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SET 6 - DAY 2

**COMMISSION OF INQUIRY INTO
HIGHER EDUCATION AND TRAINING**

PARTIES PRESENT:

Commission
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SESSION 1 – 7 FEBRUARY 2017

JUDGE: Good morning Dr Hull welcome to the commission.

DR. G. HULL: Good morning thank you very much for inviting me.

JUDGE: Thank you. Miss Pillay who is going to lead the witness?

5 ADV. K. PILLAY SC: Thank you Chair the witness will be led by Mr
Mabuda.

JUDGE: Dr Hull do you have any objection to taking the oath?

DR. G. HULL: Can I please take the affirmation?

JUDGE: Yes indeed. Do you affirm that the evidence that you will give
10 in this case will be the truth the whole truth and nothing but the truth?

DR. G. HULL: Yes I can affirm that.

DR GEORGE HULL: [affirmed]

JUDGE: Thank you. Now we have of course had access to certain
other articles that you have written on this subject, no doubt you will
15 refer to some of them in your presentation but please feel free to range
as widely as you think is necessary and Mr Mabuda will lead your
evidence and if there are other things that you feel that ought to be said
then I trust you will add them, we would welcome that. Yes Mr Mabuda.

ADV. T. MABUDA: Thank you Chair. Dr Hull just for the record could
20 you please give us the brief background of your academic qualifications
and your work history?

DR. G. HULL: Yes sure, I studied philosophy at Cambridge University
and at University College London. I have a PHD in philosophy from
University College London. Since 2013 I have been working at the

University of Cape Town where I am now a senior lecturer in the philosophy department and my work is mainly in the areas of political and social philosophy.

ADV. T. MABUDA: Thank you, Dr Hull has prepared a presentation, I am
5 going to ask Dr Hull to proceed with this presentation and you will receive questions either from the panel or myself as and when they arise.

DR. G. HULL: Well firstly thank you very much for inviting me to give testimony before this commission, as I said I teach and research political
10 philosophy so I got interested in the fees issue because it raises questions about the quality, about fairness, about efficiency in the allocation of scarce national resources. I think in this area it is important to avoid fatucising [?] particular policies such as free higher education and instead to uncover the values which inform those policies and
15 determine the extent to which they come into conflict and the extent to which those values can be reconciled in perhaps a new policy or a revised policy. I am going to make a recommendation which is the same as the one which I made in my written submission but I guess even if you disagree with me about my conclusion you might agree with me about
20 which values should inform the choice of a higher education funding policy though you might give different weighting to them or you might think that they can be reconciled in a different way.

So in my presentation I am going to be principally answering two different questions, first of all which values should guide the design over
25 higher education funding policy and secondly which funding policy does

the best job at incorporating all of the relevant values. To fix ideas I want to look at four different funding policies, the alterations and combinations of them are possible which we can discuss so those are the four different policies which I am primarily going to consider. First of all free higher
5 education and here I will assume that that means a fully state funded package including tuition, accommodation and other expenses such as meals, transport, learning materials provided either in cash or in kind so that is free higher education.

The second policy is differential fees, by this I mean a policy
10 whereby different students pay different levels of fees for the same program at the same University depending their household assets and income and here I will assume it also means all their other expenses are also differentially funded depending on a means test. Third policy is a graduate tax which is the same free higher education except that all
15 graduates of a degree program pay an extra X percent for example 1 percent income tax above others in their earning category, sometimes it is proposed that this tax should have fixed term such as 10, 20 or 30 years sometimes the idea is that you pay that extra tax until you retire.

JUDGE: I am sorry you do not mean they are to include persons who
20 already have degrees?

DR. G. HULL: That would also be up for discussion, one could make a case that if people who took degrees in the past pay proportionally less towards the cost of their education than students today that there might be an intergenerational inequity in not imposing a graduate tax on them
25 but I mean the counter argument to that is that people should not have

taxes imposed on them which they should have been able to factor in when they took the decision for example to study in the first place so I think that is, there is an argument and a counter argument there.

ADV. T. MABUDA: Dr Hull before you proceed, do you know of
5 anywhere else in the world where this has been successfully implemented?

DR. G. HULL: I do not in fact know of a case where a graduate tax has been successfully implemented, that does not mean there is not one, I do not necessarily have expertise on that question but I do know that it is
10 regularly put forward as a proposal when this is discussed in many countries around the world so it is definitely an option which is in the mainstream.

ADV. T. MABUDA: One of the arguments against it is that if a tax like this is implemented it encourages graduates to leave the country after
15 they have graduated so which is one of the reasons why it has not been successful in anywhere in the world, I am not sure if you have considered that?

DR. G. HULL: Yes that is true and also other schemes like income contingent student loans can have that effect if you do not have to repay
20 in instalments when you are outside the country so I think you know that, it is a matter for empirical research, of course the other side of the equation is that a lot of people even if they do go abroad to work in their 20's and 30's they are very keen to come back to their country of birth in their 40's and 50's you know so I do not have access to the empirical
25 findings on this but I would say that it is a reasonable hypothesis that a

lot of people would come back even if they were abroad for 10 or 20 or 25 years and if there are people with a degree who have had lots of experience working abroad they may be able to pay quite a lot either in a graduate tax or in contributions to repaying a loan once they return as a high earner. Okay so that is a graduate tax.

The fourth policy I want to consider is what I am calling income contingent loans by which I mean government loans with income contingent repayment. So this is a policy which incorporates cost sharing, the cost of higher education tuition come partly from student fees, partly from state funding. Other costs could also be shared in the same way, I have not put that on the slide but there is no reason why they could not be shared in the same way or else you might say the other costs are for the students account but the key to this policy is that whatever students costs are the state makes available to them a loan and it is a loan with income contingent repayment which means that when the student graduates the amount they repay every month depends not on the size of the loan or on the interest rate but rather on how much they are earning so that can be zero percent up to a minimum earnings threshold then 3 percent, Hungary has 5 percent or rather 6 percent, England 9 percent and New Zealand 10 percent, South Africa it moves to 8 percent I think once you are on high earnings.

So we are thinking of this is the state instead of being a bond holder who can demand the full amount after a fixed term becomes instead a shareholder in a graduates earnings until the full amount has been paid. Now with this policy there are a number of choices, you can

choose to subsidise the interest rate as happens with the National Student Financial Aid Scheme South Africa where the interest rate is if I am not mistaken 80 percent of repo. Internationally the subsidised interest rates according to studies lead to reducing the amount recovered
5 by between 30 and 50 percent and so it is called a hidden grant because it is money which is given which is not recovered though it is not marked as a grant. New Zealand, Australia and England moved from subsidised interest rates to rates even above the governments cost of borrowing recently and we can discuss reasons for that later.

10 There is also a choice about whether you make these loans, whether you make everybody eligible for such a student loan or you incorporate a means tested aspect as happens currently in South Africa with NSFAS and there is also a question about what the minimum earnings threshold should be after which people start paying back their
15 loan, here as I understand it, it is R30 000 per annum which does seem quite low. Okay from the states point of view an advantage of income contingent loans is that not all of the outlay in that money which is provided directly to students or directly to the University if you pay fees on behalf of the student counts as expenditure. You know you should
20 not write off a debt as soon as you have given a loan rather you count that past the loan which you expect to recover as not expenditure but rather an asset and only that part of it which you do not expect to recover be counted as expenditure. I think that is very important for policy making because it makes a big difference as to with regard to how
25 much the government is actually spending. Alright of course hybrids are

possible as I said so for example ...[intervenes]

COMMISSIONER ALLY: Doctor before you move on.

DR. G. HULL: Sure Advocate Ally yes.

COMMISSIONER ALLY: You have indicated that the amount of R30 000
5 could be arbitrary, I cannot recall why it was 30 but you do say that the
R30 000 threshold for repayment is low, now why would you say low, is it
low in terms of when it starts being implemented or is it low at the person
who would not be able to afford to pay, what is low in your vocab?

DR. G. HULL: Sorry yes I was not clear about that, what I meant by low
10 is that somebody earning R30 000 per year I think there would be a
reasonable assumption that it would be troublesome, it would be difficult
for them to start repaying a loan at that income level and I mean after all
the minimum threshold for paying income tax which is also calculated
according to income is more than double that, I think it is about R75 000
15 per year, to me it seems like the same reasoning ought to go into
deciding the minimum income threshold, tax threshold and to deciding a
minimum level at which you start repaying an income contingent loan.

COMMISSIONER ALLY: Thank you.

DR. G. HULL: So as I said you can certainly have hybrids at these four
20 policies, for example you could have one on which tuition is fully funded
for everybody but other expenses are funded on the basis of a means
test as I understand happens in some countries in Scandinavia or rather
than being funded on the basis of a means test a loan is provided on the
basis of a means test for other expenses and there are other possible
25 hybrids which you could come up with.

ADV. T. MABUDA: Sorry Doctor I have noted that you said that the income contingent repayment to all first year South African students, is there a reason you specifically excluded post grad?

DR. G. HULL: Well I think that, it was not so much that I explicitly
5 excluded post grad but I think that given the questions about equal access to opportunity to get a degree and the career it brings and other factors to do with fairness our primary concern has to be the first degree, undergraduate degree. Post graduate degrees do enable people to make more career advancement and they are also important when we
10 are thinking about the countries research needs but I think that there are other factors which come into the debate about who, how many people should be doing postgraduate degrees so I do not want to commit myself on postgraduate degrees at this point but ja.

ADV. T. MABUDA: Thank you.

DR. G. HULL: Okay so those are the four founding models which I want
15 to sort of have before you for the moment, now I want to go onto the five values which I think should inform and do inform to a great extent the debate about higher education funding policy. With these values, you know these are values or principles aptly called considerations, I tried to
20 focus on values where there is a broad degree of consensus not just among theorists who work on this but I think also the potential for quite a broad consensus among the public that these sorts of values should be guiding, policy should be guiding higher education funding policy in particular because after all when you are making public policy at some
25 point a consensus has to be developed, even if people are initially quite

divided about a particular policy nevertheless there may be a consensus about which value should guide it and therefore that can be the basis for a consensus about policy.

COMMISSIONER ALLY: Before you go ahead, there is a premise here
5 that the policy is guided by those five values and the question that needs to be asked is which policy you refer to, now there will be legislation as well as policy guidelines which are laid out within a given department, in your view which would take precedence in respect of determining how you allocate resources to a given department in this case education,
10 health in another but we are dealing with education so when you start off the discussion is the discussion not what does the law say about that particular issue and how do you understand it and how do you implement it at the end of the day, would that be a reasonable way of looking at it or you feel that one should start without looking at the law, determine the
15 values and then come back to see what the law is saying.

DR. G. HULL: Thank you. I think starting by looking at the law is often a very good idea but, and it is something which of course the commission will be doing but I would not be the best person to speak to if you wanted to start with the law and interpretation of the law, so you know I work in
20 social and political philosophy where one does investigate, discuss issues, questions, public policy, lastly without reference to the law which is on the statute books, I mean that has its advantages because sometimes it is quite remote from realities however in this case the law is to some degree in flocks at least in the sense that there is a big public
25 debate going on and has been for the last two years about whether there

should not be quite a degree of change in legislation in the guidelines which the Department of Higher Education and Training gives out so I think actually in this case it is sensible at least for a morning to step back from the law and to think about regardless of the law if we were to invent
5 the law from scratch what would we come up with.

JUDGE: As I understand what you are doing is you have identified these five values which are not exactly all constitutional principles but certainly are strongly recommended constitutional values and you are going to test each of these four schemes against these values, is that not what
10 you have in mind?

DR. G. HULL: That is correct Chair yes, so I mean in my choice of the values I was not guided by thinking about the constitution but absolutely I would say there is a broad correlation between constitutional values and these five.

15 JUDGE: Yes and you are not at this stage concerned about the nuts and bolts of whatever legislation might have attached to any particular aspect.

DR. G. HULL: Yes thank you.

ADV. T. MABUDA: It is a determination of which of your four alternatives
20 most fully satisfies these values.

DR. G. HULL: That is right I am sort of talking at the level of a broad model which could be implemented with various different types of variation in the nuts and bolts yes I think that is helpful thank you.

ADV. T. MABUDA: Sorry just before you proceed, you indicated that
25 there seems to be general consensus about these values being the

guidelines for determining a funding policy, is this unique to this country or this is in relation to policies all around the world or are you referring to academics in this country specifically?

DR. G. HULL: Right, well if I am talking about, if you are talking about
5 academic theorising about justice and public policy then I would say that there is a relatively broad international consensus on these values they would be play out differently for people how have different theories but I think more importantly at this stage it is the consensus, the broad consensus among people in general which you can sort of pick up by the
10 kinds of points and the kinds of objections people raise in their interventions about this higher education funding policy debate and there I am primarily looking at the debate which is taking place over the last few years, actually decades in South Africa but I am, but on the other hand I must say that when one looks at the debates which have
15 happened in other countries such as Australia, New Zealand, other African countries such at Kenya, Nigeria, Uganda, also the UK and Canada one sees that the same sorts of concern, the same sorts of you know principles do get raised so I think this is an area where one can learn a lot by looking at debates from other countries because there is
20 also among the points which are raised in the general debate that there is a broad degree of consensus.

JUDGE: It just seems to me that if we are to recommend any way of doing things we would be remiss if we were not to consider the bearing of at least these five matters on whatever we put forward.

25 DR. G. HULL: I certainly can agree with that.

JUDGE: Yes.

DR. G. HULL: Alright so shall I proceed.

ADV. T. MABUDA: Yes you can.

DR. G. HULL: So let me go through, maybe it will become sort of clearer
5 how I am trying to do this when I get down to it, so let us start with one
calling access or I guess equal access but access for short, this is the,
this can be expressed in the principle that there should be, there must be
no social barriers preventing different individuals from becoming equally
qualified for attaining training and careers for which they have equal
10 natural attitude. I think there is a broad consensus that that value should
guide policy in this area ...[intervenes]

COMMISSIONER KHUMALO: Just one question Doc.

DR. G. HULL: Sure yes Miss Khumalo.

COMMISSIONER KHUMALO: Social barrier, would you consider lack of
15 fees as a social barrier?

DR. G. HULL: Do you mean by that if somebody did not have sufficient
money at their disposal to pay fees, yes that is a social barrier yeah
because I mean anything apart from somebody's degree of attitude, skill,
intelligence, determination so it can include, actually let me explain that
20 when I analyse this into two forms of quality of opportunity if I may. So
this value which I am calling access it goes beyond formal equality of
opportunity which is often considered to be insufficient in itself as a guide
to policy making. Formal equality of opportunity I understand is the
principle that there should be no legal or conventional barriers
25 preventing the most qualified applicant from taking up a University place

or a job so there is a kind of antidiscrimination principle involved there.

Formal equality of opportunity needs to be supplemented with what I am calling here substantial equality of opportunity and this is a far more demanding ideal, it is the principle that there should be no social
5 barriers preventing individuals from coming equally qualified for a University place or a job for which they have equal natural aptitude and really the rationale for this is that you know just as nobody should be discriminated against on the basis of their racial group or their gender, their sexual orientation when it comes to being admitted to a University
10 course, well neither should the arbitrary factor of whether the family that you were born into has more wealth or more income than other families determine whether you get into a University program for which at the outset you have the aptitude and the determination to succeed.

So I think the principle basis for expanding this value of equal
15 access beyond formal equality of opportunity to substantial equality of opportunity is pretty clear, no morally irrelevant factors as I sometimes call should be allowed to determine whether somebody realises their educational and career aspirations or not. So access can be understood as requiring that both formal and substantial equality of opportunity
20 should be realised as far as possible, what we want is a system where the ability of the brightest students to attend the most intellectually demanding Universities is unrelated to socio economic background, that is sort of what I have in mind by getting rid of the social barriers.

ADV. T. MABUDA: Sorry Doc just before you proceed, from a practical
25 point of view how does one measure natural aptitude because if you look

at the situation in this country ultimately if someone comes from a well off family they are likely to have a very good education, if someone does not have, does not come from a well off family then the background of their education is usually quite bad so how does one measure natural
5 aptitude for the purposes of access?

DR. G. HULL: I would want to avoid measuring it at all and the debate amongst psychologists and others about whether natural aptitude can reliably be measured, how it should be done is a very sticky and controversial one which I do not want to get into at all, I would rather say
10 that firstly it is plausible to think that there are, that some people have more mathematical ability than others for example but there are some differences in peoples starting points and so one should try to get rid of the social barriers which would prevent those from being expressed, so rather than focusing on any need to measure natural ability I would say
15 we have a good rationale for removing any social barriers so my argument is not, so I mean, so basically testing, can I ask you a question, testing whether this value has been realised does not require I do not think testing natural ability, it requires testing whether social barriers such difference of economic class, various types of
20 discrimination have been removed.

JUDGE: That is to say you do not determine that one has an ability for mathematics and another has an ability for music but the person who has an ability for mathematics must have the opportunity and the person who has the ability for music must have the opportunity to pursue a
25 musical career.

DR. G. HULL: Right precisely.

JUDGE: And the academic arbiters will determine whether the person who has the musical aptitude qualifies for the mathematical course should he so apply.

5 DR. G. HULL: Yes.

JUDGE: That might very well be the case given music and maths but yes.

DR. G. HULL: Indeed.

JUDGE: So the natural aptitude is overridden in those circumstances by
10 the fact that everybody has the opportunity to do what suits him best.

DR. G. HULL: Yes I would want to, I would hope that it was like that and of course when people are making admissions decisions often in the real world they know that the results that they are looking at is skewed by peoples opportunity, peoples differential opportunities earlier in life and
15 so what one would want to do from a policy point of view is take away those factors which skew peoples opportunities earlier in life so that the decisions on entrance are made as far as possible based on peoples aptitude and ability rather than anything else.

ADV. T. MABUDA: The reason I was asking was on the basis of the
20 difficulty in terms of admission policy because ultimately if you apply for moral equality based on our socio economic situation here it is likely going to be unfair because the rich and the middle class that have better education will access University.

DR. G. HULL: Ja.

ADV. T. MABUDA: So my question was more in terms of how do you structure the admission policy.

DR. G. HULL: Oh right okay.

ADV. T. MABUDA: To deal with or to recognise natural aptitude because
5 ultimately at the end of the day formal equality it is the easiest but it is unfair in this country so how do you identify natural aptitude for the purposes of access and admission to tertiary education.

DR. G. HULL: Ja thank you, so the debate about admission is quite ...[indistinct] I think it is sort of a separate debate, it is a very complicated
10 debate which we could go into all day, what I would say at this stage and I hope this answers your question but tell me if it does not, is this principle of access that there must be no social barriers preventing individuals from becoming equally qualified for attaining and careers for which they have equal natural attitude, it is entirely compatible with
15 policies of preference where there has been a history of unjust discrimination, why because firstly that unjust discrimination means that we know substantial equality of opportunity is not being realised, peoples opportunities to develop their talents at an early stage in their life have very much constrained in many cases for historical reasons due to
20 injustice and oppression.

And there is a good argument that in order to put that right some departure from formal equality of opportunity is needed so lots of people have made that sort of argument, I think that broadly it is correct, I think you can also make an argument that formal equality of opportunity
25 should be departed from for the sake of redress, if you have done an

injustice or a wrong to some person then you have to make that right before you distribute the benefits in your gift by pure distributive equality so I mean, so the focus I want to kind of have is slightly different which is say there is a really compelling reason to get rid of any social barriers
5 which prevent people from realising their natural abilities and their career aspirations and not so much, I do not so much want to go into the very difficult debate of how exactly should Universities take decisions about admissions because that is a separate debate.

Let me say one more thing which is that, which is relevant to
10 what you have been saying which is that the greatest impediment to access in South Africa as in most countries in the world is the variable level of basic and secondary education received by different groups in society and that is partly determined by, to a large extent, determined by socio economic background. So you know another point I would make is
15 that when we are deciding higher education funding policy there is only so much you can do with that policy, you cannot really improve the quality of schooling with your higher education funding policy though admissions policy should suddenly taken into account, however there are some barriers which higher education funding policy can specifically
20 deal with and those are the financial barriers which Miss Khumalo already mentioned so even though the most formidable barriers to access worldwide is something else there is another barrier which comes from the current fees regime, some people are not able to go onto higher education after school because they have insufficient funds to meet the
25 tuition fees requirement. Also there are constraints based on their ability

to develop their human capital at University if they have to hold down a part time job at the same time as studying for example. Those are social barriers which a higher education funding policy can remove and one of the ways it can remove that is by making higher education entirely free.

5 ADV. T. MABUDA: Okay thank you.

JUDGE: How do you overcome the question of social barriers, inequality of opportunity, access when you have a medical faculty which can provide 200 places for 9000 applicants?

DR. G. HULL: Well you suddenly counter it with a higher education
10 funding policy alone but I mean in broad outline if everybody have the same educational opportunities at primary and secondary level and so everybody who had an interest in biology and medicine was able to pursue that at an earlier stage then when it came to the decision about who those 200 places would go to then everybody would have an equal
15 opportunity.

JUDGE: Absolutely but that is not the case, that is not the case.

DR. G. HULL: That is not the case absolutely.

JUDGE: So how do you balance your values in that situation like that, is it a matter of simply a policy?

20 DR. G. HULL: Right no you are right that there is a bouncing act to be done because another thing that you want is for a medical school is to output the most effective doctors so that they will be able to deal with societies medical challenges.

JUDGE: It may also be that you have a population which is 85 percent

of one race but that you are and that you need to make provision for 85 percent of at least of 85 percent of the 200 places for that race.

DR. G. HULL: Yes I am, absolutely as I said before I said that there are good arguments for preferential admissions policies and there are a
5 number of reasons.

JUDGE: But that means you have thrown these elements of fairness and equality etcetera out of the window.

DR. G. HULL: Right absolutely so as I said at the beginning sometimes the values that we want to guide policy come into conflict so there is
10 realising two of those values together will mean that you do not realise either of them to its full extent.

COMMISSIONER ALLY: And that would be more in a developing country that has come through an unjust system that you are going to have these variables not determined on the same basis all the time that
15 you are going to have to prefer one over the other in order to remedy the injustice that had taken place.

DR. G. HULL: Yes, in a country where there is high level of absolute deprivation, in a country where there is a high level of inequality like South Africa and often combined with the other two but separate, in a
20 county where there is a history of injustice and oppression for which there needs to be some kind of remedy or redress made.

JUDGE: Are you not saying that of your five values that you have mentioned earlier they may all or some often have to give way to social policy?

25 DR. G. HULL: I would not put it like that, I would say that social policy

will often have to make compromises for this that a social policy which focus just on realising the value of access to its maximum extent would often be unacceptable because of the limited extent to which it realised the other ones so the trade offs among values are an absolutely core
5 feature of the deliberation which needs to go into making policy.

JUDGE: Trade offs among values.

DR. G. HULL: Yes.

JUDGE: That sounds a little inconsistent, trade offs among values, value is a constant of that.

10 DR. G. HULL: Well not in the sense that I mean here and maybe that is where comparison with constitutional principles can be misleading because I am not saying that, because the sense in which you know I am saying that these values here are ones which there is a consensus that in as much as we concentrate on that value and everything else is equal
15 we would want to realise it to the maximum extent but there will be cases where we want to, we need to make a compromise because that will mean that another important value is not realised at the same degree.

JUDGE: Fair enough, forgive me for having been difficult.

DR. G. HULL: Well I think, so I mean I am using, this is perhaps to do
20 with our different backgrounds because I am using this in a, I am talking about values in the philosophers sense, values or principles which would be guiding our reasoning here. Okay so let me, yes let me test the different policies with regard to justice value of access. Now as I have said we should not expect and I think this is a really important point
25 actually, we are considering higher education funding policy. Admissions

policy is a different debate it is not unrelated but it is a different debate but it is, we can have a whole different discussion about, the question about how much funding should go into schools and to the other factors which impedes equality of opportunity that is also a different debate.

5 You know you cannot solve all of those things with your higher education funding policy so I think it is very important for when we are having the higher education funding debate to focus on the problems which higher education funding policy can solve, now as I said of course if you charge people fees upfront ...[intervenes]

10 COMMISSIONER ALLY: Doctor and perhaps that is where the debate should start because if you are only talking about the funding and not discussing the barriers as you indicated one which might be admission policy which does not take into account redresses and injustices and all the rest of the debates that go on around the admission so does it not
15 become difficult to just look at funding policy on its own divorced from the rest namely how does one improve, and here I am talking about access and success because you can give all the access you want and you could be throwing diamonds after swine and all the rest of that so is that, should one not take that debate into your policy around funding
20 education, higher education?

DR. G. HULL: Sorry I did not mean to suggest funding should pay, funding decisions should pay no heed to variations in socio economic status or variations in whether there is an argument for redress on the part of a candidate, what I meant to say was that funding policies they
25 may have an impact on but they should not completely determine

admission policy I do not think, I think that is a separate debate there. And also that however much with your funding policy you are redressing or rebalancing unjust disparities, socio economic or otherwise for higher education, you are not going to address all of those factors because a lot
5 of them like earlier in somebody's career before they come into contact with the funding policy higher education level whatever it may be so I guess, I was not saying that we should not take those factors into account when designing a funding policy but I was saying the funding policy it cannot solve all the problems which those issues raise, that is
10 how I would put it.

COMMISSIONER ALLY: Well you see the commission has been asked to look at funding, the feasibility of a stable sustainable funding solution for Higher Education and Training, now if you have got a system that is broken and you say well for the moment let us leave that alone, at the
15 moment we know the funding that you give to higher education is below par in respect of OSCE countries and the Western World and therefore you must move that up, that is one side of the argument, what I am putting to you is this, should you not be looking at how you can improve so that the funding is adequate for the purpose of creating success in
20 that particular system.

DR. G. HULL: Yes I think that you should be indeed be making decisions about funding policy with the goal of ensuring that students who start University succeed, I know that for example Ian Scott has given extensive testimony to you on this matter and I would concur with him
25 that realising exactly this principle of access which I have mentioned will

require not only decisions about funding but also decisions about how Universities should make the University navigable for students, should give support to students who are falling behind and all of those things.

Now my point is that those, what is required there is more than
5 funding so all of the problems which Ian Scott went through in the testimony which I have read are very important ones but we cannot expect that to be solved just through the funding policy though of course the funding policy though of course the funding policy should take this into account.

10 JUDGE: So are you putting your hypothesis forward on the basis that whatever needs to be done will be done, in other words to provide, to fill the holes, to repair the holes, to improve the flow and whatever is necessary to make the education system work and we are then funding it upon that basis?

15 DR. G. HULL: Well I am not trying to make a proposal which is only relevant to an ideal world where you know school education has already been sorted out, in which Universities already know what kind of pedagogical support to provide to students but on the other hand in terms of my recommendation I am very much aware that funding policy
20 is not the only part of government policy which has a bearing on the opportunities of young people and so I want to make a recommendation which is specific to funding policy rather than a recommendation that is about something different such as a missions policy or school policy.

COMMISSIONER ALLY: Okay perhaps then we should go deeper into
25 what you mean by funding policy because funding has different aspects

related to the whole discourse of studying and learning and you have indicated now in your evidence you agree with Ian Scott in what he has said in terms of articulation and preparation for higher learning. Now when you fund part of your funds is it not going to go to ensuring that

5 you come through a certain course, that your lecturer has a certain aptitude so that at present you would have teacher grants, there is a certain grant that is provided in order presently Ian Scott's view of extending the year is not in implementation now but rather that the department has given a grant in relation to foundation and extra courses

10 and so forth, now that has to do with funding, what you are paying for or funding towards attainment of a degree so and this is why in my question to you is, does one not have to look at the other part while proposing your funding and at the end of the day the commission must then ask how much do you need for that purpose and is it feasible given the purse

15 that you have?

DR. G. HULL: Yes so I do agree with the spirit and the general thrust of a lot of Ian Scott's submission, I think you know on the proposal which I am going to make there is a portion of University tuition which is always paid by the government and within that there are decisions to be made

20 about how it is to be divvied up among a number of different purposes and I do not today actually want to speak about that question, I want to speak about the prior question which is should the state fund higher education at all, you know should the state fund the whole of higher education tuition, I think that before going into the nuts and bolts of how it

25 is divvied up one would want to know whether anything should be

coming from the state, how much should be coming from the state.

JUDGE: Alright so what you are saying then is that you accept as a starting point that there may be one or more areas of education which need to be smartened up, made streamlined and improved and they will
5 cost money but those are not costs that you are presently concerned about neither are the improvements that you are necessarily concerned with but you are directing our attention to the way in which money should be provided irrespective of whether the improvements are made or not because that is not your concern.

10 DR. G. HULL: Well I do not want to go into you know how I think the government money should be divided between particular pedagogical purposes because I do not feel that is an area where I have expertise, ja maybe if I carry on it will become clearer sort of what the issues which I want to focus on here would that be alright. So in terms of this value of
15 access the four models which I started with they all realise this value as far as getting rid of financial barriers goes equally. If all students' expenses are directly funded by the state there are not those financial barriers to access anymore and I assume that those financial barriers are the ones which the funding policy has the ability principally to focus
20 on.

If you have a regime of differential fees whereby people only pay fees or for the other expenses to the extent that they can then by definition you are removing the financial barrier to access. With a graduate tax that is the point of use exactly the same as free higher
25 education it is just belated as a tax imposed as a tax imposed so that

removes the financial barrier to access. Loans with income contingent repayment also remove the barrier to access because the loan ensures that a student has at their disposal sufficient funds to pay their fees and also to pay for all other expenses which they incur while in the higher
5 education system.

Furthermore because you know most loans there is a disincentive because there is a risk involved in taking out QA loan, you might default on the loan, you might sort of put some property up for security which you might lose if you are not able to pay the loan, an
10 income contingent loan does not have those drawbacks why, because it is guaranteed to be manageable since the amount that you pay back is simply a portion of your income. So access in the limited sense which I think, I am looking here because I am concerned with higher education funding policy can remove financial barriers to access to advantage is
15 equally well set by all of these funding models.

I want to move on now to the second value which I think ought to
guise, does guise deliberation or actually guise less in South Africa
deliberation about funding policy than perhaps elsewhere. So freedom is
something, freedom autonomy of adults, individuals is something which
20 is important, it is bearing the higher education funding debate has been
less, has been you know it has not got that much attention in South
Africa actually but I think it deserves more, why, because, okay what I
mean by freedom first basically this, no competent adult members of
society should stand in relations of arbitrary power over or in voluntary
25 dependence on others.

Now when a higher education funding model relies on a household contribution, a parental guardian or otherwise household contribution to a students cost of study up to full tuition and living costs sometimes, it thereby delivers a power to parents, guardians, household members to interfere with students decision making, the decision making regarding whether they study, which University to apply to which subject to study, this undermines student freedom. I have not seen studies on the effect that leverage which the household members parents sometimes, sometimes not have over student decision making but talking to students and graduates anecdotally means their parents in South Africa are not particularly inhibited by making use of this leverage, at least in determining what people study and where.

ADV. T. MABUDA: Sorry Doctor just before you proceed, one of the considerations in the funding policy or at least some of the submissions we have received is the consideration of whether some of the funds or a certain programs should be preferably funded as opposed to others in order to cater for the labour sector needs, would that not apply in the same, would government not have leverage over the student in terms of what it is that they stud?

DR. G. HULL: Government does have leverage over the student in terms of what they study but I would there dispute whether that is always a problem because I think that it is, when the government takes decisions about how many places there should be in medical schools or how many places there should be in engineering programs based on national economic needs so you are right that does have an impact on

students freedom of choice, I think it is made with the right kinds of considerations in mind. To make that clearer perhaps it will be helpful if I proceed with what I want to say about freedom but you can also then ask if I have not answered your question.

5 ADV. T. MABUDA: No Doctor you can proceed.

DR. G. HULL: Okay so I think that there are a number of reasons to be concerned particularly by the power which household members, family members have over students as a result of the help or contribution. First I can undermine the value of access, equal access which I just spoke
10 about it can be a social barrier alongside financial barriers which prevent people from going on to realise their aspirations in terms of training and employment. Household heads might decide to fund the University costs of one but not all of the dependent household members or they might fund their costs differentially due to belief sometimes prejudices of
15 various kinds.

In some other contexts there have been findings that on page parental contributions or pressure to conform with parental and spouse wishes are likely to affect women more strongly than men. Now in the SACD region there is a general trend for fewer women than men to
20 attend University but as you know that is not the case in South Africa where more women than men attend University, that does not by the way necessarily mean that there is no prejudice against women going on in the parental choices but it means that we do not have a staff indicator of that. But household heads financial leverage it can also undermine
25 access without resulting in any statistical trend which is likely to be

detected, the larger point is when a higher education funding model relies on household contribution it effectively makes access a hostage to the beliefs and attitudes of household heads by which I mean whoever holds the purse strings in a household.

5 So that is how it bears on a household on access, household contribution it can also be expected to impede allocative efficiencies, something I will talk about more later due to the rapid pace of technological change I think is the case the parents and grandparents are likely and other older household members are likely to be less well
10 informed about certain demands in the labour market and certain important skills than their adult children or grandchildren. They are also sure to be less well informed about the true aspirations, interests and to an important degree skills and talents of their adult children and
15 grandchildren than those individuals themselves. So and there are other factors that play you know anecdotally parents or grandparents wanting to live out their aspirations vicariously through their children, things like that, all sorts of different dynamics.

ADV. T. MABUDA: Sorry Doctor, sorry to disturb you, you indicated that there is no study that indicates the extent of this phenomenon.

20 DR. G. HULL: There is no study that I am aware of.

ADV. T. MABUDA: Thank you.

DR. G. HULL: too the extent the household has, do use that financial leverage to influence prospective University students choices regarding University study we can legitimately fear that they will track the nature of
25 the labour market 20 or more years ago rather than the nature of the

labour market today so I think that there is good reason to think that student free choice of what they apply to combined with efforts to make sure that they are well informed by Universities, by governments, by schools and by other bodies are likely to yield a better match between
5 student interest and courses and also graduates and places in the labour market than letting household heads have such a degree of leverage over students.

Also I think it can lead to students dropping out or underperforming to graduates being unmotivated in their jobs and
10 wanting sometimes to return to University for re-skilling if they are not motivated. Okay so this has, it has bearing as I just said on access and efficiency but it also and I think most fundamentally raises a question of principle about freedom, I think we have to ask ourselves whether we want to be in a situation where adults are exposed to the arbitrary power
15 of others when it comes to the decisions about taking a degree and we are not talking about children at school where parental guidance that makes a lot of sense, we are talking about adults at the beginning of adult life.

So take for example a married woman 21, 22, 23 been in the
20 world of work for a few years now wants to take a degree, if her husband is a high earner so that is the household we are talking about, then worryingly it becomes to some extent up to him whether she can or not or what she can study, you know he might say sure I will contribute monies towards that but on condition that you choose subject X, I think
25 we have really got to decide whether that is where we want to be or

whether higher education funding policy should not facilitate student freedom so that adults at the beginning of their lives and not subject to the arbitrary winds of their other household members.

ADV. K. PILLAY SC: Doctor may I just ask you a question about that.

5 DR. G. HULL: Yes.

ADV. K. PILLAY SC: Coming back to the point that was made by Mr Mabuda where we have seen funding models where the state is using student funding as a steering mechanism to push students into certain fields of study now why do all of the factors which you have mentioned
10 on this slide not apply in instances where the state is the one that is constraining choice?

DR. G. HULL: Basically it is because I think that informed government decisions about prioritising certain degrees because of the national needs of the country, are decisions taken you know one hopes and they
15 can be taken with the interest of the whole of society in mind and also with interest of justice in mind, and it think it is appropriate for that kind of decision making to set constraints on, you know it does set constraints on what I have been talking about, students can apply for any course they want when governments are, unless government abolishes certain
20 programs which is not what it does, but I think it is, so that differs from the arbitrary power which family members and other household members can exercise because its decision making is guided by the interest of society or should be. And as I said it also does not constrain students to apply for a particular subject or not so I think that there are difference
25 practices in play with that particular kind of thing.

ADV. K. PILLAY SC: But is the end result not the same because a student who is, let us say the married woman you refer to, she is free to apply for whatever course she wants to apply for, it is just the fact that she is economically dependent on her husband in this instance to assist
5 her with funding of her choice of courses of study that that renders that constraint and the same would apply to a poor student who is dependent on state funding, in the ordinary course you are correct.

DR. G. HULL: Oh sorry ja I misunderstood, so there are different ways in which government can determine, can incentivise people to study certain
10 things, they can fund, they can give earmarked funding for example to a medical school to make sure there are lots of places there but I think you are talking about something different and I misunderstood, you are talking about funding which the government provides to student on condition that they do degree as, is that correct?

15 ADV. K. PILLAY SC: Let us make it a bit clearer, it is funding designed for poor students but only for certain courses of study so in other words there would be no funding in other courses of study for poor students, so government using student funding as a steering mechanism.

DR. G. HULL: I think there are concerns which that might raise ja along
20 the lines of so of the things which I have said, my recommendation does not include governments ability to do that but I think the level of determining which programs get different types of funding from, by the back door as it were ...[intervenes]

ADV. K. PILLAY SC: I accept that is a different situation, we are dealing
25 specifically where we have seen in a proposal that government uses

scarce skills as a steering mechanism to decide whether or not poor students should be entitled to funding.

DR. G. HULL: Ja I think that is, even in terms of considerations of efficiency I am not sure that whether that is a good idea because it
5 requires, I mean so I would, you know I would say that the government steering of the outputs in terms of what percentage of graduates are engineers, doctors and so forth that that and teachers it is their policies to do that are fine, government should take interest in that kind of thing and that it can do that without constraining individual choice as what to
10 apply for and that it would be preferable if it did that. now some people might say that the state has no business interfering with discussions, agreements, arrangements which are made in a family or household setting, in the Kagisano issue, Ian Scott raised that and I agree the state should not interfere with those sorts of voluntary discussions but if the
15 household discussion does not end in a voluntary agreement but rather with somebody imposing the arbitrary power which this funding model gives them on somebody else then the state should be there with an option saying for example, actually we can give you a loan for your first degree if you cannot get it in some other way.

20 People should be free to choose to do a degree when they are qualified to and to choose what to study, I think that applies to adults, children and other adult dependents, as I said school is diplomatic because there we are talking about minors, people who are under 18 but adults should have free choice. Now I think that, you know I have heard
25 it said that in South African common law there are a precedence which

means that a parent must support an academically able adult child at University if they can because the reality is this, most people either do not have the means to or do not have the inclination to pursue this kind of thing in the courts, in any case it does not necessarily cover freedom
5 to choose which University to apply to, which subject to study to apply to. Alright so that is how I think freedom bears on this debate and as I say I think that in the public deliberation about this, this has come up less than the other sorts of considerations which I am raising.

COMMISSIONER KHUMALO: Sorry Doc.

10 DR. G. HULL: Yes Miss Khumalo.

COMMISSIONER KHUMALO: On that freedom maybe just to quantify, on the question of access do you feel that is that maybe an amplification that the selection of a certain curriculum like the choice of a child is limited in this context by the father, by the mother or the holder of the
15 purse as you saying?

DR. G. HULL: Absolutely, we know that it is I mean anybody who is a lecturer in University knows that there are students who come to you and say they would have liked to study X but they had to study Y because the parents, it happens a lot and I cannot quantify it because I am talking
20 about anecdotal evidence but if you talk to any lecturer they will tell you that they know cases like that.

COMMISSIONER KHUMALO: So the basic education remember we used to have that career, there was something in basic education where you would say this is my career.

25 DR. G. HULL: Ah ja.

COMMISSIONER KHUMALO: What was it called, was it vocational something, yes so you saying it has no impact?

DR. G. HULL: Oh you mean because that would be at the stage when they are under ...[intervenes]

5 COMMISSIONER KHUMALO: Yes they are under parental guidance but the school is giving them opportunity to choose what they want, are we not able to break those barriers?

DR. G. HULL: That is, well that is an interesting question yes because of course what you study at school does have an impact, does restrict your
10 choices of what you can study at University, ja that is a whole other debate right which I, you know I think, I think this principle would mean that it was desirable to have a system which left students options open as far as reasonably possible when they come out of school for the reasons I have given however of course if you want to go into
15 engineering you cannot just have studied humanity subjects at school that is not going to work so I mean I do not have a specific recommendation on that but I agree that that has a bearing on decisions in other areas of policy absolutely.

So let me bring the discussion back to the four funding models
20 again, which ones realise freedom in the sense of freedom to choose, whether to apply to University, which University, which subject. Free higher education as I have described it since it does not have any household contribution does realise student freedom, graduate tax ...[intervenes]

25 ADV. K. PILLAY SC: Dr Hull just to come back to that.

DR. G. HULL: Sure.

ADV. K. PILLAY SC: The point I made earlier, would this not depend on how the free higher education policy is constructed?

DR. G. HULL: Yes it would and so the model that I presented on a slide
5 earlier on has the state funding all costs of tuition including
accommodation and so called. If there were, if the household
contribution was required for other costs beyond tuition then that would
raise an issue about freedom and so it would not realise that valley so
much. Now graduate tax if it is the same apart from, the only difference
10 being that you pay an extra 80 percent later on also realises freedom for
the same reasons. Income contingent student loan since the money is
made available by the state for the student to spend now and repay later
also makes them independent of household members, so I think this,
once we move onto freedom the only one which gets a you know
15 negative mark as it were is differential fees, why because that preserves
a household contribution based on the household means test.

Now incidentally in many Scandinavian countries the means test
done for non tuition expenses is a means test on the students income
and assets, the individual rather than the household which is an
20 interesting option, that might be something to look into, that will be
another possibility here, that would enable freedom to be realised
compatible with a means test because it would not be anybody else's
assets and income which were being tested. Right let me move onto the
value and equality and I want to be clear that I mean something specific
25 by equality here not equality of opportunity, not other kinds of justice

which I will come not soon but rather the ideal of a society in which people are on an equal footing, they meet as equals, regard one another as equals and feel that they are equals. In philosophy, political philosophy we often call that social or relational equality and we think will
5 be as an important good.

In South Africa social cohesion is a big policy sort of concept, social cohesion of course can be realised in a society which is very hierarchical in which there are great power differentials, there is deference and obedience but that is not the kind of cohesion we want in
10 South Africa, we want cohesion which is based not on deference but on equality, the respect among equals that is a way into this idea of equality, a cohesive society of equals. Now ...[intervenes]

COMMISSIONER KHUMALO: So this defies the animal farm, others are equal and others.

15 DR. G. HULL: Alright ja, well that would be a perversion of this yes.

JUDGE: I am sorry is a man who earns R100 000 equal to a man who earns R50 000 and is there an entitlement to feel unequal in the man who earns the lesser?

DR. G. HULL: Well so I think that there are questions of distributive
20 justice which are distinct from questions of whether equal relations are realised firstly, secondly I think this society can be so structured that it is in many forum whether you earn or own twice as much as somebody else makes not difference to the kind of interaction that you have and that can be a great virtue of how society structure employments,
25 workplace settings, political rules and so forth but thirdly I think

everybody should accept that the material that substantial material in equality end up having an effect on social equality because when people have massively more at their disposal in terms of assets and income it means they really living a different life to other people in society and that
5 creates a problem about people meeting each there as equals so I do think that that is the distributive justice and social equality are distinct but I think that they are related.

JUDGE: I am just not sure how you build this into, if somebody says my dad is a doctor your dad is a telephone linesman, are they regarding one
10 another as equals I am not sure, do they have to regard one another as equals?

DR. G. HULL: No, well it would depend on the social setting in which they encounter themselves, if it is a very class based society in which that kind of thing makes a difference to every interaction then of course
15 that will yield relations which are unequal but if it a society which says that is irrelevant to how you should be treated at school you know how you should be treated in the workplace and so forth and what political rights or participation you have *de facto* then it can be compatible with equal relations.

20 COMMISSIONER KHUMALO: But does it not impact on access though whether you are equal or not?

DR. G. HULL: Sorry I do not understand the question?

COMMISSIONER KHUMALO: On what Judge is saying is that does it, I am asking if it does not impact on access?

25 DR. G. HULL: Right I see what you, I think I see what you mean,

because you might design an admissions policy for example with the goal of social equality in mind, yes I think so, I can think of a number of ways in which that might be correct, many of them would make no difference to a funding policy so I will park those issues. Again maybe it
5 will make it clearer what I have in mind on what you say Chair, if I try and apply it and see the particular issue of fees.

COMMISSIONER ALLY: Document and I think perhaps you have put a working definition to equality here so as to explain the model you are coming to and it constrains the bigger debate of equality, now I want you
10 to think about the way you have structured it here with the way the students and I am not sure what they mean but they could be relating to some of this when they speak about decolonised education where in the University setting itself they feel on entrance to the University they are not regarded as equal and therefore dealt with as equals, so that is just
15 the one aspect of it but what decolonised education means as a whole I have no idea and I have asked people and that is a debate on its own which could take many years to reach a conclusion on but in your deliberation of this I want you to think about that particular issue.

DR. G. HULL: Thank you Dr Ally, I think that is absolutely right that first
20 of all the decolonisation of education issue is a whole other debate which we will not be able to go into very much but there is one way in which a campus environment or society as a whole can fail to realise social equality, it is as if certain cultural backgrounds, certain approaches to knowledge or approaches to certain types of practice, if they are
25 regarded as lesser inferior, less worthy of attention than others wrongly

then that is an important way in which social inequality can be manifested so I would I absolutely agree with you about that. I think another way which has relevance to the concerns which student groups have raised has to do with the relations between students on campus, not to deal with different cultural backgrounds and so forth but rather with regard to the division between those who have higher education basically as a gift from their parents and those who have to apply for aid from the state which have a divisive or a stigmatising effect on the nature of the academic community, nationally and in a given University.

10 And in particular I want to point out how the means test can be experienced as stigmatising and humiliating and I will point to what students at different campuses said already in October 2015 about this very fact. Somebody at the University of the Witwatersrand said the humiliation of standing in a national student financial aid scheme line
15 being treated like a number while your entire future hangs on how someone's day is going, being told you have to prove the degree of your impoverishment and this phrase or phrases to that effect came up a number of times independently during 2015 and 2016 at the big meetings on campus when students ...[intervenenes]

20 ADV. T. MABUDA: Well we have received, we have received evidence in that regard from a particular Wits student.

DR. G. HULL: Right.

ADV. T. MABUDA: Indicating and as well as Oxfam indicating this particular issue of the means test that demeans the human being and so
25 forth.

DR. G. HULL: Yes.

JUDGE: Of course not everybody regards it that way at all and the question is do we have to cater for everybody's sensitivities or do some people have to cope with their own sensitivities.

5 DR. G. HULL: Yes I would say in answer to that point, so first of all Dr
Ally that does not surprise me at all, I have not read that testimony but it
does not surprise me at all since it has come up so many times in that
debate, Chair I think there are two points to make there, one is to ask
whether it is a question of a sort of arbitrary individuals sensitivity or
10 whether there is something more substantial behind it which needs to be
taken into account but the second is of course as with all of these issues,
there is a need for trade-offs as I was talking about before and so in
some cases you know the fact that there is a problem with means test
does not mean that there should be no means test at all in any area,
15 you know I think in a lot of areas a means test is going to be needed.

The question though is whether without too much sacrifice one
can structure higher education funding policy in a way which does not
create this problem of social inequality, as I was sort of explaining. So
what the, you know in these cases which I read prove a degree of your
20 impoverishment, another person from the University of the Western
Cape said we are calling for the student credit management office which
expects students to prove their poverty before every regulation to full.
Now this very much resonates with work which political theorist have
actually done about means testing and they pointed to the fact that
25 means testing can convey the impression that one is not trusted,

because it requires you proving your means that when it is an object of suspicion and in that sense not being respected, also it communicates disrespect by subjecting the poor to a level of scrutiny, inspection intrusion and control not experienced by the better off and thirdly that
5 means testing can communicate disrespect by requiring people to do things or to reveal things about themselves that they find actually quite shameful or humiliating.

So to me these ideas make sense in terms of why a society or a University community in which there is this means testing process could
10 lead to feelings, a feeling of being unequal or being treated as unequal, being disrespected and so I think we should look at what some of the students have said in this light and relating it to the idea that we really aspire to a society and indeed University communities where people treat each other as equals and feel that they are equals and that there is
15 a general ethos of respect amongst equals.

JUDGE: That is not totally unreal, some people are always better off than others, if you go, I remember going into student refectories with friends and I knew that they were perfectly able to pay for the whole meal and they did, I did not feel taken aback by that fact, it was a fact
20 and they knew that I was not as well off as they were but that does not mean that my thinner skin is now scratched as a result of that. if I went into a bookshop and my friend was able to afford a book and I was not able to afford it that is the fact of life, you encounter that at every level as you go through life, sometimes you are better off and sometimes
25 somebody else is better off but this is not discrimination.

DR. G. HULL: No I would agree it is not discrimination, I would also again say that the question of distributive justice, you know whether people should be better off or not is a slightly separate issue but I do think that we need to take seriously the idea that when people

5 persistently find themselves in interactions where they feel like more scrutiny has been given to them than to others that they are being required to let things about themselves which are shameful and indeed document them and prove them and in which they feel that they are not trusted but in those situations that can damage the texture of social

10 relations.

You know I think sometimes you know and unequal type of interaction in one sphere of ones life has a lesser effect if it is counter balanced by a lot of experiences in other areas of ones life where one feels an equal or perhaps even a superior, so I think a concatenation of a

15 life in which lots of different spheres of interactions involve this kind of unequal relations, you know that can have a much more adverse effect on the social fabric but I think that it is not a consideration to discount totally that there is something behind it and that it is not a coincidence and it is also not say a matter of winging that this comes up so often

20 when the students talk about what they dislike in the current funding regime.

COMMISSIONER ALLY: Well Doctor is it that you saying there should not be a means test or is it that the measurement of the means should be changed so as not to dehumanise the person because where in a

25 country where you do not have a bottomless pit of money then you have

got to apply some measurement in order to try fund as many as you can and in doing that there are various measurements, one is the means test, the application of that test however is what I am drawing from what you are saying that that particular test should not be of a nature that
5 dehumanises the person and if there are ways that that can be done then why is it not being done?

DR. G. HULL: Thank you I think that is a perfectly, that is a very sensible point, some of the problems may be involved in the manner in which means test is administered. I think that some of the, you know the
10 background rationales for a harming of equal relations will remain because a means test always requires proving the degree of ones impoverishment as the phrase goes. Well you know let us look at it like this, if you have two policies which are identical except one involves a means test and the other does not, I think what we have got here is a
15 reason to favour the one which does not involve a means test, at least.

ADV. T. MABUDA: Dr have you thought about an alternative to the means test?

DR. G. HULL: Well an alternative way of achieving what goal?

ADV. T. MABUDA: Because ultimately I think we can agree that at this
20 point providing universal free education is a bit of a contentious subject so because of the inequalities in the country so the policy seems to be that the people that can afford should pay for it and the people that cannot afford the state should provide for so how do you propose we differentiate between these people without implementing a means test?

25 DR. G. HULL: Well I do not think that there is any way, if a policy

involves testing household assets then it has to test household assets or income so I do not have a proposal which involves differentiating between rich and poor households without a means test but I do not think that the only other option is free higher education for all, I think that
5 these considerations about the means test provide us with a reason for preferring a middle course between the two options which you outlined which were basically differential fees and free higher education.

ADV. T. MABUDA: Thank you.

JUDGE: Doctor we have now had an hour and a half of evidence I think
10 we should take a break for quarter of an hour for tea, thank you.

DR. G. HULL: Thank you.

MEETING ADJOURNS

MEETING RESUMES

JUDGE: Dr Hull I think out of interest in what you are saying we have perhaps been a little more participated than we might otherwise have
15 been so we will let you run as freely as you wish thank you.

DR. G. HULL: Thank you Chair. Well I very much value the participation but maybe for time reasons I should press on a little bit and hopefully the questions that you have will either be answered by what I say or you can raise them afterwards. Alright so where we got to was the objections to
20 a funding proposal involving means testing because of the potential of that aspect to undermine social equality so how does that play out in terms of the four different funding models which I examine, well only one of them in fact involves a means test and that is differential fees, there are of course variations on the other models might introduce a means
25 test so again it is differential fees which loses out as it were once we

take this value of equality into consideration but three are still left in the running.

If I may now move onto the fourth value which I want to focus on, this one is what I am calling fairness by which I mean something
5 specific, distinct again from equality of opportunity and relations of equality, fairness is about how benefits and burdens are apportioned among participants in a project or cooperative enterprise, so it has to do with distributive justice as opposed to equality of opportunity or other
10 types of equality. Now society itself is an ongoing cooperative project, people follow rules, they contribute in different ways and for this reason I think the fairness test there is a presumption in favour of an equal distribution of the fruits of social cooperation however that presumption can be overridden by things like variable contribution, if somebody is contributing an awful lot more than others to society is it not fair that they
15 should get more of the benefits.

Also if somebody has special needs which mean that the same amount of the social product does much less for them than it does for others, an example would be a disabled person gets much less mobility from a given amount of money for example than somebody who is able
20 bodied because they need to pay for a wheelchair or special things need to be fitted so that can also override the presumption of equality and also the distributive person can sometimes change the overall size of the social product, incentives can mean that everybody including the less well off will be better off if there is a somewhat less equal distribution.
25 An important coronary or really an implication of that general idea is the

second bit on the slide here that there has got to be a presumption against making one group of society members bear the costs of advantages, privileges, for another group when the first group does not enjoy comparable advantages itself this is, that is really a description of
5 a dynamic of exploitation which is something which needs to be avoided.

When we think about how fairness applies to higher education funding, key is to focus on the different types of benefits which higher education gives rise to. When you put somebody through University when their higher education is paid for this generates as has been
10 pointed out by a number of people who have given testimony to you significant public goods, these include having skilled professionals around in society, having innovators around critically minded citizens who take part in the democratic process and raise objections or critically scrutinise what government proposes, also artists and leaders and these
15 are things which benefit everybody so higher education gives rise to enforcing public goods.

On the other hand higher education also, I think this is accepted on all sides, gives rise to very important private goods enjoyed by the student or the graduate as an individual, these include the intrinsic
20 benefits of higher education but they also very importantly include the competitive edge which a degree gives to somebody when they enter the labour market. Now in South Africa the private goods particularly in terms of the race for jobs, the race to get desirable employment, these private benefits are very considerable, according to Sefus van der Berg
25 in 2010 graduates earned almost two and a half times as much as

matriculants with similar other attributes that controlling for other predictors such as age, gender and race.

And there on the screen is the gradience where your expected earnings as s 30 year old , in this case if you are a black male how they
5 develop as you get increasingly qualified, you can see that by the time you get to your school leaving year Grade 12, there is a little bit of a bump but that is nothing compared to the bump you get when you have a degree and that is where this figure of almost two and a half times the earnings, so if you go on from a school leaving degree qualification to an
10 undergraduate degree you can expect to earn 240 percent of those of your peer group who stopped at the level of matric.

That is a very substantial private gain from higher education and it is more substantial than other countries and I think Jaco Cloete from CHET presented the evidence that in Sub Saharan Africa generally in
15 South Africa in particular the private returns to higher education are much more considerable than in other parts of the world and that is partly because of the participation rate of course. What creates the fairness problem is that there is substantial competitive advantage goes to a very small proportion of the population so what I was talking about
20 freedom and equality just now I was really talking about the freedom of students, equal relations amongst students but not everybody in South Africa gets to go to University, the significant cots of University education need to be allocated in a way which is not just fair amongst students but fair to the vast and indeed the overwhelming majority of the population
25 which will never get to go to University.

The last sentence told us that less than 12 percent of South Africans have a University education, 2013 survey results said that it was still less than 15 percent of the population aged 20 to 24 which was in higher education that only rises to 18 percent when you include 23 and
5 24 year olds in Tvet institutions at that stage. In the debate about fees this fact tends to be often ignored or people talk as though it is an abhorration and we should be aiming for a situation where a hundred percent of South Africans go to University but if you look at the proportion of 25 to 34 year olds you have attained tertiary education in
10 countries much richer than South Africa you see in Germany below 40 percent, Scandinavian countries 40 to 50 percent, the OECD average is 39 percent, the G20 average is 38.

So even if South Africa were drastically increased the proportion of the population which goes to University it would still we can be sure in
15 the medium term be under 50 percent. Why does this create a problem, oh sorry before I ask why that creates a problem, one thing which people often raise as well those people who get higher earnings because of their degree do they not also pay a great deal of income tax, more income tax than others and of course that is right but that does not take
20 the problem away and to understand that you can look at it like this, compare somebody who is, who pays R1 million over their lifetime, who has South Africa degree to somebody who never got a degree and yet they are in the same tax band, often that happens and so they pay the same amount of income tax over their lifetime.

25 Let us say that the cost of the private benefits of higher

education of that part of the University tuition is R200 000 well once the graduates have paid off that R200 000 the idea was income tax means they are paying back the costs that means there is only R800 000 of the million rand lifetime tax payment left over for such things Safety and
5 Security public services, health, education, infrastructure which tax money is spent on compared to the person who never got a degree, who pays R1 million of tax over their lifetime, of whom all of that tax taken is spent on those services, health, education, infrastructure and so on.

That is a horizontal inequity between the position of a graduate
10 and the position of a non graduate, many non graduates also pay income tax, so that does not take the problem away graduates would still be paying proportionately less towards the services which taxes are used to fund than non graduates. Alright now there are two problems I want to raise with the proposal of free higher education in the first place and both
15 have to do with fairness, first of all you know to the extent that higher education generates public goods it is fair, it is reasonable for it to be fully publicly funded as long as there is a reasonably evenly disbursed those good. Even with the case that everybody got a University degree and so everybody got the private goods of higher education it would also
20 be okay for it to be fully publicly funded why, because justice when it is public good everybody benefits.

What is unfair though and this is unfair even abstracting from the vast inequalities which mark South African society in particular, what is in principle on fairness is to make other society members fund a personal
25 enhancement, the private kids of higher education, for a small group

which gives that group a competitive edge over all the rest so when we talk about the advantages of higher education it is not like the advantages somebody gets from an expensive medical procedure for example where you are just bringing him up to a standard or normal level
5 of functioning again, the benefits of higher education do not bring students up to a or graduates up to a normal level of functioning and that the average compared to the rest of society rather they take them way over the top, that is what that study by Savas van der Berg shows where they are earning 240 percent of what matriculants earn and of
10 course not everybody of course gets a matric pass.

So this is an unfairness in the distribution of the benefits of higher education if one adopts a free higher education tuition fee funding model. Abstracting away from all the other facts about South African society it is still unfair to give a competitor the edge to a personal
15 ...[inaudible] a small group of people of the backs of the poor, the unemployed because of course even the poorest in the society do pay tax they pay consumption tax, there is another taxes, it is unfair in principle for them to be paying for that competitive edge which they themselves do not enjoy. So fairness already gives us there an
20 argument for cost sharing as a, you know as a model for higher education funding.

By the way in this debate in the public discourse there is often talk of poor students and rich students and should poor students not be subsidised. I think one has to be careful about this language because if
25 you take a poor student, student from a place of residence background

and make sure they get through University and get a degree, very quickly in 10 years, 15 years what you have in your hands is a rich graduate who is going to remain so for the rest of their adult life, is it not fair that that rich graduate with all the advantages at their disposal even
5 if they come from a poor family should contribute some of the costs of the higher education which enabled them to reach that level of privilege, even if they came from a background of disadvantage, so I think that is just about the language which is used, rich students, poor students, a poor everything if everything goes well will not be poor for much longer
10 because in South Africa a degree is a ticket to middle class succinctly speaking it is a middle class status.

Another argument takes into account more the realities of the South African situation in the sense that if we look at that first principle of fairness, a presumption in favour of equal distribution subject to these
15 riders, these caveats this is so far from being realised in South African society as a whole that clearly a very important priority for any government of this country has to be dealing with the severe inequality, distributive inequalities which exist however all studies show that other spending on health, on basic education, on infrastructure, on other
20 projects which benefit everybody is much more effective in diminishing vast inequalities such as we have in South Africa, the spending on higher education, there is a Wellback working paper from 2015 but this is really replicated by studies all over the place, you do not get the same returns in terms of a reduction in a distributive inequality from higher education
25 investment as you do, it is much larger if you are talking about basic

education, secondary education which everybody does or should enjoy, healthcare which everybody can expect to need or infrastructure which affects everybody, electricity, water, housing and so on.

So I think that is another, a separate argument which is more
5 paying attention to the fact that we are talking about society which has
severe inequalities as things stand, there is a real problem about funding
at least the private portion of the benefits of higher education because
you are taking money away from, there is an opportunity cost in terms of
what can be done to alleviate inequality much more effectively. Alright
10 so how does that compare what I have been saying to the *status quo*,
well you know it is impossible to come up with a completely quantitative
measure of the private goods, sorry the public goods, the public benefits
of higher education because a lot of those involve things like peoples
critical attitudes, innovation, artistic activity which you cannot easily put a
15 figure on unlike the earnings of a graduate.

But what is clear is that the private benefits are substantially
larger in South Africa than in other countries, I think that a sensible rule
of thumb to work with in that situation is that 50 percent of the costs of
University tuition should be funded by the state in recognition of the fact
20 that higher education has these significant public benefits but that the
other 50 percent at least should be funded by the recipient, the student,
the graduate who enjoys individual benefits. Now as things stand it is a
little difficult from the data that I have seen, you have probably seen
better data, to work out how much of the cost of tuition are paid currently
25 by students and currently by the government because on charts like the

one I put on this slide a lot of the third stream and a lot of the government grants if I understand correctly will go towards research and other purposes.

One thing I want to point out is that people often use this particular chart which I take from a presentation by CHET to point to the fact that student fees have risen and government subsidy of higher education has fallen however I think there is an important caveat to that in that of the 33 percent of University income which in 2013 came from student fees 13 percentage points of that came from NSFAS. Now as things currently stand with NSFAS because of the subsidised interest rate, because of the fact that some of the loan can be converted into bursary and because of the inefficiencies in collection it is very optimistic to think that the government can see even 10 percent of that 13 percent back I think, therefore in addition to the 40 percent which is direct subsidy from the government there is actually another 10 percent which is coming from the government to Universities to fund higher education tuition at the moment.

What that should tell us I think if we look at this chart is that at the moment the government is funding well over 50 percent of the costs of higher education and tuition and so I do not think that from a fairness point of view that there can be any good argument for increasing the amounts that government funds directly for unit costs of higher education tuition because you then create that exploitative situation and that situation what you are not using government public money to tackle inequality effectively. Alright so how does fairness bear on the four

funding models which I have been discussing, well free higher education as I said which would involve taking the government contribution to student expenses, the costs of higher education up to 100 percent that would not be fair, that would be exploitative from a fairness point of view
5 that is not desirable.

Differential fees also because you know as I said a poor student very quickly becomes a rich graduate if everything is going well in higher education, differential fee says that if they come from a poor background a larger portion of the cost of tuition should be funded for them than
10 people who come from a richer background but when that graduate is a high earning graduate aged 30, 35, 40 why should they not at that stage be paying back their share, their 50 percent of the costs of higher education given that it has now given rise to these tremendous benefits, a competitive advantage. That is why I think even differential fees fails
15 by, from the perspective of fairness.

Graduate tax here it depends if the objection to differential fees was that some people are going to be paying back too little of the cost of their higher education tuition, the objection to graduate tax will be the other way round, since you carry on paying X percent, say 1 percent
20 more on income tax than other people let us say throughout your life there are going to be a lot of people who achieve very considerable earnings who pay much more than the 50 percent owing or which I suggest is owing from a fairness point of view of the cost of their higher education tuition so there unless it is very carefully tailored a graduate
25 tax also fails from a fairness point of view it does not apportion the

burdens of the costs of higher education in a fair manner.

Now loans with income contingent repayment, what is good about these is that the amounts of the loan can be tailored to the costs of an individual students higher education tuition, can be adapted for certain reasons but in principle that can happen. And then if you have a sensible interest rate and that is something I am going to talk about later, not conversion of loan into bursary you can then have a situation in which the student pays their fair share of the costs of higher education and tuition not at the stage when they are a student but they usually cannot afford it but rather at the stage where there are graduates with higher earnings when they most certainly can afford it and since the payment is fully contingent on income it is only once and indeed only if they achieve that higher level of earnings that they start paying back the cost of, their share the costs.

So I think from a fairness point of view there is a clear advantage to the government loans with income contingent repayment policy model which I have laid out. Alright finally I want to move on to a fifth value which I think should inform higher education funding decisions and this I am calling efficiency and I mean it here primarily in quite a narrow sense of matching supply to demand, of course that is the thing which, that is the task which economists believe that markets are particularly good at doing and under certain conditions they clearly are. When it comes to higher education what is efficiency, what is the demand, what is the, rather what is the task which efficiency requires us to fulfil, the supply of course is a program to study in higher education sector, should satisfy

student preferences and labour market demand as far as possible and it is cost effectively as possible.

Basically what is guiding the value of efficiency is that we want to avoid waste, wastefulness, non cost effectiveness should be avoided
5 as far as possible. Now as student numbers grow and both the labour market and degree in course offerings become more differentiated this allocative goal, matching supply to demand, becomes too complex for central planning. If you see a minimum level of informedness among students and the state can intervene to increase student informedness of
10 course both about their own preferences and skills and about the labour markets it becomes useful for Universities to compete for students setting fees autonomously.

Then price, in this case fees, operate as a market mechanism signalling cost and equality and matching supply to demand that of a
15 central planner ever could. Competition between students, between Universities rather for students will encourage institutions to use resources more cost effectively to meet demand. Now that is the efficiency argument for making Universities into fee charging institutions which compete with one another for various fee paying students. In
20 contrast to many other African countries South African Universities have an established history of charging fees and they also ...[indistinct] a healthy range already of fees charged by institutions under different degree programs. From the point of view of efficiency alone that is virtue of the current South African funding mode.

25 Now one should not be too utopian about the operation of a

market in higher education, market distortions clearly occur, institutions often have an undeserved reputation and there are other cases of imperfect information, students are not always very well informed about what they letting themselves in for. There is also, in America for
5 example wasteful types of competition where for example Universities can compete for able students by offering merit based financial aid, that shuffles able bodied table among Universities but actually does not write down the costs, hence it is faithful. Some Universities might take part in vanity spending, there might even be cartels among Universities, all the
10 familiar types of market failure.

However that does not necessarily an argument against having Universities be fee charging because market distortions can be addressed in many of the usual ways, price regulation is one of those, there is a ministerial task team which is basically looked at, increasing
15 student information so that you are talking about forms consumers is clearly crucial and as part of that detailed public audits, international peer reviews to make available information about the relevancy of academic quality of different Universities can be something which government does to ensure that the market is working effectively.

20 So if we take that on board and we say not that higher education should be privatised there should still be a 50 percent contribution from the state because of the public benefits which it generates and also not that the higher education market is perfect but rather that inform students competing for degree places, Universities competing for the
25 best students is going to achieve efficiency much better than a central

planner could, then we need to factor efficiency into the values which we measure the bonding proposals on the table according to. Fee higher education takes price out of the picture completely and therefore it does not realise this value efficiency. Differential fees leaves fees price in
5 there but the amount which students pay is determined to a large extent by their available household resources so in effect the market is there but it has been distorted out of recognition.

Graduate tax, because at the point of view graduate tax is exactly the same as free higher education it is only later In the form of a
10 tax, same percentage for all graduates that graduates make their contribution, price does not enter into the picture again so again that fails from the point of view of efficiency. Loans with income contingent repayment on the other hand do retain price as a signalling mechanism in the market for higher education, why, because when students take
15 their decisions they are looking at a menu of different prices for different offerings at different Universities and in South Africa there is a healthy range of those, Yes they do not have to pay straight away but they will be factoring in the fact that they need to pay at some point later on when they can and so whether they choose one course or another could mean
20 that they paying their loan back for longer rather than for a shorter period.

So loans then become contingent repayment as well as incorporating, embodying the access fairness, freedom and equality, enable us to maintain the efficiency which comes from price signalling in
25 our higher education funding model. Okay so that is why my proposal,

my submission, my recommendation is that rather than chucking the national financial aid scheme out which of course embodies an income contingent loan scheme to some extent rather we need to expand it so that it can cover loans, so that it can provide loans to students which
5 cover all of their expenses at the time when they are at University and also I want to propose so that it can provide such loans to all South African students, all South African first time undergraduate students.

Other changes I think that the repayment threshold needs to be raised, I have already mentioned why. In terms of practical nuts and bolts
10 the collection of the loan should happen through SARS, why, this is something which we know from international experience that usually the loan agency itself does not have the capacity to do collection, NSFAS has certainly struggled with that, if you want efficient collection of loans you should either do it through the tax agency or through banks, if you
15 do it through banks they will ask for a hundred percent repayment default guarantee, why, because we like banks to be ...[indistinct] what that means in effect is that banks then do not have the incentive to follow up defaulters rather they can just collect from the government.

Another thing which happened in Canada was instead of asking
20 for the default guarantee they asked instead for a 10 percent risk premium then loan collection becomes incredibly expensive. The only reason not to collect loans through the tax agency is when the tax agency is not good at collection and that has happened in some countries, for example I think I am correct in saying Philippines had a
25 problem with that which had a loan system. But SARS is good at

collection so there is no reason not to do it through SARS and if the thresholds of repayment are reliant with the income tax thresholds it also makes it very simple, I believe that we should not be converting loan into bursary in the way that happens now in the NSFAS scheme but the moment you can convert 40 percent of your loan into bursary through getting high grades and you can convert a further 20 percent of your loan into bursary if you finish in a timely manner, that is the final year program, I think that in terms of incentives getting through University and all of the advantages which come with that really those are the incentives for students.

What is more likely to be delaying students is factors such as having an inadequate loan or bursary so that they have to work part time and they cannot give full concentration to their studies but there are already reasons from the point of view of access to ensure that is not happening so that they can develop their human capital to potential. Again international experience tells us that it is a mistake, you know it seems like it is a good thing, a mistake to subsidise the interest rate on government loans, why, because when a loan is already has income contingent repayment billed into it, it is already guaranteed to be manageable, usually a subsidised interest rate makes loan repayment more manageable which is why it is usually a positive thing.

In the case of income contingent student loans, if you think about it all that an interest rate subsidy does is that it, you know once a graduate is repaying their loan because they are 35, 40, 45 and they have got healthy earnings it just gives an extravagant gift to that

graduate, it just says you do not need to make any more payments even though you have not paid back 100 percent of the loan, forget about the rest, there is no reason to do that as long as the loan repayment is already fully manageable. You know this is a very important point, when
5 people talk about student debt they often talk about it as though it is credit card debt with all the risks and all the dangers which that entails, namely fixed repayments, where the nightmare is that you lose your job and suddenly you do not have enough money even to make the repayment let alone your other expenses, income contingent repayment
10 is tailor made not to have that problem because it is the manageable percentage of your earnings.

A more general point, debt is not per say a bad thing, what debt and credit achieve is what is called consumption smoothing, the people are able to receive a benefit at a time when it benefits them most when
15 they need it and they pay for it when they can and you know think about other examples of credit, mortgages, people are able to enjoy a house at the time when they just start a family for example but pay for it later when they are further advanced in their career. Debt it would be a worse society if that debt, if that consumption smoothing was not there so we
20 need to distinguish between bad debt, debt which means that people might lose their house, which means that people might have unmanageable payments they have to make and good debt which achieves the consumption smoothing goal of credit.

Income contingent student loans are a good model for
25 manageable repayment of the benefit, the private benefits of higher

education. As I said right in the beginning when we are thinking about the realiseability, the practicality of this proposal it is very important to realise that outflows on loans should not be recognised as expenditure on the government accounts, the last time I looked all of the outflow from the department of Higher Education and Training to NSFAS is counted as expenditure though NSFAS itself counts the amount which it has given out in loans, adjust it for an impairment for non repayment as an asset but that money from DHET and indeed the money from the Treasury that is an asset, at least that portion of the outflows which you can expect to receive back.

Once you have made the adjustment to the interest rate you have stopped converting loan into bursary, you have ensured that loan collection is going to be reliable, a very significant part of that outflow on loans can be expected to come back to the government therefore let us say the government thinks it can spend R9 billion expenditure per year on a student loan program, NSFAS, well if you can expect to receive two thirds of that back then the expenditure for that year is only R3 billion and therefore you can multiply it by 3 the total amount which goes out in loans. Since currently the costs of degrees are relatively low by international standards in South Africa, I think it would be possible and also given that the private returns to higher education are very high I think that it would be realistic to come up with a scheme where you could expect to receive 80 percent back of the loans that you give out.

That of course means that only 20 percent of the actual amount of money which goes to students in loans should be counted as

expenditure, this means that the same amount of money going to students as a grant in a free higher education model that same amount of money would be actually one fifth of the expenditure if it is going as a loan, those income contingent loans, we call it ...[indistinct] very important part of the advantage of the income contingent loans model. You know the government of course there is a cash flow situation which needs to be dealt with, the government for example needs to raise that money in the credit markets, it may be that it can, part of that can be selling special student financial aid scheme government bonds which might be attractive to corporations for example which want to do responsible corporate social responsible investment.

Now universal eligibility is important, why, because it realises those important values of student autonomy or freedom and equality which I have mentioned already. However it may be that a feasible recommendation is still to begin this loan scheme with the presence of a means test and gradually to phase that out as the trickle of money coming back from graduates who repay becomes a larger flow.

JUDGE: Well I wanted to ask you, your scheme here as finalised as it were excludes or renders the means test unnecessary does it not?

DR. G. HULL: That is correct, that is correct and that comes with the advantages that we discussed earlier.

JUDGE: Did you suggest that temporarily the means test should be employed?

DR. G. HULL: Yeah so if the decision is that for example because of the governments cash flow situation it is not able to provide loans for

students to begin with it would make sense to retain the mens test for, you know on a provisional basis until you can take that component out and the loans can go to all the eligible first time undergraduate students. So that really brings me to the end of my presentation, I think that there
5 are in terms of the values case that I have made I think that students loans with universal eligibility they really do come out as having important advantages over the others, over the other schemes I have discussed. Also I think that you know this is not just an idea I am sucking out of my thumb, income contingent loans have been realised
10 and they have been realised pretty effectively in many countries around the world, there are Asian countries, there are Australia, New Zealand, there is England and finally when one looks at those models they are very different from the kind of student debt which is involved in a country like America.

15 When one talks about student deaths or loans people immediately think of the example of America where much of the debt is totally unmanageable, it is like credit card debt, even if a student dies their family may have to repay it, we are not talking about that kind of debt at all, we are talking about that which is guaranteed to be
20 manageable just in the same way that the proportion the government ask for you in income tax is guaranteed to be manageable because it is a portion of your earnings. So that is why I commend this scheme to your attention.

JUDGE: Well now our task is to determine whether fee free education is
25 feasible, now your approach does not, is not directed at feasibility it is

directed at determining which of these particular schemes, if I might call it that, satisfies the core values best and what you have come, the conclusion you have come to is come to without regard to feasibility.

DR. G. HULL: Well I did say a couple of things about the scheme just
5 now to suggest that it is a feasible scheme because of the fact that
...[intervenes]

JUDGE: The scheme is feasible but the fee free element is now dropped.

DR. G. HULL: Sure, let me address that then.

10 JUDGE: Because it is not the best, it does not best accord with what you have in mind.

DR. G. HULL: Right sure, well let me address that question, is fee free higher education in South Africa feasible, I think the answer is obviously yes South Africa is a middle income country, if you wanted to adjust the
15 budget such that enough goes to grants, to students for their tuition and their living expenses of course you could, it is a no brainer.

JUDGE: Yes in other words it is a matter of priorities.

DR. G. HULL: Absolutely so one can give an answer to that question very quickly, yes free higher education is feasible.

20 JUDGE: Yes that is why we have sometimes wondered why we were appointed at all to this commission.

DR. G. HULL: I see, right so you asked that question really can be answered very quickly. You know the more interesting question is, is it feasible while respecting other important tasks and priorities which

government needs to carry out and that is why I think very quickly once you start thinking about that question these other issues come into play, is it feasible while making sure that you do not have an exploitative situation where graduates are getting their degrees paid for by much poorer members of the society, well no it is not feasible if you care about that. Is it feasible while ensuring that you know, so that is why the values come into it right because yes it is feasible but it is not necessarily, but it is feasible with sacrifice, more sacrifices than I think we should make in terms of, you know is it feasible while spending the amount of money which South Africa should be spending on other priorities which are more effective in dealing with inequality.

What is happening with the national health insurance scheme, can employment insurance be rolled out for people who have not ever been in work, what about a universal pension, things which would we know contribute to diminishing inequality much more, much more quickly than funding higher education, well no it is not feasible if you care about those things, compatible with those things. So I think that is why one has to think about this question in light of the other policy priorities and values which should inform what the government does and but yes you are right, my principle answer to that question is yes it is feasible but it is unjust.

ADV. K. PILLAY SC: Dr Hull may I ask you a question and just allow me just to preface the question by indicating where we are right now policy wise, we are in a position now where government has interpreted the constitution, has interpreted the freedom charter and its international

obligations and has concluded that it has got a duty to provide fee free higher education to the poor however you define the poor for present purposes and that it will progressively realise the right for remaining students, and it is put in place at certain policies in line with that
5 assessment of its own obligation towards students. Now in the light of that, in the light of an acceptance by the state that it will fund fee free higher education for the poor, is your proposal not actually a retrogressive step.

DR. G. HULL: Well it is a proposal which suddenly goes against that
10 interpretation of the constitution and the other documents that you mentioned, I do not think that means it is a retrogressive step if by progressive we mean a step which moves society closer to justice because it is a step, because it gives free higher education, you know even, this is the point which is really, one really has to stress that again
15 for the poor what does that mean for people, for children of poor families in higher education if it does its job gives them a degree it means that those are not poor people for the larger course of their working lives. So one answer would be to say that actually it is providing free higher education to rich graduates.

ADV. K. PILLAY SC: But the impact of your model on the poor and for now let us accept that it is children of poor families, the impact of your model is that those students from poor families otherwise would have received status systems in the form of fee free higher education would now be receiving a contingency loans.

DR. G. HULL: That is correct, no I think one thing to think about when
25

your, you know when you are pushing a point like that is that you know if that sort of the sort of policy dilemma is it were is that when you outlay to a student is in the form of a grant rather than a loan with income contingent repayment when they are going to be in a position to repay It means that there is a smaller pot from which to provide to students who are not in a position to pay upfront so yes you might be providing to those ...[indistinct] for the reason I gave but you are providing free education to those students from poor households but there are other students from poor house or prospective students from poor household who because you are providing the aid are necessarily and unjustly in the form of a grant rather than a loan you are not able to provide anything for so what about those students, what about the opportunity costs for those perspective students for whom there is no money left because quite unnecessarily the money was given in the form of a grant rather than a loan.

ADV. K. PILLAY SC: You recall at the beginning of your presentation that Advocate Ally asked you a question about where you locate the values on which you base the model and I think it is quite a fundamental question because it was put to you that those values, the ordinary course would be located in the constitution and so based on what I have put to you now and an assessment or an understanding and interpretation of the constitutional right and the corresponding obligation which it imposes on government which in itself is a value based proposition and those values are really those that underpin the constitution, my concern with your model is that it does seem to disadvantage poor students and again

new differing in our definition of poor, I am referring to students from poor families.

DR. G. HULL: I think in answer to that I can, first of all I am not qualified as somebody who interprets legal documents so I will have to rely on
5 you for that but again I think I can make the same point which is that well at the point where aid is given whether it is loan or grants these are not students at all, these are prospective students, you know people who want to study, applicants. If you give money to you know let us say 100 000 well, ja let us say 100 000 of them in the form of a grant it means
10 that there is not anything left over for another 100 000 so yeah if you catch the number of students fixed at 100 000 they would be, they would have less overall.

JUDGE: Or what you are doing is limiting your priorities over the whole spectrum.

15 DR. G. HULL: Indeed, well sorry, I think the, because you are limiting what you can do overall and so, so you know these are not students here these are all applicants and on your proposal let us say they, 100 000 of them get a grant if it was a loan they would have to pay it back when they can, on my proposal you can give 200 000 the opportunity
20 free at the point of use to use higher education and then they all pay it back when they can. Now even, I think even if we are thinking about the interpretation of the principles that you have quoted I am not sure that it is clear that your proposal is more progressive because you know you are leaving out these other 100 000.

25 ADV. K. PILLAY SC: I accept that, I think the difference is that the

proposal and it is not actually my proposal, this is governments proposal, that the proposal put forward by government is one which on a particular interpretation of the constitution is consistent with the notion of progressive realisation of reasonableness etcetera, that you start off with
5 some and then gradually roll out more and more students all the time.

COMMISSIONER ALLY: Doctor I am more interested in what you were explaining to Miss Pillay in respect of the 100 000 and the others left out, why is it that you say they left out because remember what happens is this, you have got to find out how many students come in within a given
10 year based on your studies of progression through matric and so forth and the qualifications. You then as a government need to find out at what level you determine is poor acorn to the purse that you have which is presently the situation whether it is 122 or 500 000 but you determine that.

15 DR. G. HULL: May I interrupt, when I talk about the 100 000 students I meant 100 000 students not the level of their poverty you understand.

COMMISSIONER ALLY: I am talking about the 100 000 students.

DR. G. HULL: Okay ja.

COMMISSIONER ALLY: And you were saying well you have catered for
20 100 000 students but remember those 100 000 students are poor as defined, there is no other 100 000 outside of that because if you did find as poor you are within that spectrum and whether it is 200 000 or 100 000 would depend on that definition and if it is as defined you as government who have said you will then pay you have got to pay.

25 DR. G. HULL: Okay sorry I misunderstood, anyway I understand your

point now, ja well I think there is two points to make, firstly I think it is imminently contestable whether a household which earns above the NSFAS cut-off is able to fund a student properly but you know that argument has been made *ad nauseum*, I think it is very clear that that is

5 the case. You know the second point is this, the national development plan aims to expand the total number of students from 1 million currently in Universities that is to 1.5 million by 2030 now in the nature of things that will mean that more students from disadvantaged socio economic backgrounds are coming into the system because people from

10 advantaged socio economic backgrounds were already going through good schools and so forth so there is going to be, so in line with, you have also got to, that is another variable to be factoring in, the fact that there is an ambition to expand the University system and so any measure which enables government with the same amount of outlay

15 right now, outflow right now to fund double the number that they could with outflow as grant I think should be in line with that ambition.

And finally I think it is relevant to say that we also need to be considering all this in the context of the value of individual freedom or autonomy which is also something which the constitution is interested in

20 protecting, where you know as I have outlined earlier I think that proposals which focus on the household income and assets are in danger of not respecting student freedom and autonomy enough so I think that is another factor which needs to be, which bears on that issue.

COMMISSIONER ALLY: I am still not sure whether we understanding

25 each other properly, the proposal or the argument put to you by Miss

Pillay is this, and let us assume for argument purposes now that she is correct in her interpretation of what government has accepted as their obligation. Government says anybody who is at a certain threshold in a given household will then receive public funding from government and
5 full cost of study or as some Universities are doing now is, well not now they were, is top slicing and so forth but we will not even go into that at all, so the assumption is that government says I will pay for all that are within that threshold that come from households within that threshold, now if that is accepted the question then becomes, taking into account
10 your analysis of the NDP and saying what it says which differs from somewhat from the departmental, the department says to us now they find it difficult to implement that which is said in the NDP for various reasons.

Now the question then becomes, is it feasible to implement such
15 a policy and would that be sustainable in the long term, now from your argument you were saying you cannot see it being sustainable because from a different angle though because you say these poor people as you have defined them as government, I am talking about you as government, as you have defined them, number 1 are not poor for the
20 rest of their lives and should be as a philosophy should be paying back and that is your ICL, income contingent loan because you only pay back when you have the income to allow for that payback, is that my understanding of your argument?

DR. G. HULL: Ja.

25 COMMISSIONER ALLY: Now what about the issue of the government

interpretation of its obligation presently.

DR. G. HULL: Okay ja thank you, well if the government has decided that it is going to provide full grant for, I do not know whether that counts as tuition and living expenses, let us say it does, for all students which
5 come from poor households as it defines poor then it is decided to do something which is, which differs from what I propose that is correct. Now the question whether that is feasible is not something which I am pretty qualified to answer because that depends on ones estimations of governments revenues and so forth but on the other hand as I said
10 earlier to the Chair in one sense it is feasible because you can always take money MF something else and put it into the higher education budget so actually it is a no brainer because it is feasible.

As to whether that definition of poverty is correct in terms of what a household is able to do, I am also not a right person to ask that but as I
15 understand from a multitude of accounts the current definition is wrong. Now I do not know I mean I think it would be, so as I say I am not an expert on interpreting the constitution and so forth either but I think it would be very interesting to look at these particular tests and look at whether there is room for an interpretation which is compatible with what
20 I have said. Given this my proposal is motivated by values which are not alien to the constitution, I do not have it in front of me you know one could that another time but I do know that in the debate about fee free education at certain times and I think I am right in saying, I may be wrong, the 2013 report on the feasibility of fee free education sometimes
25 free is used in a sense which is inclusive of loans, of aid which makes

University without making it free.

So I think in the policy discussion there has sometimes been use of the phrase free education which actually completely encompasses and embraces the model which I just described. If this becomes a matter of interpreting the constitution, you know the freedom charter now is another matter because what is recommended there is that there should be merit based loans, rather grants, that is what the freedom charter says and free education is provided only for children like that is an important point, at school level people are children, they are minors whereas at University level we are talking about adults. Now merit based grants I think are very bad idea because it is going to be very regressive, they are going to be going to people who if there was about household contribution there would be in a very advantaged position so you know there are some aspects that these documents, which one says at the time that seemed right but on reflection given international experience that is not a progressive model and indeed in quality discourse free education has been used in a sometimes more encompassing sense.

But I would say that you know that there is a strong argument for saying that, insisting on that strict interpretation of free education for students you consider as coming from a poor background has the potential to be very retrogressive as that number of students increases because we are talking about, you know as long as we can get the pedagogical help meets in order so that they get through because dropout is a huge problem, something which I cannot address on this,

then we are talking about people who over the, if you look at their entire life course they are rich people, they are rich from the age of 25 or from the age of 30 you know that is why it is retrogressive to, not to have a policy instruments in place to ensure that they are able to pay their fair
5 share once they have ripened fruits of that.

ADV. K. PILLAY SC: Just a quick response Doctor, I think firstly that certainly from 2013 perspective historically government has viewed fee free as incorporating loans but certainly on the, in terms of the proposals that are on the table now, through the Nxasana report the indications are
10 that the proposals encapsulates grants, full grants for poor students and then obviously on a sliding scale in decreased support for students from the missing middle. But the second question that I wanted to ask you is, is in relation to the quite of the system that you propose because what it does seek to do is it treats all students equally irrespective of their
15 financial background and in circumstances where we have heard comprehensive evidence from students who complain bitterly about how onerous contingency loans are, specifically for students from poor backgrounds and the result will be that you have students from rich backgrounds who are able to meet the contingency loans and students
20 from poor backgrounds who actually struggle to meet the terms of the contingency loans simply because they have got other obligations to fund family members who are unable to see to themselves, can you just address that aspect of the proposal.

DR. G. HULL: Sure, yes so you know the first point is that if we factor
25 everything else and just think about graduate's income the loan with

income contingency repayments are guaranteed to be manageable. One point before I address your main point is this, when one, so one of the things I suggested was that the interest rate on these loans should be actually above the governments cost of borrowing, the reason for that is

5 that that means that the state does not have to bear the full cost of defaults, it means that there is a social insurance aspect whereby those who do pay back and payback quickly and in many cases those may well be people from advantaged backgrounds are to some extent subsidising the non repayments of other people so there is a social insurance aspect

10 built in once you raise the interest level which is I think in effect it would turn out to be progressive in a sense.

But the main point is really is what you are saying is look what about the other demands on the income of graduates especially when the come from poorer socio economic background, that is an incredibly

15 important part of the reality of students and graduates of South Africa today so I think it is very important to bear in mind. You know on the other hand we do ask people from poorer homes once they used their earning to pay income tax according to the same criteria as everybody else so one would have to think about the consistency of policy but I

20 think really from a policy making, policy perspective the right way to look at that is this, when a graduate who comes from a poor background has obligations to family members and other acquaintances that is usually because of a need on the part of those other individuals sometimes it will be that they are unemployed, sometimes it will be that they are sick and

25 cannot get proper treatment in the public sector, sometimes it will be that

they are elderly and do not have access to a pension.

Now once you look at it from that point of view I think that there is something problematic about a proposal that government should deal with those needs right but a proposal whereby government deals with those types of need by writing off in effect the younger relatives student debt, that seems to me an unreliable, because not everybody is going to be spending their money on that and also a clumsy way of meeting that need because even when people do meet the obligation of family members a lot of people will do it very well but sometimes they might be things like that they will meet peoples needs in the form of luxuries, you know the person who descends out of town once a month rather that you know in kind.

Would it not be better from a policy point of view to broaden our perspective to take into account all the things which government does, for government to meet the needs of the unemployed, of the sick, of the elderly through policies which are targeted to that specific need, things like a universal unemployment insurance, things like universal pension, things like a national health insurance system. Is it not wasteful to seek to address that need through writing off other peoples student debt rather than using the money you get when you recover the money which you have give not students as loans for these targeted policies in kind on those sorts of needs.

So I think there is, so while I completely accept that these family obligations are a very important part of the reality of young graduates in as today especially. And while I absolutely would endorse the idea that

the needs which those contributions to their family members and acquaintances are answering to are things which government has some responsibility for, I would put it to you thus, addressing that through higher education funding policy is a clumsy ineffective way of addressing
5 that and rather you should be making sure that loans to get repaid so that you can put that money into policies which do evenly and in a targeted way meet the needs of people in the communities.

COMMISSIONER KHUMALO: So Doc on your slide in 29 fairness is that the principle that you have just explained, does it flow from there to
10 make other society members fund a personal enhancement.

DR. G. HULL: Sorry you are asking what flows from this principle.

COMMISSIONER KHUMALO: Yes, ja on the, say it is unfair to make other society members fund a personal enhancement and you went on to explain and I am saying is it on those principles that policy, that your
15 model comes from?

DR. G. HULL: I see, ja that is correct ja because you know in general I am saying there is a presumption against making one group of people.

COMMISSIONER KHUMALO: And this cross subsidisation in varsities which has been suggested before would it flow from there?

20 DR. G. HULL: Aah you mean when Universities themselves take some of the money from fees from richer students to pay, to top up the fees, to ja, to top up the student aid which poorer students get is that what you are referring to?

COMMISSIONER KHUMALO: Yes that is what I am referring to.

DR. G. HULL: Well you know I think that the Universities are doing the best they can, that is something which they can do in a very local way to try and address, it is primarily a problem of access which they are addressing now because they are worried that otherwise students have
5 insufficient financial aid to either take up their place or to complete the program but I mean well so one way that one might think it relates to this I want to deny which is that it is wrong for, you might be saying, I am not quite sure of your meaning but is your meaning that it would be wrong for richer students?

10 COMMISSIONER KHUMALO: Yes I want to understand that.

DR. G. HULL: Okay so look what I am talking about an advantage here, I am talking about something which society wise puts a group of individuals above the average, it puts them into a privileged position so I am not talking about for example somebody who needs life saving
15 surgery or needs treatment for a chronic condition that is somebody you needs, whose level of welfare has really descended below the normal and society needs to bring it up to the normal.

What I am talking about there is something which gives somebody a competitive edge over everybody else, so you have got
20 people who finished their matric, some people go onto Universities and they get a competitive edge they can go on and get pretty good jobs and high earnings, the idea that that should be funded from people who stay at a lower level or even did not finish matric and who are unemployed that is exploitative because a privilege, a relative advantage society why
25 to one group is funded by a group of people who did not enjoy

comparable benefits. When it comes to you know the sorts of things which Universities have been doing you know I do not really want to go into that because I think that the problem with that is that some Universities can do it, some Universities cannot so you have got a very
5 localised system of counter balancing problems which does not apply to students across the field.

We are thinking about a public policy solution to the higher education funding crisis then I think that that needs to be a country wide solution but as to whether people who are in an advantaged position
10 should fund interventions to bring people in a disadvantaged position up to a more advantaged position yes they should, that is part of fairness, what is not fair is the reverse of that.

JUDGE: Document I have fundamental difficulty with the proposition that was put that a student will not in 20 years time be able to repay because
15 of family obligations. Firstly you cannot possibly determine whether an obligation to pay in 20 years can be met according to today's position, one must look at it when the obligation arises that is the first thing fundamentally. In 20 years time you may have Mr X today who is the son of somebody who is just making the grade at 600 000 a year and
20 has managed to borrow his contingency loan and in 20 years time he is, he was never a very bright student anyway and he has pushed his income up to, in today's terms up to 800 000 year.

You have Mr X who was a poor student and was bright and in 20 years time he has pushed his income up to R1 500 000 a year but Mr X
25 who only earns R800 000 is obliged to repay but Mr Y who earns R1 500

000 is not obliged to repay, why because he was poor 20 years ago, it does not make any sense to me at all. I do not see how you can determine at the stage while the student is at University what his position is going to be in 10 or 20 years time, whether he is going to earn a big
5 sum or whether he is going to earn a measly sum surely the right thing is to grade the repayment obligation according to the level of income or the means that he has at that time.

DR. G. HULL: Right yes I understand that argument and I would say really it is a matter for empirical investigation whether there are reliable
10 indicators of, I mean to some extent there are indicators of what is different students incomes are going to be when they graduate according to what subject they studied, what University they attended and so forth so there are going to be some ways that one can statistically get an indication of where people are going to be. On the other hand predicting
15 the level of need of people around you that may be more complex though one might find empirically that there are indicators there, I am not qualified to tell you whether there are reliable indicators there but in any case the argument which I gave just now to Advocate Pillay I think takes the question off the table in a sense, if we accept that the right way to
20 meet the needs of the extended family of graduates is rather to, there is a focus on those needs and tailor policies to those needs rather than to think of the, rather than to make the graduate into a roving welfare state as it were, one needs government to look into the nature of the needs.

And also you know the other problem with this is that there is
25 going to be inequity in some communities have larger numbers of

graduates other so not so one must not just look at it in terms of an obligation on a graduate one must look at it in terms of the effect on the people who have they obligations to.

JUDGE: One may have a wife who is chronically ill, one cannot tell
5 whether that is going to happen or not, another may have two very old parents who he is obliged to support whereas the graduate who was poor to day may have no parents left at all and nobody to support so how can one determine these things in advance?

DR. G. HULL: Well Chair I do understand that line of argument I am
10 slightly resisting saying a priora as it were but there are not any indicators which one would empirically find that there is a great correlation.

JUDGE: Indicators of what the position will be in 20 years.

DR. G. HULL: Ja I would like to, I would want to, I mean for example I
15 mentioned in indicator in terms of the fact that if you go on for matric to get a degree statistically we know it is very likely that you will more than double your expected lifetime earnings, that is an example of a broad indicator which one where there is a kind of correlation.

JUDGE: Some person goes to the bar and he is great success another
20 person goes to the bar and never makes a penny.

DR. G. HULL: Of course I accept that when it comes to individual cases it is very hard to predict what is going to happen, it is hard to predict whether somebody is going to make a success of themselves, it is hard to predict what people with what needs he or she is going to have
25 around them. But look I mean I do not know whether they will be reliable

enough indicators as a future obligations to family members and so on to make this a justifiable part of policy but what I am saying really is, I am pre-empting now by saying even if it were the kinds of need which we are talking about that much better dealt with through other areas of policy making and by using the ICL model rather than the FHE model you are freeing up money to use those more targeted policies. There is if, if I may say make a general observation, there is a tendency in this very important debate about higher education funding to try to expect funding policy which is actually a small area of government policy to deal with problems which is not best suited to deal with, if we are talking about the different quality of schooling which people get the primary and secondary in South Africa you cannot deal with that through a higher education funding model you need other policies to deal with that.

If we are talking about communities where a lot of people are unemployed without proper insurance or benefits or elderly without proper pensions that is the kind of thing which public policy needs to focus on but we must not kid ourselves that we can deal with that kind of problem through a small area of government policy which affects a small proportion of the population and that is higher education funding.

COMMISSIONER ALLY: Well that is where I put it to you earlier is that you have looked and gone to the funding and say it is a small area and this is how it needs to be dealt with but I put to you that there is from my point of view a problem with that way of thinking because and I said to you that one needs to know the circumstances and environment of those students in order to know how you must fund them and you agreed that

you are not saying that do not take that into account, now the issue is how do you go about funding education it is not with respect a small aspect of the global policy issues in the country, they are intertwined and linked to various circumstances that exist within society and therefore
5 those circumstances and factors need to be considered when you decide on a funding policy. Now I would agree with you also to say it is not only higher education within the big realm of things, you have got health, you have got transport, you have got all other important issues also and as Chairperson has put to various witnesses is that how do you, is it not a
10 question of prioritisation as the government of the day to determine how you are going to fund the various policy issues that you have.

DR. G. HULL: Thank you, yes so, well of course I do agree with the points which I agreed earlier which is the, often other factors are going to have relevance for higher education funding policy I guess the point I
15 was sort of making just now was that, and I wonder if you would agree with me that there are some problems which higher education funding policy cannot solve.

COMMISSIONER ALLY: Like?

DR. G. HULL: Like for example the nature of schooling which the
20 ...[indistinct] nature of schooling which South African pupils receive at primary and secondary level.

COMMISSIONER ALLY: Well on that you see when I put to you earlier on about the support that is needed as proposed by Ian Scott in his evidence to us is that all those factors need to be taken into account and
25 that is if it is imperatively correct that is the situation because I put to

academics that you would seem to place the blame on basic education and that debate has never been concluded whereas you yourselves could be in the playing field for the reason that there is an assumption that if you are a professor that you would be a good teacher also and
5 hence the departments view that we are trying to correct that by providing courses for the professors to be able to teach from so it is all those factors that I say are necessary in the understanding of how you must fund at the end of the day.

DR. G. HULL: Yes so I, so ja I do not want to join the band wagon of
10 blaming only basic education, I agree that there is more that can be done and can be thought about at the level of University for making the system navigable, ja I mean I am just focusing, I guess I am focusing on the question of, questions of how much and who pays and when do they pay and within that there will be all sorts of questions on which you will need
15 specialist guidance and I was not aware that this commission was supposed to be making recommendations on what the money is, how DHET should earmark the different funding it gives Universities but you know I think that that is a very important question as well.

And for that as well you know your needs, specialist guidance of
20 course and in a sense my, what I am suggesting to you is compatible with all sorts of different ways of dividing up the earmarked funds which government provides directly to institutions, by the way it is also compatible with all sorts of different decisions which government might come to about how much it can actually dedicate to higher education
25 given the other pressing policy needs that there are right, because my

cost sharing proposal is that however much you are going to spend on tuition, higher education tuition you should make sure that at least 50 percent is funded by the recipient and I propose that however much you spend on higher education you should be sure to have an income contingent method of repayment which means that however much flows out you can recoup let us hope 80 percent or maybe with a social insurance aspect 90 percent of that so basically what you are doing there and this is the advantage of the model from a broader social justice point of view is that instead of taking money away from other really important priorities dealing with inequality to fund students to become graduates how are then going to be high earners and could have paid some of those costs then themselves, rather you take a great deal of money from the future, from those high earnings of graduates because they were able to get a degree and you do not have to claw money away from other priorities in fact maybe you can even spend more money on those other priorities. So I think that general, you know the attractive features of that proposal are compatible with a number of different decisions in terms of how DHET wants to encourage or require Universities to spend different tranches of the funding which are required.

ADV. M. LEKOANE: Sorry Doctor we know that in the private sector there are many awards being awarded to students for merit bursaries, is there a reason why that should not apply in the case NSFAS where they convert part of the loan to a bursary?

DR. G. HULL: I think that there are a number of interesting questions to

ask about merit based awards or indeed conversion of loan into bursary and one of those is, are the higher performing students on NSFAS doing better because they are putting more effort into their studies which would be the incentive interpretation or ...[intervenes]

5 ADV. M. LEKOANE: Yes that is what NSFAS advised us.

DR. G. HULL: Or rather is it that they are the students in any case how came from better schools or for other reasons find the University system more manageable and, or have been better prepared in their particular subjects to study so I think that that is not something which I am qualified
10 to deal with, I think that is a question which is worth asking what you are actually tracking when you are tracking the performance of these students on NSFAS. Even if it does work to some extent as an incentive I was asked the further question, is the real problem that people do not have and incentive to finish their studies given that in South Africa there
15 is a huge incentive to finish your studies and do well because of the, people are very aware of this, the earnings it will bring you or is rather the problem actually that it is the size of the loan which NSFAS provides means the students are unable to dedicate enough attention to their studies because they have to do things like do a part time job, take a
20 semester off work things like that, my hunch, I mean I think these are all things which are worth empirical investigation which you need to talk to somebody else about, my hunch would be that it is the problems are elsewhere and that if you have a system which makes the higher education tuition free at the point of use so the students are not
25 distracted, they are able to dedicate their attention to finishing their

degree but the fact that getting, most students want to get out of University and get into the world of work you know that incentive which is built into what a degree is will be enough, you do not need to have wasteful use of to her incentives.

5 ADV. M. LEKOANE: But with the conversation, the partial conversion also not go towards addressing the issues such as the black tax, would that not be one of the ways to alleviate that burden for those poor students?

DR. G. HULL: If you did want to try and address the issue of the needs
10 of family members and other acquaintances through higher education funding I think that does not have many attractions as a way to do it because why would, there is unlikely to be a correlation between how well you perform and how needy your family members are I think, so I would be sceptical about ...[intervenes]

15 ADV. M. LEKOANE: Well except the student would not be paying the full amount that was awarded to him

DR. G. HULL: Ja but the point is this, it is only students who perform particularly well or certainly courses who get this rebate and my question then would be well is that criteria in the right one, should you not have a
20 rebate which is more sensitive to whether their family members and acquaintances are going to be in need but in any case I would say, I would want to pre-empt that by saying is there not a more targeted and fine tuned way of meeting the needs of the family members as individuals rather than trying to do it indirectly through students.

25 COMMISSIONER KHUMALO: Doc I wanted to check on slide 27.

DR. G. HULL: I cannot quite see the, is that the right one?

COMMISSIONER KHUMALO: Yes I was just concerned with the graph earlier when it started going up around Grade 11, Grade 12 diploma, does that have any influence on the Tvet, the technical trainings that
5 may happen there?

DR. G. HULL: Ja that is a very important question because I have been talking about Universities only but of course similar questions need to be discussed, should be discussed about the other tertiary institutions, the other tertiary qualifications which people get and of course it is true that
10 getting a diploma or rather qualification from a Tvet sector college also has a positive impact on your expected lifetime earnings. It may be that the expected impact is smaller and that then becomes relevant to thinking about whether the cost sharing in that sector for use in that sector should take a different shape to the cost sharing in the University
15 higher education sector.

JUDGE: How can you possibly tell whether a successful plumber running his own company is going to be worse or better off than the small professional man?

DR. G. HULL: Well I think the, well you have to go on when you are
20 making government policy for millions of people is you have to go on what the statistical or the best statistical evidence shows you, if the best statistical evidence showed us that in South Africa as is argued, some people would argue is the case in Scandinavia that higher education has hardly any private benefits in terms of expected future earnings because
25 all other jobs are so well remunerated then that would be something

which one should take into account and one should say well in that case
I am not sure cost sharing is actually necessary but the statistics tell us
very plainly this, I mean one or two people of course fall through the
cracks but that is what income contingent loans are there to deal with,
5 they never have to repay anything if they never earn above the threshold
but statistically the significant facts that if you go to University you can
expect two and a half times what you would if you just finished matric I
think is right for public policy to take that, as long as that statistical
evidence is reliable I think it is very important to take that into account, I
10 mean still I do accept that on an individual by individual basis it is difficult
to predict nevertheless I think the public policy has to be based on
reliable statistical or generalisation about large numbers of people.

ADV. T. MABUDA: No further questions from us Judge.

JUDGE: Thank you. Well Dr Hull we have a lively and interesting
15 discussion much assisted by the thoroughness of your presentation and
thank you very much we will give very serious consideration to what you
have had to say thank you.

DR. G. HULL: Thank you, thank you for inviting me.

JUDGE: Thank you for coming so far.

20 **NO FURTHER QUESTIONS**

ADV. K. PILLAY SC: Thank you Chair may we take the lunch
adjournment, the next witness is present.

JUDGE: What time would you like to start again, 13:50?

ADV. K. PILLAY SC: I think 13:50 would be perfect thank you.

JUDGE: 13:50.

MEETING ADJOURNS

MEETING RESUMES

ADV. K. PILLAY SC: Mr Surajudin Latief. He is a private individual who has proposed a particular funding model for the commission to consider
5 Chair and in his presentation I am not sure whether he will deal with that in the course of today's presentation but in his submission Mr Latief does provide certain submissions in respect of the possibility of increasing, for example private income tax, corporate tax, etcetera but I think the primary focus of his presentation today would be on the funding model,
10 the specific funding model which he proposes.

JUDGE: Welcome Mr Latief.

MR. S. LATIEF: Thank you.

JUDGE: Do you have any objection to taking the oath?

MR. S. LATIEF: No.

15 JUDGE: Do you swear that the evidence that you will give will be the truth, the whole truth and nothing but the truth?

MR. S. LATIEF: Yes.

JUDGE: If you do, raise your right hand and say so help me God.

MR. S. LATIEF: So help me God.

20 **MR SURAJUDIN LATIEF: [sworn in]**

JUDGE: Thank you. Who is leading the witness?

ADV K. PILLAY SC: Thank you Chair I am. Mr Latief, before you begin with your presentation perhaps you can just give us an idea of your background, your expertise, your education background?

MR. S. LATIEF: Thank you. My name is Surajudin Latief, I am an inventor and innovator. My education background is, the highest certificate I have is a matric and I have been in small business the large part of my life and in 2008 there came a turning point in my life and I stepped back out of life in order to realise that other than paying the bills and living there is a higher purpose to life and how I can serve humanity. And so I stepped back for a number of years and in that process I came to know certain things, I became very observant of what is happening in society, not everything though but certain things was of interest to me and when all of these student uprising happened that is when I started to put my things together and this in a nutshell where I come from.

ADV K. PILLAY SC: Thank you Mr Latief. I have mentioned to you that we are in possession of your thoroughly comprehensive submission.

MR. S. LATIEF: Okay.

ADV K. PILLAY SC: So it may not be, it is not necessary for you to go through the entire submission so I know that you have worked on a shortened version of the submission in the form of a presentation so perhaps you can begin with your presentation and we will ask questions as and when the need arises.

MR. S. LATIEF: Thank you. My presentation will not be on a slide show, I will do an oral presentation in terms of talking through it.

JUDGE: That is fair enough.

MR. S. LATIEF: Thank you.

JUDGE: You do just as you want to.

MR. S. LATIEF: Thank you. In 2015, as we all know, students start rising up in the country or throughout the country, demanding no increase in fees that was the starting point but just soon after the President announced that there will not be an increase in fees for 2016
5 the students went one further and said, and demanded that we do not want fees to be paid at all. This then pushed the whole thing into a complete different limelight I would say or agenda. The students **abated** through 2016 with the hope that there will be, solutions will be found to address the situation and only when the minister of higher education and
10 training announced that there will be an increase for 2017 did we have an onslaught again of much bigger than what was in 2015.

Now government says, yes we can fund a free, not fee free education but we can fund the poor and the missing middle and the needy basically, but they can only do so far. Now having said that in
15 terms of what the students demand for quality fee free education, the whole thing then came to a very deep introspection where government says for example, we do not have the funds to, in order to fund fee free education. Now when we look at governments income and expense then we see that government paid R148 billion in the 2015/2016 financial year
20 in interest alone and according to information or information yes, that the amount of money that is required to fund fee free education is in the order of R80 billion per annum, that is the amount that is like being circulated by the media.

So when we look at government, when government says it does
25 not have the funds to fund fee free education we give government the

benefit of the doubt. Yes maybe there could be some truth in it given the situation of our economy, our skewed economical policies from the past and things like that so this then release when governments largest sources of income basically is personal income tax in order of importance that was the biggest chunk where government get its income from then after that is value added tax and after that is corporate income tax. Now when you tax people more, especially those that contribute more already, then you have a problem so what happens in essence is that one do not want to kill the goose that lays the golden eggs.

10 JUDGE: But we are half dead already unfortunately.

MR. S. LATIEF: So what happens is we need to find solutions where one can find the necessary money. Now given the economy that is stagnant that is not growing much what government really needs is a bigger pizza, if I can put it that way, to grow its income and which is not happening but when I look at the economy and I see what is happening then for me it paints two different pictures. What is happening is very buoyant and what is being communicated is very different, a negative scenario. So I went on and did my own research and I came to the conclusion I can contribute in terms of what I come to know so when we go back 40 years, in 1976 when there was an uprising of the students, starting out in Soweto and so on.

The students had the up-rise and they had a legitimate reason for doing so. In 1978, and now we are speaking about the good - not the good years, but the years of prime years of apartheid and what actually happened is, the apartheid government funded Clandestine Operations

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overseas to keep, to sell the concept of apartheid to foreign governments so what happened is, when the government in 1976 or 1977 when they discovered that the states coffers were empty they realised the country was almost bankrupt. So they needed to find funds or money to boost
5 the state again and they went to look around and from that exercise came general sales tax which was introduced in 1978, and the Minister of Finance at that time, Owen Hawood still mentioned that although GST was introduced at 4 percent they were quite like taken aback not realising how much cash you could bring in, and there was no need to
10 increase it any further because it was like solved their problem.

GST had its own problems and in I think 1990 or 1991 it was converted to the VAT system or the Value Added Tax system which we currently have and which is at 14 percent. It started out at 10 percent and gradually came to 14 percent. Now we all know and everyone is
15 saying to government in order to solve this problem is to notch up the rate of value added tax by a percent or two but government knows that how it affects the poor of the poorest in the country so it is a very contemptuous and sensitive issue to raise VAT but that was the miracle which the apartheid government did at that time to save the country and
20 to replenish the states coffers.

So this bring me to the point whereby, it is 40 years later after GST and VAT was introduced. The country is again at a crossroads whereby students are rising up for fee free education. One do not blame them because why, the cost of education has gone through the roof. The
25 poor, if nothing is going to be done about it, the poor of the poorest will

never have the opportunity to see the inside of a higher learning education, unless government steps in and intervenes and makes it possible and the government can only make it possible by people participating in the program. So it is 40 years down the line, we are at
5 the crossroads what are we going to do about it and this is where I put my, I have put my thinking cap on and I have come up with a solution and I saw what is happening in industry.

I have come to know that landlords in general do not pay income tax on the rental income. Now yes there are landlords that do pay but
10 they do not pay monthly they would probably pay once a year, and one would not know whether they, what they declare is the truth or not because there is an absence of a verification system, if one would will, for this purpose. So for example a person earning say R5 000 or R10 000 a month, that persons income or salary will be taxed with Pay-
15 as-you-Earn at the time of earning the salary but the landlord earning R100 000 a month that landlords income is not taxed, it is tax free, no one bothers about it so this is what I observed in the market and it is massive.

I do not have any anecdotal or empirical evidence because in my
20 research I engaged with accountants and people from the accounting profession they do acknowledge yes that there is a massive collaboration going in this whole thing but there is nothing they can do about it so I could not really get the information I really required so I put my document together with certain assumptions so what happens
25 basically, every month when landlords receive their income they do not

have to declare to anyone and they only declare then to the accountants when it is time to do so and one do not know whether the authenticity of the figures as presented so I started to understand this whole thing and I have put together a solution, a technical solution whereby I say, okay
5 fine if government wants, there is money in the country to fund fee free education for everyone and there is no need for any racial discrimination or status discrimination.

Everyone, the rich kid, the poor, black, white, you name it, everyone is entitled because the funds will be there to fund it. So I have
10 put a proposal together and if I can put it out here, for example landlords when they present their invoice they would present like an invoice, just basically a white document with the amount you owe for your rental and that is it and the tenant then pays for that amount. So I have created or conceptualised a national property rental database which basically
15 means that certain laws will have to be passed whereby each and every landlord throughout the country will be registered on the database and what the database will do, at the end of every month or when the landlord runs or pins his normal invoice the database will produce a rental declaration certificate declaring the details of the landlord, the
20 property as well as the tenant and the core rental amount that the tenant pays to the landlord.

The landlord then takes the certificate and the invoice and present it to the tenant for payment. One of the laws will be that if a tenant receives an invoice from a landlord without the certificate which
25 guarantees or authenticates that it is declared income then there is no

obligation on a tenant to pay the landlord his rental income. This will therefore ensure that all rental is then declared to a national database which then the national treasury has access to so end of the year when the landlord then renders his submission the information that is gathered
5 from the system is then authentic. So also what happens is, since landlords do not pay a tax, a monthly tax on the rental income, so what will happen is the database, the rental certificate will also, another document will be issued to the landlord which is called a PRAHET certificate.

10 Now the PRAHET certificate, sorry invoice will be attached to the declaration certificate and what will be on there will be the amount of tax, let us assume that the tax on the property for rental income over the year paid monthly over the year so in other words if they, the rental income, the tax which a tenant or landlord normally paid over a year, once a year
15 at the end of the year, will now be paid monthly in advance or at the time of receiving his rental income. So what will happen is the PRAHET invoice, PRAHET means Property, Rental And Higher Education Tax, the landlord will then pay a 20 percent tax on the rental income to the database and that money the database will then channel to the treasury.

20 The treasury will receive this money and they will then, in my model, NSFAS is well entrenched in the country, it is technically speaking not functional or 100 percent functional because why of its inability of resources but the model presented here today will enable government to fully fund and back NSFAS and make higher education
25 free for all. On top of that landlords had the opportunity over the years,

for example when there is recession or downtimes in the economic cycle then landlords would not have leniency on their tenants, they demand their payments in terms of the contracts they have entered with the tenants so tenants especially small businesses are then basically nailed
5 and normally they cannot make up because they have got legal agreements.

It is normally like the low paid workers that takes the knock in these small companies that they have got to like when austerity measures are introduced so what happens is, and property values have
10 escalated, some of the landlords have like properties that are bond free. The values, be it artificial or real, being inflated or whatever it is, but they have certain value and these people have benefited over the years from the property market and what this model propose or this presentation propose is that a higher education tax be imposed or a levy be imposed,
15 or brought about on rental income which the landlords will pay towards this contribution. So the idea being pitched in this document here is 3 percent of all residential rental will be levied with 3 percent and in commercial properties it will be 6 percent, these are just like hypothetical numbers but it is to illustrate the dynamics of it. So what will happen is,
20 when the system comes into operation ...[intervenes]

ADV K. PILLAY SC: Mr Latief, may I ask you, these amounts that you are proposing is this over and above the ordinary rental income, the ordinary tax that a landlord will pay in respect of rental income for the year?

25 MR. S. LATIEF: Thank you. Yes, that is so, yes so let us assume a

landlord receives R100 000 for a property, in the past the R100 000 for the month would have gone, let us say to his pocket, and over a year it is like a R1.2 million. Now how this are being taxed, it will be taxed like once a year by the receiver.

5 JUDGE: As part of his income?

MR. S. LATIEF: That is correct yes, depending whether the property is registered in the company's name or in his private capacity yes.

JUDGE: Sure.

MR. S. LATIEF: So what happens is, now with this proposed system the
10 landlord will pay 20 percent tax on his rental income every month.

JUDGE: 20 percent every month?

MR. S. LATIEF: Let us use it as hypothetical argument.

JUDGE: Juslike.

MR. S. LATIEF: Because if one takes a person that earns, say R30 000
15 a month that person pays about maybe about 30 percent so a landlord that has freehold property that earns R100 000 a month is then not taxed so this will bring about equity in an unequal society, we are starting to balance things out and government will then be empowered with the necessary funding to make, to help things happen, come through. So
20 over and above ... [intervenes]

ADV K. PILLAY SC: May I just ask another question Mr Latief?

MR. S. LATIEF: Sure.

ADV K. PILLAY SC: Just for my own understanding, because I noticed that your proposal does not state that the landlord would pay tax on his

taxable income, it says that he will pay tax on the rental income so in other words he does not get to offset his losses against the income he is receiving?

MR. S. LATIEF: Yes.

5 ADV K. PILLAY SC: Or his expenses in the production of income?

MR. S. LATIEF: Yes, there is a fine line to in, whether the property is registered in the name of a company or a legal entity or whether it is in his personal capacity. When it is in his personal capacity then there is very stringent rules to follow that your expenditure cannot exceed your
10 income, for example, then you are running at a loss.

ADV K. PILLAY SC: Okay, let us assume that a landlord has a tenant who pays R1 000 per month.

MR. S. LATIEF: Okay.

ADV K. PILLAY SC: But the landlords expenses, rates and taxes, water
15 and lights etcetera, comes to R900 a month so there is only R100 a month profit being made. So in the ordinary course the landlord would only be paying tax on the taxable income of R100 a month?

MR. S. LATIEF: Yes, you are quite right.

ADV K. PILLAY SC: But on your proposal he will pay, or she will pay tax
20 on the R1 000 a month?

MR. S. LATIEF: That is correct yes. Now normally, for example, and I think the tax authorities are getting stringent about it, that you cannot run a business into loss all the time so basically what happens is, the proposal or presentation on the table basically says that - the 20 percent

is hypothetical but it could be something that is very close to real terms what is happening out there so if the tenant then, if the landlord charges the tenant, as in your example Advocate Pillay, that then there is definitely an imbalance so it calls on the landlord then to do the
5 adjustments in order to justify that he runs a profitable operation. So he could be under charging the tenant or there is something else which is not right which I cannot think of now.

But the model propose that a rate, such as 20 percent be levied and that is what a landlord eventually pay at the end of the year, at the
10 financial year in terms of his company tax but these amounts will be taken over 12 months so basically what this means is that every month the receiver will be, will have a windfall of a lump sum of cash come in which it never had before and therefore the money can start becoming available, starting to circulate back into the system because where we
15 are heading to in this country, maybe for example what happened to in India, whereby people were taking money out of circulation and stashing it away and this could very much happen here but we may not be aware of it and this ties governments hand into a knot whereby it cannot really do its social, carry out its social responsibility.

20 So the idea is, yes the landlords needs to start paying, the proposal then will start to pay a monthly tax on their monthly rental income. There are landlords that, it is very unlikely to find a landlord today that will run an operation because why, the new gold in society is property rentals. I am from Cape Town you start looking for places in
25 Cape Town you just cannot find them.

JUDGE: Sorry, are we not leading to the proposition here that you are necessarily paying double tax, you are getting taxed on your monthly income and then at the end of the year you are paying tax on your gross income?

5 MR. S. LATIEF: Thank you Chair. No what basically happens is, the monthly tax which you pay is prosecutor rata and when it comes to the end of the year, when you submit your end of financial year when you submit your balance sheet and things like that all things will then be weighed up so instead of paying the Receiver one lump sum at the end
10 of the year the Receiver now also has the benefit of having that money come every month into their pocket so technically speaking you do not loose it is just like a better way of managing the flow of cash.

JUDGE: I see, are you suggesting that the two would balance out?

MR. S. LATIEF: It may not balance out Chair but what could happen is
15 that when the figures are brought together, then what will happen is that ... [intervenes]

ADV. T. MABUDA: You will have the reconciliation?

MR. S. LATIEF: Thank you. It will have a reconciliation and every landlord has to pay in additional amounts because the corporate rate is
20 about 27 percent then the landlord will have to then pay the additional amount.

JUDGE: Alright that is your, the mechanics of it does not matter very much I do not think, it is the principle that we are looking at.

MR. S. LATIEF: Yes thank you.

JUDGE: Have you worked out what the scheme would bring in?

MR. S. LATIEF: I have not worked out because I have not, my resources and my ability does not allow me to go that far.

JUDGE: Then how do you know it is worth it?

5 MR S. LATIEF: Nothing ventured nothing gained.

JUDGE: I take your point but nevertheless one does not embark upon putting recommendations to the government without some sort of projection of what the benefits of the scheme would be.

MR. S. LATIEF: Yes Chair.

10 COMMISSIONER ALLY: Well Mr Latief in answer to the Chairperson you have indicated in your lengthy document that the government is missing out on billions.

MR. S. LATIEF: Yes.

COMMISSIONER ALLY: Now is that sucking out of your thumb or where
15 do you, because what the Chairperson is putting to you is that there must be some tangible amount that you can proffer as what the government is losing in order for this venture to be undertaken otherwise if you are going to pay more, and we will come to that, I just wanted to know, as far as I understand your document you have actually come to
20 the end of your presentation in terms of your proposal that you are making, that there be this register, there be these certificates, and that a monthly tax is paid as pay-as-you-earn, as you would with pay-as-you-earn and that thereby ensuring that you have a reliable source of income from property owners, is that your proposal?

MR. S. LATIEF: Yes on the funding side yes.

COMMISSIONER ALLY: Correct, is there another side to your
...[intervenes]

MR. S. LATIEF: The other side to the document is basically whereby of
5 the, how education then becomes free because the funding is there and
the funding now can be, because everyone is going to contribute now to
this dynamic equally.

JUDGE: Yes well that depends on how much you get in from it.

MR. S. LATIEF: Yes, now thank you Chair. So what basically happens
10 is that I have not quantified the amount, how I have come to the
conclusion is then when I looked for example at what government is
collecting in terms of personal income tax which is about R389 billion per
annum. Now when I look at the people, the unemployment rate,
employment rate sorry, and I look at the amount of buildings and offices
15 and shopping complex and all sorts of property that is being let out, then
one can only imagine, and you see corporate income tax at R180 million
and you ask yourself if a few people can contribute to almost R400
billion per annum and corporate South Africa contribute to R180 billion
per annum, that was now for the 2015/2016 financial year, then surely
20 there is something not working in the economy so I have taken the
assumption and the guesstimate that yes something is not right and one
has to start with something somewhere. I do not have the expertise and
the necessary knowledge to quantify this and this is why the presentation
here today will initiate or lead to the initiation of that study that then can
25 be further explored.

JUDGE: Can I, I have got at least three questions in relation to what you have said, there must be many more, does a property owner who has sufficient income from rental not pay VAT?

MR. S. LATIEF: This is the discrepancy, there are property owners that
5 do not pay VAT.

JUDGE: Well anybody who earns a million rand from his rental income will pay VAT.

MR. S. LATIEF: Yes.

JUDGE: And many property owners are multiple property owners not
10 single property owners?

MR. S. LATIEF: Yes Chair that is the case legally but when one goes outside there all sorts of things happen.

JUDGE: Yes but that is enforced and policed.

MR. S. LATIEF: One would say so and there are all sorts, like I said for
15 example there are all sorts of things happening in society whereby landlords for example and property owners they know what is happening so what they do is they split their properties amongst their children.

JUDGE: Fraud, fraud can always be committed.

MR. S. LATIEF: Yes fraud yes.

JUDGE: And if you want to commit VAT fraud and take the chance well
20 good luck to you but if there are people who are perpetuating VAT fraud for the sake of a million rand rental income per year then I do not think you are going to get around that fraud by your proposal because people are simply going to find other ways of avoiding it.

MR. S. LATIEF: What the ...[intervenes]

JUDGE: For example, I am a landlord I go to my tenant and I say now here is my declaration and your rental has unfortunately this month gone up to R4 500 a month because I have added on R500 because I am
5 going to have to pay an extra amount but I will tell you what it is R3 800 for cash.

MR. S. LATIEF: Okay.

JUDGE: This goes on all the time, all the time and so now I get the R3 800 cash in my back pocket and as far as I am concerned that premises
10 is vacant it is not let.

MR. S. LATIEF: Okay.

JUDGE: And now what does the Receiver know, at the end of the year he is told that I have an income of X amount from my block of flats and it is calculated at so many flats and so many vacancies.

15 MR. S. LATIEF: Okay yes Chair, what you mention makes sense, what happens is that, what is proposed is that there is legislation for example whereby the tenant and the landlord connive together to deceive the ends of justice, what basically what will happen is, when the landlord ...[intervenes]

20 JUDGE: But you do not need legislation, there is legislation which allows the government or the state to take action for fraud or VAT fraud or income tax fraud or whatever kind of fraud.

MR. S. LATIEF: There is an absence of a system in the market so what will happen eventually is like when a few are caught millions get away.

JUDGE: Sure, sure.

MR. S. LATIEF: So government is continuously on the losing edge basically, or catch-up basically. What the system will bring about is, the system will bring about a different dynamic, what you have mentioned
5 earlier or brought earlier to the attention is ...[intervenes]

JUDGE: Do you think it is going to make people more honest?

MR. S. LATIEF: Yes, it will lead to that as well.

JUDGE: Oh.

COMMISSIONER KHUMALO: Mr Latief, I see on page, is it page 18,
10 where you have articulated exactly what the Judge is asking, is it maybe your submission that if efficiency is exercised here that leakage can be controlled and it can contribute to the fiscas?

MR. S. LATIEF: Yes Miss Khumalo thank you that is quite right, the system will prevent leakage or minimise it, it may not necessarily prevent
15 it but it will minimise it yes.

COMMISSIONER KHUMALO: And you are saying we can reap some fruits from there.

MR. S. LATIEF: Yes definitely. What could happen Commissioner is that because the system is involved and where for example certain
20 tendencies are flagged on the system whereby a landlord do not pay his dues every month the system will flag that and that then can lead to an investigation by the authorities. In the absence of the system the authorities will not know whether it is taking place so the system will definitely help the authorities in defining or be more proactive.

JUDGE: Mr Latief your scheme may very well be valid and may work, have you taken it to the revenue authorities or the Department of Trade and Commerce or whoever is responsible for the letting of properties, why come to us?

5 MR. S. LATIEF: Yes why coming to the Commissioner, thank you for that, for the question, the reason is when I was young I was taken out of my studies because of financial constraints and helping the family, what I see is happening today is history repeating itself, thousands of people, and the cost of education has spiralled out through the roof so my, when
10 I came up with this my idea was they had to go to government, other priorities could have been identified to use these funds for but I have dedicated this cause to this platform so that students throughout this country, especially the poor, the missing middle can receive almost a full corporate bursary from government every year.

15 We find amongst our black people especially the poor, the missing middle that our children must go and work weekends at the supermarkets, washing cars and when they fail at the end of the year then it is normally said that black children are not doing their job properly but what we have in our societies is like social inequality so we need to
20 go, our students need to go and work weekends in order to find money to survive, for them to survive through the weeks and if they do not do that they cannot survive so they are caught up between a dilemma and the proposal here is, I have found this is a cause which I can align what I have to become a reality.

25 JUDGE: Fair enough.

MR. S. LATIEF: Thank you.

COMMISSIONER ALLY: Mr Latief again I will ask you because I have read your document and I really thought your proposal had been based on this register of yours and you were saying that you will get this
5 reliable stream of income coming which income you are saying would be prioritised for education, is that not the crux of your proposal?

MR. S. LATIEF: That is correct yes.

COMMISSIONER ALLY: Is there anything to add from what you have said already?

10 MR. S. LATIEF: It is just in terms of the funding model for the students whereby the state will basically fund each and every student's education.

COMMISSIONER ALLY: I understood your proposal to mean that because you said from the beginning that education will be free for all.

MR. S. LATIEF: Yes.

15 COMMISSIONER ALLY: Based on the income that is coming from your model?

MR. S. LATIEF: Yes.

COMMISSIONER ALLY: And that is the understanding, is there anything more because why I am saying that, we have undertaken not to ask you
20 questions in between, but to get to the end and put to you certain things so that you know we can check and address with you certain shortcomings or problems with your proposal.

MR. S. LATIEF: Okay, so you would like to know whether I had come to the end of my presentation, there could be for example issues of or

areas where I may not have addressed in terms of what education could do for the future of our country but I suppose these are the kind of things that has been presented to the commission before and therefore one can basically, it is in the written document and I suppose it will be analysed
5 by the commission.

COMMISSIONER ALLY: And you stand by your written document in any event?

MR. S. LATIEF: That is correct yes thank you.

JUDGE: How do you counter the possibility that once this proposal of
10 yours is introduced it is going to push the cost of rentals up?

MR. S. LATIEF: The one thing, thank you Chair, the one thing is that this costs which the landlords have to pay from their income normally landlords have the tendency to pass all their expenses.

JUDGE: That is why I asked.

15 MR. S. LATIEF: On to that, a law will be such that no landlord will be allowed to pass this costs which is their responsibility on to the tenant.

JUDGE: Then they find some other reason for increasing the rent.

MR. S. LATIEF: The rent can be increased when it is market related when the lease has come to an end.

20 JUDGE: Not everything is subject to rent boards these days.

MR. S. LATIEF: Yes so these are the challenges we have in society that sometimes we can address and sometimes we cannot address or sometimes it is complexed to address.

JUDGE: Well I am very concerned that if, supposing your proposal does

pull in the billions that you think that it might that the result may be that the tenant is paying.

MR. S. LATIEF: Yes the tenant will be paying his rental income, his rental every month and, I hear what you say Chair, and I understand also
5 and these are the kind of like issues that comes with everything basically when one look for example when Microsoft started out they were constantly confronted with hacks and things like that and these were the challenges thrown to them and they found ways of addressing these kind of issues so likewise what you have presented or put to the table Chair is
10 that yes there may be a potential issue but these may be not with the consciousness we have right now, there could be solutions to that.

COMMISSIONER ALLY: Well from what I have read your counter balance to what the Chair has put to you is this, this certificate indicates to the Receiver of Revenue that this is the income received so if he puts
15 on that certificate R4 500 for that month which is due, the rental due and he only pockets the cash of R3 000 he is shorting himself out according to your proposal because all this information you say on your database which Receiver of Revenue has access to will indicate the income that has come in, is that not correct?

20 MR. S. LATIEF: Can I ask you to re ... [intervenes]

COMMISSIONER ALLY: Okay, according to your proposal, now the Chair put to you just now that, let us just say on the certificate, the invoice certificate he puts there this is the rental due that is R4 500 and he says to the tenant look do not worry about that give me R3 800 that
25 does not mean that he is not going to be able to pay for the R4 500

because he has declared the income is R4 500, is that not correct?

MR. S. LATIEF: That is correct yes.

COMMISSIONER ALLY: So the issues you are putting forward is this, my problem comes with the monthly rental and why monthly, your
5 assumption is that there are dubious landlords out there who are not paying that which is due and SARS does not know how to get their money out of them. Now that premise or presumption needs to be tested against whether it is correct or not and that as the Chair has put will determine how much you then get out. Now the system might be correct
10 but what, why should one do it monthly and not annually because your register is there and it determines how much you would be getting by the end of the year in any event because it has been recorded?

MR. S. LATIEF: Thank you Advocate Ally. Yes that is a very valid question and from the Chair and concern, what actually happens is,
15 government, because of the monthly system, government will receive a windfall every month and government will, government has debt ...[intervenes]

JUDGE: Well an early payment as it were.

COMMISSIONER ALLY: And let me put it to you this way, how
20 budgeting works and how treasury has told us budgeting works, the budget for the year as we will learn in the next few coming weeks will be the budget for, there is MTEF as well as for the year, now you use that amount to know what you will be spending so the monthly amounts does not help you because you know already at the beginning of the year as a
25 country what you will be spending on and so I am not understanding the

preference between the monthly and the annually.

MR. S. LATIEF: Okay I will try to re-explain that. In terms of, if a person has a debt with an institution and when you pay the institution whether once a year or 12 month like a home-loan for example it is structured over 12 months normally or monthly over 20 years or 30 years. There is benefit for the institution in there that they get their returns monthly, in terms of asking landlords or bringing about that landlords pay a monthly tax on the rental income basically means that the Receiver will be sitting with a cash pile at the end of every month and when that is in their account it can technically offset their interest payment on the other hand and then what happens is that in the 2015/2016 financial year government has according the ministers medium term budget speech in October 2016, government sits on a national debt of about R2 trillion and it cost about R150 billion to service that debt a year and that is paid, money is paid monthly.

So having this windfall coming in from rental income or the tax on rental on a monthly basis will basically soften that R2 trillion and automatically the tax income, the interest rate or interest payment on that R2 trillion which will now be reduced will also be reduced and that saving over there can be used then to fund, over and above, can be used as a cushion to fund higher education.

JUDGE: Mr Latief I have a problem, I know you tell me that there is all this money being diverted away but I have absolutely no proof that that is so, I mean lots of landlords employ agents, like Trafalgar to let their buildings and collect their money and so on and so forth, whether that is

properly accounted for I do not know but I would assume so, since the landlord does not go and collect the rent himself and the records are kept by the agent and so on and so forth, I have a flat in Cape Town and I have an agent who looks after it.

5 Now that is probably the case in many, many instances, I do not know of instances in that sort of circumstances where fraud is committed, it may be but in the case of individuals or perhaps one man companies or companies who are collecting for themselves in blocks of flats all over Johannesburg I really would not know, maybe there is
10 money that is being taken, maybe there is double accounting I do not know but why put any proposal forward without having some sort of evidence, I have not heard anybody complaining, I have not heard the tax authorities complaining that we are not able to recover money from landlords because money is being siphoned off. Can you give us any
15 sort of evidence that this is such a problem that we will recover a substantial amount of money?

MR. S. LATIEF: I do not have any tangible evidence or empirical evidence as I have indicated earlier on, I take this, where there is smoke there is fire.

20 JUDGE: Which smoke is that?

MR. S. LATIEF: The smoke is for example that these are things that is happening in society, we may not be aware of it, it is almost like someone says that someone has been killed and goes to the cops and the cops says bring us the evidence.

25 JUDGE: Mr Latief I do not disagree with you, it may well be the case

that that is happening, is it happening in relation to companies like Trafalgar for example or is it prevalent amongst individuals or where is it most prevalent?

MR. S. LATIEF: I do not, Chair I do not have that kind of information and
5 that can only become available once for example resources is put to this exercise and an effort is made to then explore the opportunity. I may not have, I am the messenger, I may not have all the information but what I know for sure from the depth of my heart while the poor and the marginalised go sleep at night with no food there are people that is
10 playing havoc with the country's economy.

COMMISSIONER KHUMALO: So Mr Latief what if, is the presentation not on the assumption that people, there will always be a renting person, you do not anticipate where people actually own the property and there is no rental anymore.

15 MR. S. LATIEF: Miss Khumalo thank you. A very good question thank you for that. Where we are heading for example in Cape Town, houses that you sell for R80 000, R100 000, R200 000 is now reaching the proportion of R1.5 million and R2 million. Children and students today that are loaded with student debt and when you hear what people have
20 to repay for this debt and over what term of period the chances of them ever owning a property is becoming very slim month-by-month or day-by-day so a person earning for example, just graduated and earning, has to earn a salary of at least R60 000 or combined in order to buy a house today of R1.5 million so who earn those kind of things these days, there
25 are people earning those money so the chances of people owning their

own little properties is diminishing and rental will then be the core of the day and when the market has, when that is the norm in the market that is where landlords will have the upper hand and dictate the cost of rentals.

COMMISSIONER ALLY: Mr Latief you know there is a Davis
5 Commissioner that deals with proposals in relation to tax and it would appear from what you have given us that that might be an avenue that you should take with regards to an innovative way of getting more out, well not getting more, getting, giving due to Caesar that Caesar is due and from where we sit here it is difficult, and you might have a good
10 proposal but the veracity and goodness of the proposal depends on the information that you have, the empirical which you say you do not have

It makes it difficult for us as a commission to recommend something when we do not know what the outcome would be and there are other avenues that can be taken in relation to a particular proposal.
15 Personally I am not saying that your proposal is out of this world but it demands of certain changes in the tax regime where personal income tax is dealt with on two basic, one that as an individual who is an employee you have pay-as-you-earn as you rightly indicated, on the other hand where you are a business person you declare your income
20 twice a year or whatever you are able to explain how you declare your income and based on your income presently the South African Revenue Service have the option of auditing whether you are correct in your declaration or not which means you must supply documentary proof of what you were saying and people have been caught out during that
25 process.

Now what, so it would need a mind shift and a change to the system that we have, not that change is never good, it would have to happen and there must be reasons, cogent reasons therefore and this is why I am saying is it not better that your proposal which relates to the tax
5 system is not also put to the Davis Commission.

MR. S. LATIEF: Thank you Chair.

JUDGE: Should we not ask the evidence leaders to send the proposal to the Davis Commission to look at it and see whether there is anything in it?

10 MR. S. LATIEF: Thank you Chair. Yes I think that could be, if that is possible I would appreciate that and as Advocate Ally said earlier on now, in terms of taking it to the Davis Commission, yes and they find merit in it for example, the idea still is that the money that are coming from there has to be earmarked as priority to make fee free, quality fee
15 free education a reality, it should not be that it is divorced from this platform that is my concern.

COMMISSIONER ALLY: Well even if it is made to the Davis Commission, what you are talking about is ring fencing funds for a particular purpose which you say well, and that is part of the
20 presentation, as well as that National Treasury must know whether they do ring fence amounts for certain objectives and priorities on the presentation to us I am not sure whether that came up, but if it is not possible then it would mean a change in policy which can be recommended also because your point you are making is, besides the
25 Davis Commission having you want the educational authorities to know

and the government to know that that money is not used for buying jets and so forth but that money is used for education that is your point you are making, is that correct?

MR. S. LATIEF: Yes Advocate.

5 ADV K. PILLAY SC: Chairperson, I should just indicate that we are in discussions with members of the Davis Commission about arranging for them to come and testify, we unfortunately cannot submit any documents to them because the Davis Tax Commission has submitted its report to the Minister of Finance already but they may in fact end up coming
10 before us to testify and then we will put this to them.

JUDGE: Well should they come is it not possible just to discuss this matter with them and see whether they consider or see how they think it should be dealt with?

ADV K. PILLAY SC: Well we will raise this with them ja.

15 JUDGE: Yes, I am not sure that we can do better than that at this stage because we really have too little factual information to go on. We have your suspicions, we have our knowledge of human nature, we have the apparent state of certain aspects of the country at the moment but none of these is hard evidence for the fact that more than R25 000 a year
20 would be raised from this particular source, I do not know, neither do we know what the cost of recovering it would be so there is a lot more investigation that is required.

MR. S. LATIEF: Thank you Chair. In terms of, I do acknowledge what you have mentioned and yes there is a need for empirical evidence and
25 things like that and more meat to the bone, if it will.

JUDGE: But it is part of the chasing down fraud is it not?

MR. S. LATIEF: Excuse me?

JUDGE: It is part of chasing down fraud.

MR. S. LATIEF: Is it past?

5 JUDGE: It is part of it.

MR. S. LATIEF: Oh yes sorry, yes it is part of yes, that is right yes.

JUDGE: Yes.

MR. S. LATIEF: So this is a mechanism that can help the country in
overcoming and maybe my shortcoming in terms of not having this kind
10 of information but not until we have tested it and I would appreciate
whether the fees commission can in somehow or the other do a
recommendation or so that I can be helped by authorities for example, to
do a recommendation that there is a submission that needs further
investigation and would you, would such a department maybe as the
15 treasury or so or the statistics generals office as well come and
...[intervenes]

JUDGE: No, I do not think it has got anything to do with the statistician
general, nothing at all.

MR. S. LATIEF: I am just using it as an example.

20 JUDGE: Yes but look if our evidence leaders take it up with the
representative of the Davis Commission and National Treasury they can
talk to them no harm done and let us see whether something can be
done about it.

MR. S. LATIEF: Good.

JUDGE: But at the moment I do not see the direct use to the Commission, although I understand what your purposes are and where you want the money directed but whatever we say to anybody else will be said with that in mind, with that caveat.

5 MR. S. LATIEF: Okay, Chair may I then ask, assuming the evidence leaders then propose the proposal to national treasury or who else for that matter as well and there is a comeback or a feedback from those relevant departments that it is something that can be explored how?

JUDGE: Presumably they would contact you.

10 MR. S. LATIEF: And will the fees commission get back involved with it?

JUDGE: Probably not, probably not.

MR. S. LATIEF: Even if it is a ...[intervenes]

JUDGE: I realise that your report does not only contain that, it contains other material to which we will give attention but I am thinking about the
15 source of funds which it relates to, unless we have some sort of input from one of the other departments of state it is going to be very difficult for us to make any practical use of this.

MR. S. LATIEF: So what you are saying Chair is that assuming the evidence leaders then approach one of the Departments of State and we
20 get in contact with one another and there is evidence or there is substance and the evidence leaders become aware of it how this model can help fund quality fee free education.

JUDGE: Well if we get anywhere close to that I will be very pleased.

MR. S. LATIEF: Okay.

JUDGE: But I really, it is so far down the line that I am not going to predict anything at this stage but we will try to follow it up.

MR. S. LATIEF: Thank you.

JUDGE: That is the best I can say to you at the moment.

5 MR. S. LATIEF: Good.

JUDGE: I understand, I appreciate your innovation and your invention in relation to this particular aspect but the practical aspect is also of great importance to us.

MR. S. LATIEF: I take note of that.

10 JUDGE: Are there any further questions you want to put to Mr Latief?

ADV K. PILLAY SC: Thank you Chair, there are no further questions.

JUDGE: Thank you Mr Latief.

MR. S. LATIEF: Thank you.

NO FURTHER QUESTIONS

15 ADV K. PILLAY SC: Thank you Chair we will recommence tomorrow at 10:00, with your leave.

JUDGE: Yes very well, who is tomorrow?

ADV K. PILLAY SC: Tomorrow the first session is the Department of Basic Education and the second session is the banking association of
20 South Africa.

JUDGE: Yes thank you.

MEETING ADJOURNS

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SET 6 - DAY 2

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