societies in which they are located, and international institutions that participate in wider global communities of scholarship. Universities are meant to be places of openness, welcoming, and intellectual exchange. Having scholars from different countries and intellectual traditions in a university broadens academic horizons, enriches teaching, and strengthens knowledge production. This is what informed the promulgation of the *Policy Framework for the Internationalisation of Higher Education in South Africa*, 2019, whose implementation requires that South African universities maintain some presence of foreign nationals among its staff and students. It is in the very nature of universities to have students and staff from more than one country. The *Policy Framework for the Internationalisation of Higher Education in South Africa*, 2019, explicitly prioritises the Southern African Development Community (SADC) region first, then the rest of the African continent as the source of students and staff; and it encourages South African and African scholars in the diaspora to contribute to the country's research programmes.

2.6 Transformation of and in higher education does not start and end with matters of diversity, equity and inclusivity in terms of demographics. Transformation is also about changing whose knowledge, experiences and perspectives form part of the academy. The matters about decolonisation and Africanisation are central to this dimension of transformation. South African universities have 'African scholarship' reflected in their vision and/or mission statements, or in their strategic visions, and/or in other institutional strategy documents. This serves as recognition that they cannot achieve decolonisation and Africanisation on their own when the rest of the continent is left behind. As the President recently observed at various platforms, the history of South Africa is inextricably linked to that of the continent; and similarly, its future is also inextricably linked to that of the continent. The immediate catchment area of South African higher education is undoubtedly the nine provinces of South Africa, but its broader catchment is the entire continent of Africa. South African students benefit from

being taught by academics from across Africa and other parts of the world, as well as from studying alongside students from across Africa and other parts of the world. The academics and fellow students from other countries enrich the educational experience of South African students. Marginalising African scholars could weaken the decolonisation and Africanisation agenda within the South African higher education. It would also undermine South Africa's ambition to be an important centre of knowledge production on the African continent. Furthermore, a university cannot duly claim to be building African scholarship while regarding scholars from the rest of Africa primarily as competitors for employment.

2.7 South Africa's history of inequality, unemployment and exclusion understandably generates anxieties about access to opportunity, including access to higher education, and to employment in higher education. These concerns require serious structural responses. However, to attribute these challenges to the employment of foreign academics grossly oversimplifies complex questions of employment, redress and social and institutional development. The CHE is also concerned that what could be a constructive national debate on globalisation and internationalisation of higher education is morphing into a form of academic populism in which difficult questions of transformation, expertise and institutional responsibility are reduced to slogans, suspicion, divisive claims and unsubstantiated statements. Naturalised citizens are included in the numbers of 'foreign nationals' to render credence to the assertation that South African universities employ too many foreign nationals, and yet the Constitution and the South African Citizenship Act No. 88 of 1995, as amended, recognise such as South Africans with equal rights and responsibilities as South Africans who acquired citizenship by birth.

2.8 A university exists to enable opportunities for learning, discovery, innovation and human development. South Africa's experience exemplifies this truth. During apartheid, international isolation limited scholarly exchanges and hindered collaboration. After the dawn of democracy, South African universities restored ties with institutions in Africa and worldwide, boosting research, increasing postgraduate programmes, and gaining a more prominent role in international scholarship. Their current reputation reflects both the excellence of their academic outputs and their active participation in global knowledge communities. Universities succeed best when they stay intellectually open. They honour their heritage not by withdrawing into national borders, but by actively engaging in the global exchange of ideas while staying connected to the communities they serve. Being globally engaged enhances, rather than diminishes, national commitment. International collaboration improves research quality, expands educational opportunities, fosters innovation, and increases universities' ability to address local priorities effectively. Likewise, authentic

engagement with African partners bolsters South Africa's role in regional development, encourages mutual learning, and supports the common goal of creating resilient, knowledge-driven societies throughout the continent. Many South African universities enjoy international prominence, recognition and high standing because of the presence of world acclaimed or renowned international academics and researchers in the institutions, and through their many international collaboration and partnerships. In addition, South African academics and researchers increasingly enjoy opportunities at international universities as visiting professors, or partners in collaborative research. World-class research demands collaboration among various countries and institutions.

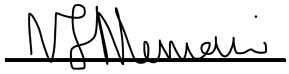
2.9 In addition to working with all other role-players to more rapidly advance staff transformation, the CHE believes that part of universities' response to the debate should involve accelerating curriculum transformation or renewal. South African higher education requires curricula that must equip students adequately to question over-simplified assumptions and claims; examine evidence and understand the structural causes of inequality, unemployment and exclusion; and similarly understand how legitimate frustrations about unemployment, poverty and inequality can be redirected towards vulnerable groups. Universities should cultivate evidence-based reasoning, historical understanding, ethical judgment, dialogue and the capacity to engage constructively across differences. South African universities should model constitutional citizenship, Africanism and *ubuntu*, critical reasoning and a culture of welcoming, while increasing initiatives and programmes for developing the next generation of South African academics and researchers.

3. Conclusion

3.1 The CHE believes that access of South African academics to employment in South African public universities must continue to be a national priority. The ongoing efforts to grow the participation of historically excluded South African academics and enable their career advancement in our universities through intentional national and institutional programmes must continue and must be strengthened. In parallel, international participation in South African public universities is essential if they are to maintain their identity as universities, and to participate in a global community of scholarship that can assist to address local and global challenges. Instead of approaching this as a statistical tick-box exercise, the aim should be to achieve a balance between fulfilling national imperatives with embracing the richness that diversity promises.

3.2 Transformation is, and should remain a non-negotiable national priority, which must be pursued through evidence, ethical judgement, critical reasoning, transparent procedures and sustained institutional investment. It is a process that should be pursued intentionally and vigorously.

Signed on behalf of Council



Reverend V. F. Memani-Sedile

Chairperson

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