DATE: 20-02-2017

SET 6H2 - DAY 1

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

PARTIES PRESENT:

The Chairperson

Commissioners

Head of Evidence Leaders

Evidence Leaders

Experts

Secretariat

WITNESSES:

Mr. A. van Wyk – Cape Town

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SET 6H2 DAY 1 - 20-02-2017 - MEETING RESUMES

JUDGE: Yes Miss Pillay.

ADV. K. PILLAY SC: Thank you Chair. The next witness is Mr Anthony van Wyk, Mr van Wyk Chair is one of the witnesses who will testify during this week but who properly belongs in set 6 of the hearings and not set 7 and Miss Lekoane will be leading Mr van Wyk's testimony.

JUDGE: Mr van Wyk do you want to speak English or Afrikaans, do you swear the evidence you will give will be the truth the whole truth and noting but the truth?

MR. A. VAN WYK: Yes.

JUDGE: Thank you.

MR A. VAN WYK: [d.s.s]

JUDGE: Yes Miss Lekoane.

ADV. M. LEKOANE: Thank you Chair. Chair Mr van Wyk has prepared a presentation for us in which he proposes some alternative sources of funding but before then maybe Mr van Wyk can just briefly tell us about your employment background where you are now?

MR. A. VAN WYK: Thank you. Mr Chair I am involved in structuring board basic economic empowerment transactions but that is mainly in the sphere of the trade union pension fund market and it is actually retired, it is not a full time but I work on an adhoc basis and the Trade Union would call me in specifically either to raise debt or to convert that debt relating to a BEE transaction.

ADV. M. LEKOANE: And how long have you been doing that Mr van

Wyk?

MR. A. VAN WYK: For the past seven years.

ADV. M. LEKOANE: If you are ready you may commence with your presentations and we will ask you questions when it is necessary.

MR. A. VAN WYK: Thank you ma'am.

JUDGE: Well I am not sure that I actually understood what his speciality is, I heard it in broad outline but I am not sure that I understand what it involves so perhaps you could lead the witness a little more.

ADV. M. LEKOANE: If you may assist the commission Mr van Wyk.

MR. A. VAN WYK: I would refer myself as a specialist in the debt conversion market, for example if a company is in financial trouble and they have say they have bond holders or banks with or investments I would try and convert that liability into an asset by giving, exchanging the equity with the institution that has the major creditors in that particular transaction. So we would refer in the market as debt swap procus [?]

JUDGE: Does this include the selling of debt to somebody who can take over the debt?

MR. A. VAN WYK: That is right, that is correct.

ADV. M. LEKOANE: Is it different from business rescue?

MR. A. VAN WYK: No it is business rescue will go far beyond that, business rescue deals with the legal aspects, I only concentrate on who are the creditors, can the creditors come in as equity holders and that would determine the urgency in the matter whereas business rescue would go much further than that because court approval would be required but by the time that the matter goes to court we would already have a solution on the table in order to present to the court.

COMMISSIONER ALLY: So Mr van Wyk still part of your background, when did you start with this or did you do any studies relating to this or it was just your Union background or how did it come about?

MR. A. VAN WYK: Well it is more opportunistic because when the BEE market exploded there were no specific skills to put these transactions together, I remember when the first transaction came together it was in 1999, transaction with South African subsidiary of Chevron which is now called Caltex and that was to find a partner that can take up to 25 percent of the equity in Caltex. We successfully completed that transaction and as you may be aware of the media speculation is that Chevron in fact now wants to sell the entire remaining 75 percent stake and I am also involved in trying to secure a larger portion of the stake for the South African black shareholders that are already owning 25 percent of the company.

COMMISSIONER ALLY: Thank you.

MR. A. VAN WYK: May I now start.

JUDGE: Thank you yes.

ADV. M. LEKOANE: You may thank you.

MR. A. VAN WYK: Mr Chair the interest in the participation basically came about when the State President in September last year said that he is going to hold a convention or an interface with the private sector to suggest some ideas and then he then invited everybody that has got an idea to come forward. Now being involved in the pension fund industry was fast trading as a concern, very few people in South Africa actually know that trade unions directly and indirectly control between 900 billion and 1.2 trillion in pension funds then you can also add to that the public investment corporation that may have been mentioned here many times that represents 1.2 million state employees administer approximately R1.9 trillion worth of assets of which 12 percent is in the, which directly represents 12 percent of our JSE stock market.

In addition to that we also have the unit trust industry which is about R2.5 trillion worth and the two major participants are the pension funds and also the insurance and other financial institutions. Granted that these savings are registered pension funds so there are, they are subject to certain restrictions from the financial service board, they are all registered and these restrictions are merely aimed at avoiding abuse, abusive behaviour that would be adversarial to the economic interest of the republic but between those three areas, the unit trust, pension fund from trade unions and the PIC you are looking approximately at about R6 trillion worth of assets and there I think is a road map to facilitate some funding, so the purpose of the proposal would then be to address the vacuum that exists in student funding in a way where it put less direct stress on the state and the tax payers to fund education through theoretical state aid.

Now I have read a lot of articles where economists suggest that the VAT has to go up which will in turn hurt the poor, to meet added educational spending, corporate tax will have to go up, everybody argues that it will be a figure between 41 percent and 50 percent which in turn would have a domino effect and capital drain on this country. The term theoretical state aid is not a South African term it was born in Europe in response to the European debt crisis in 2013 when the European economy was threatened by over indebtedness, the EU faced a colossal debt burden of approximately 13 trillion dollars in bad loans that is US Dollars and the direct response were, a consequence of that was that Greece became the first country in post World War ii Europe which became bankrupt.

Italy, Spain, Portugal and Ireland were potentially sliding in the same direction and also applied for varying degrees of financial assistance from the Central Bank, the European Central Bank jumped in with theoretical state aid or otherwise known as invisible state intervention. Mr Chair I just have a question, I note that I have worked from my document and that I did not correspondingly switch the pages on the screen, does it matter?

ADV. M. LEKOANE: Sorry Mr van Wyk is this the page that you are on now, the preamble?

MR. A. VAN WYK: Yes ma'am.

ADV. M. LEKOANE: Thank you.

MR. A. VAN WYK: The reason I mention, beside the fact that we are borrowing the term theoretical state aid from Europe, the reason I want to mention this is that the banking liquidity rules changed very significantly since the collapse of the European debt market in 2013 in that there were stricter rules, what we know as tyre 3 bonds within the Basel 3 rules that were introduced and this had an impact also on liquidity on banks worldwide including South Africa from the simple point of view is that most South African banks are subsidiaries of foreign corporations and if they are not subsidiaries the bond holders are mainly based in Europe. It caused the beginning, the European crisis caused the beginning of the disintegration of Europe and the exact result of that was that Britain had to leave the European Union by sheer political, for sheer political reasons in 2016.

The EU debt burden was a colossal economic crisis and it was successful managed through theoretical state aid where private banks and governments held hands in order to avert the most serious crisis in human history, economic crisis in human history. The Europeans opted to rise above up and the outcome was good, they expressed their political will through sheer financial engineering to address a crisis or a market by the private sector where the strong arm of the states fiscal capability only extra soft landing to meet abnormal risk. The part played by the private sector market force was indispensable in the process, in other words the government on its own could not solve the European crisis, the debt crisis, the private sector had to come in and hold hands with the government.

Today in South Africa I propose we only need the state as a catalyst to address abnormal risk as opposed to being the sole funding wholesaler, retailer and insurer of higher education which is what the present model is at the current moment, we need theoretical state aid as opposed to the present model which has proven to be problematic even other social and fiscal needs to combat poverty.

ADV. M. LEKOANE: Sorry Mr van Wyk are you saying that funding must come from both government and private sector or are you proposing that government not fund at all and all the funding come from the private sector?

MR. A. VAN WYK: No the government must be a partner, the private sector has the necessary means and the skills how to engineer the funding in order to help the state. To my mind we will deal with the fees must fall crisis for several years unless something dramatic happens, this means that Universities also cannot also indefinitely and artificially be suppressing fees without affecting the education in the long run. Most importantly you have to deal with student debt as a manageable risk, at the moment student debt is not hedged in South Africa it is basically a risk which is undertaken by the financial institutions which provides the loan. Part of inflationary pressures on the University is to tax current and future students to subsidise historical debt of people that cannot pay or refuse to pay for whatever reason, this is to my mind a core misunderstood backbone to the conflict.

ADV. M. LEKOANE: Sorry Mr van Wyk I saw that the first crisis that you identify is government spending on students per capita as a percentage of GDP.

MR. A. VAN WYK: Yes.

ADV. M. LEKOANE: Can you just expand on that for us?

MR. A. VAN WYK: The conflict in the fiscal arena of government is how much do you spend on student education, how much do you spend on welfare and other needs of society and government alone I believe cannot treble or quadruple whatever the students demand for higher education, it will to be achievable by the government alone because then we are going the European route in terms of over indebtedness.

ADV. M. LEKOANE: We have heard earlier today that the percentage as measured at least by National Treasury is at 1.4 percent and you have a new submission 0.71 percent of GDP.

MR. A. VAN WYK: Yes ma'am well the percentage that the government would relate would be public works departments, in other words overall, what I am referring to is just the percentage in terms of how much the government puts to the national students finance system. Your problem at the moment, at this stage in South Africa is ...[intervenes]

ADV. M. LEKOANE: Sorry, sorry Mr van Wyk.

MR. A. VAN WYK: Yes ma'am.

ADV. M. LEKOANE: And you propose that it be increased to 2.5 percent.

MR. A. VAN WYK: Correct.

ADV. M. LEKOANE: What is the basis for that number?

MR. A. VAN WYK: I would suggest that if the government can go together with the private sector 50/50 and the private sector come with a, in terms of the pool available of, funding pool available if they can come up with an equal number to the state.

COMMISSIONER ALLY: So there is no real objective behind it all you do is increase it, I think Miss Lekoane was trying to ask why you would double it and what you would do with the doubling, is there a reason behind why you want to double it and so forth?

MR. A. VAN WYK: Yes we come to the reasons later on but I think I can deal with it straight away. The state has an objective of doubling the GDP or the growth rate to above 5 percent, it cannot be achieved at the moment with just 1.2, 1.3 students in our Universities, you will have to double the capacity of University number 1, that is your first problem we do not even have the capacity to train more students and (2) the amount of skills that you would need in economy that grows at 5.5 percent, 1.3 million students is too low to meet the growth target.

COMMISSIONER ALLY: Well ja, if we come back to growth targets if you are going to align that with then all the numbers are out because we are not growing at 5 percent per annum we are between what they talk about 0.7 and 1 percent per annum at the moment.

MR. A. VAN WYK: Ja.

COMMISSIONER ALLY: Which aligns again that we are out with our numbers in terms of the National Development Plan that wants 1.6 University students, 1.5, 1.6 million University students by 2030 so those numbers if you add them up are just not going to work.

MR. A. VAN WYK: Yes.

COMMISSIONER ALLY: So how do we get the alignment right, do you have an opinion on that?

MR. A. VAN WYK: Yes my opinion is that we are training the wrong type of people, for example if you look at the percentage Universities the engineering and sciences sections are the least, the smallest population compared to economy that needs more, you need 800 000 engineering and technical people in the economy at the moment, we cannot train those amount of people so we bring them in from overseas and that does not even take into consideration the natural outflow of skills by way of retirement which is a very serious problem in South Africa, the Universities cannot even cope to replace the skills that are being lost because of early retirement and natural retirement.

So what I am trying to imply to you, an economic growth of 2.5 percent is not attainable at the moment given the limited skills level that we have in the economy, the reason why we exceeded 2.5 million between the years 2001 and approximately 2008 was simply because money was brought into the economy artificially because of availability with offshore markets and what that money has done it has made available 2.5 trillion rand of non asset class loans to consumers, that led to the boom of growth beyond 2.5 percent, there was no real productivity or a productive growth if I may call it that.

<u>COMMISSIONER ALLY</u>: Perhaps I am confused, the percentages we were talking about related to the percentage of GDP to higher education, Miss Lekoane said we heard here earlier on it is 1.4 percent and you said the number you have got is 0.71 we then moved to the stage where you said it should be increased, she asked you increased to what number you said 2.5 percent, now you were now then talking about 2.5 percent growth in the economy and not the percentage of GDP so I got lost there somewhere, the two of us somewhere you could have been mentioning something else because this is why I was saying to you, how are we going to reach the target if we only growing at between 0.7 and 1

percent at the moment.

MR. A. VAN WYK: Mr Chair and coach there is a further complication to when you put figures like that together, if you look at the value of the rand in the last three years it lost almost 45 percent of its value, now what are you going to, if the state says we spent last year or three years ago we spent only 19 billion but this year we are giving 34 bit may look to the state like it is an increase but in real terms when you transfer that to a dollar dominated picture it has actually decreased, you know I had a national Minister say on television a week ago that the economy has doubled in the last 10 years, yes the economy has doubled in rand terms but if you look at the figures in dollar terms the economy has shrunk by one third since 2010.

COMMISSIONER ALLY: That is fine, I am still trying to clarify what we are talking about and what you are mentioning to us, you will recall I said you mention that the percentage of GDP that we spend on higher education is 0.71 percent, going into that the question then arose how much should we be spending on education you then said 2.5 percent are you with me?

MR. A. VAN WYK: Yes sir.

COMMISSIONER ALLY: now the question then posed to you was, why 2.5 percent.

MR. A. VAN WYK: I would like 5 percent for example but we have not got the capacity in the country Mr Chair.

COMMISSIONER ALLY: Do you have capacity for 2.5 percent?

MR. A. VAN WYK: Yes you will have.

COMMISSIONER ALLY: Are we still talking about this, I just wanted to know whether we are still talking about the same thing.

MR. A. VAN WYK: Yes.

COMMISSIONER ALLY: Not economic growth but rather to spend on education.

MR. A. VAN WYK: If we increase spending to 2.5 percent the potential for the University to expand can accommodate the numbers.

COMMISSIONER ALLY: Okay thank you.

MR. A. VAN WYK: Thank you.

COMMISSIONER KHUMALO: Mr van Wyk.

MR. A. VAN WYK: Yes ma'am.

COMMISSIONER KHUMALO: For this response from Mr Sachs what points would have been raised in your letter, you are not privy to that?

MR. A. VAN WYK: I wanted to relate the reply from the letter I have sent where the response he said thank you very much for your thoughtful contribution in this matter, one of the positive outcomes of the process has been the number of new ideas that has been generated as you might imagine we are busy trying to respond to many issues including the financial structuring of loans along the lines you suggest, your email will help us through the process. What that says to me Mr Chair your problem in the National Treasury is that you have two conflicting voices which resonates upon the ministry, one voice from politicians and I am going forward now, the one voice says that we must borrow money to appease the electorate, to appease the students and to fund the dysfunctional enterprise in the country, the other voice says the state borrowing must be limited and we must grow the economy.

If you look at the numbers in 2002 government lending was at the rate of 27 percent of the GDP, today it is approaching 51 percent. Now the danger in that is that Greece for example had 105 percent of their GDP borrowed and the nation went bankrupt and that is a European state and that country is a country whose history can be retraced 5000 years, our democracy is only 22 years in existence.

ADV. M. LEKOANE: Sorry Mr van Wyk which brings us to your second conflicting voice which is how you grow the economy and you say that for a healthy economy would have to be at a growth rate of 5 percent which brings us back to Commissioner Ally's question of we know we are growing under 1 percent, 1 percent at most so how do we achieve the 2.5 percent if we are growing at less than 1 percent?

MR. A. VAN WYK: What is the question, I lost you because of the power.

ADV. M. LEKOANE: Is to come back to what Commissioner Ally put to you to say if we are growing at a rate of less than 1 percent how do we get to the government to spend 2.5 percent as a percentage of GDP on higher education?

MR. A. VAN WYK: Ja the dichotomy is that the state has put, has a goal that they want to grow the economy at 5 percent I am saying it is not achievable and the reason, one of the fundamental reasons we do not have the technical skills to drive an economy of 5 percent.

ADV. M. LEKOANE: So you propose a private sector intervention.

MR. A. VAN WYK: That is correct.

ADV. M. LEKOANE: That is what I am trying to get at with you.

MR. A. VAN WYK: Our economic model is different to Europe and our parted heritage has created a legacy of poverty which pose a threat to civil order, it may take up to about 15 years of GDP at a minimum growth rate of 5 percent just to get the poverty trap balanced. It takes about 22 years of double economic size of the country and this can only be shortened if you increase the economic growth of your gross domestic product.

COMMISSIONER KHUMALO: Mr van Wyk so this 15 years is it from the current period or is it retrospective?

MR. A. VAN WYK: That is the economic principle, the average economy in the world takes 22 years to double.

JUDGE: In our situation?

MR. A. VAN WYK: Our situation we unfortunately do not have a lot of time ma'am and we have to look at shorter trajectories in order to because what I mentioned there is, the problem that the government has is your heritage from apartheid is putting so much pressure on the state that if you do not deal with all these demands from the populous then you create a threat for civil disorder and this is exactly what happened in the student domain.

COMMISSIONER KHUMALO: You saying we do not have a lot of time, does this mean we need 15 years from now, from the current now or from the time when the, because you are saying the, you are referring to apartheid heritage so are you saying post apartheid 15 years or?

MR. A. VAN WYK: I take it that the exercise or the process that we are busy with now is that the state will decide what are we going to do with education, what are we going to do with higher growth and the state will ultimately come to the conclusion that in order to sustain economic growth we need more skills in the economy so once they have made that political decision they need to look at now what timeframes are we looking at implementing whatever it is that the commission is going to recommend but I am saying in my presentation that we cannot rely on a natural doubling of the economy in 22 years to meet all these social needs including education and expect that the nation is just going to you know be patient enough to do that or to sit out the period so we need to get to the trajectory where we achieve the 5 percent growth and the state would then have to see it as a priority that we create the skills in order to achieve 5 percent growth.

Mr Chairman we need to create an enormous amount of wealth and the state cannot see to everything it must be free, there is an element of entitlement culture in the student demands, that is a natural thing because the backbone to the entitlement culture is the freedom charter where they were promised free education, access to the land etcetera maybe the political parties were too over enthusiastic to print that into the minds of people but the situation that you have today is people are relying on those promises and they are demanding, their demands and anger is based on those promises that were made.

I do not specifically wish to go into the race narrative but this card is often overplayed to the point where it insinuates an entitlement culture is acceptable and the entitlement culture is at the heart of the students approach how to solve their funding problems but at shoes expense, the deficit and the shortcomings of the new economic order which has as its theme restorative justice is one thing, once it is accompanied by anger then fiscal prudency often falls out of the bus. In reality there is no such thing as free education anywhere in the world, there are massively subsidised education in countries like Sweden, Norway and Germany but it is not free, let us just look at some of the invisible costs.

Their citizens tax burden is so high to pay for educational subsidies that every corporate with an income above 100 million creates an offshore company in a tax haven like Isle of Man, Luxembourg, Cyprus, Hong Kong and the Caribbean to escape the high tax regimes, every single multi national has an offshore service company and the practical purpose of those offshore company's is that (1) they create bonds in the name of those holding company's so that it does not affect their main balance sheet but more importantly those service company's and the same applies to South Africa, invoice the mother company and those funds in an offshore, siphoned off into a offshore tax haven. There are about 15 trillion, this is guesstimated by the US administration, there is about 15 trillion invested in these tax havens, most of this money in turn is borrowed to the US Treasury through untraceable bonds and capital market instruments.

ADV. M. LEKOANE: So is this to say Mr van Wyk that the wealth tax is not a viable option?

MR. A. VAN WYK: I am not at liberty you know to give a judgment on that, what I am saying is that certain things need to happen in order for this not to take place in South Africa, it has unfortunately been allowed where we have seen a significant amount of delisting for example Old Mutual, Investec, ABSA Bank and so on that goes to Europe and create a secondary listing there and out of that you also see a bit of tax flight, but I am hoping that we can arrive at a situation where we can deal with that crisis and in fact in terms of market developments lately in the newspapers in terms of the competition commissions investigation into the manipulation of the rand by 17 different banking institutions I think we heading to a situation where we putting our finger on it.

But the problem as far as the offshore divestment is concerned is much more than just the manipulation of the rand, it goes far beyond that, it also goes to profit margins , what profits are being declared and dual taxation agreements between different countries so it is a complex problem but I can tell you there is a lot of manipulation there in terms of fiscal, what appears on books and what does not appear on books.

ADV. M. LEKOANE: So having not been in favour of your submissions of the tax alternative can you just tell us about the private sector interventions that you propose?

MR. A. VAN WYK: Right I just wanted to mention before we move onto the next point is that also the higher taxation, the impact of higher taxation in Europe has an effect on ordinary citizens, for example their graduates where they migrate to other countries in order to offer their skills in other countries with lower tax margins and given that scenario I do not believe then that education is free in any European state because there is invisible cost and there is a visible cost to it. So the paper suggest then that we have, that when need to institute a risk management tool that can deal with a student loan market in order to solve the, help solve the student fees crisis, let me just get to the, and some may argue that this may mean that we will create a generation of indebted students but just on the point of indebtedness, at the current moment we are in a situation in South Africa where there is at any given point in time R350 billion in delinquent loans in the consumer market, as far as the housing loan market is concerned there is probably about R280 billion, 270 billion at any point in time in the delinquent market.

In the agricultural sector there is 135 billion in delinquent accounts and not any single bank manager go to sleep with a worry on his head as to what is the impact going to be of all this indebtedness and the reason being that all those loans are hedged or they are risk management tools to deal with them but that is not the case in the student loan sector and that is why the banks have had a limited entry into this market. The other question would be, does this human capital investment constitute irresponsible lending in terms of the National Credit Act, my opinion would be no, it is an investment in skilling the nation like never before. So with regards to the current situation in student loans we are probably dealing at any point in time there is about 24 billion in slow paying, varying degrees of slow paying to delinquent loans in the student market, some of that loans has to be taken over into a new asset company that can convert that loans from agents such as the National Student Finance Agency, the banks and the Universities.

ADV. M. LEKOANE: And who will create this entity?

MR. A. VAN WYK: They will have to collectively come together by means of state legislative framework in order to create such an entity. Then you take the student, the bad loans out of the market that I would refer to a bad bank, and then when you do that and you securatise those loans you make it possible now for banks to come into the market like they have never ever come in before.

JUDGE: Just explain to us the concept of taking bad loans out of the market?

MR. A. VAN WYK: At the moment the state is the wholesale provider and a retailer of loans in the student market, I believe that is unnecessary, the state should only be a wholesaler at least a risk manager as a last resort and this is what we term a theoretical state aid where the state only guarantee the private sectors assets that they bring into the student loan market, there is commercial frameworks how that works, fro example if you say, let us say 10 billion, if the state underwrites 10 billion it does not mean the state provides 10 billion it means the state underwrites, it goes to a secondary agency that underwrites the loan on the states behalf at 6 percent for example of the loan value.

JUDGE: Yes but what is a bad loan?

MR. A. VAN WYK: A bad loan is any loan that has not been paid for more than 6 months.

JUDGE: Which is due and has not been paid?

MR. A. VAN WYK: Yes.

ADV. M. LEKOANE: And what would be the incentive of buying a bad debt for an entity that is going to take over that bad debt?

MR. A. VAN WYK: First of all the legislative framework does not exist but what we propose is that once this entities have come together they form the bad bank and they take all the bad loans out of the, I mention there is R24 billion of loans outstanding at any point in time in the student loan market, the banks is owed about 6.5 billion, the National Student Finance 16 billion and the Universities about 4 to 5 billion. Now number 1, I have a problem with Universities acting as a bank for example, they are not registered banks, the University and the state should get out of the retailing side of the loans, they must only be, the state is a wholesaler and the ultimate risk manager. In terms of retailing loans that should be the function of a financial institution and that is not the current model, the current model is the financial sector take the least responsibility in the student loan market and is the lowest participant in that market but the reason they are doing that because they cannot swap the loans in the debt market, nobody will buy it, so therefore you need to create a specific bank that can underwrite it and then buy all these bad loans from the institutions in order to bring new money into it which can specifically be ring fenced for student lending.

ADV. M. LEKOANE: And where would the new money come from?

MR. A. VAN WYK: It will come from the capital market itself, like I said in my introduction you sitting with a PIC they have got 1.8 trillion, if they must decide to put 1 percent of it as a bond into the student loan market, then you have the pension, Trade Union pension funds they represent workers, they want the economy to grow, they are sitting with 1.2 trillion, you are sitting with unit trusts again with another 2.5 trillion so there is no, in terms of the private sector we do not have a funding problem the money is there, we must engineer the way they would see it making economic sense to come into the student loan financing sector. May I proceed Chairman. Such a fund would also flush out grey areas whereby collection agencies and wealthy law firms abuse students by acting on behalf of loan vendors such as Universities, these collection agencies and law firms are exploiting confusion in the credit market around the correct interpretation of section 103.5 of the National Credit Act in respect of the conflicting interpretations of the statutory rule.

There are also abuses which ignores the Prescriptions Act in the student recovery system, like I mentioned Universities are not national credit providers in terms of the National Credit Act, none of the Universities are registered as banks but their collection agents are charging interest on these loans that they have granted to students and charge admin fees as if they are banks. The added problem is that most of the money collected from very poor students by collection aid does not end up with the University but is gobbled up to pay administration fees, collection fees and commissions by these collection agencies and the lawyers that represents them.

A further problem is that the collection agents use adverse credit bureau data listing as a tool to enforce agreement compliance, this is also a problem in the student lending market, adverse credit data can make it difficult for graduates to enter the job market, the credit history of job seekers including grads is nowadays used as a yardstick to gain employment. Regulatory protection against adverse credit bureau listings against students maybe necessary. The credit regulator has not devoted significant attention to this problem, obviously because they only act on complaints from the consumer society but now that the matter of student finance is being reviewed the matter of student finance for engagement on the matter with the credit regulator is probably overdue. My added proposal in regard to defusing the over-indebtedness in the student market is that employers will have to be given a tax incentive to buy up the student debt as part of the recruitment package once graduates find employment.

ADV. M. LEKOANE: Sorry Mr van Wyk before we get there have you calculated how much would be needed to be raised on the market for the new money that you talk about?

MR. A. VAN WYK: It is subject to how much, you see no bad bank works alone you have to have, create a bad bank and a good bank, the collateral for the new money will come out of the good bank so subject to how much you want to raise the good bank will have to raise that collateral by way of, in the debt market, in the bond market we would say.

ADV. M. LEKOANE: So you have not done a costing exercise, well you have not assessed how much will be needed to be raised by this new entity?

MR. A. VAN WYK: If we for example want to double our investment in higher education you need to look in the order of about 75 to 100 billion to be raised and once you take inflationary pressure on that over a 5 year period you are talking R250 billion.

ADV. M. LEKOANE: Over what period?

MR. A. VAN WYK: Over a five year period.

ADV. M. LEKOANE: And why five years?

MR. A. VAN WYK: Because the banks do not work on the basis of this year, they work on a trajectory of five years, what the investment strategy is going to be for five years, if they decide they are going to create a product for the student finance market to put the product together alone takes about six months but the lifespan of that product will be about three to five years, it is not worthwhile for the banks just to offer you know overnight solution or an overnight product, they would have to look at it in the long run and that, the confidence to do that would be on the backbone of the states willingness to walk hand in hand with them as a risk manager.

ADV. M. LEKOANE: And will that amount cover the full cost of study of the doubled student population or is it just for tuition fees?

MR. A. VAN WYK: It will not cover the doubling, I was just talking about containing the situation as it is now. Your situation that is going to exist is once you have any availability of more money in the market for student finance you increase the number of people that want to come into the student market. There will have to be added infrastructure or program that is going to be available to Universities in order to create the infrastructure that can cope with this kind of demand. Say for example in my opinion if the state have decided that they want to introduce free education we are going to deal with 2.5 million students almost overnight and where are these people going to be accommodated, we do not have the University infrastructure and for the, we do not know what the state will decide but we need a mechanism that will buy time for the state and I believe through the private sector you are going to buy the time because the private sector can come in with the money almost immediately and it is not something that has not happened before, African Bank for example just folded three months ago, sorry three years ago, on a Sunday morning the government decided to invest R13 billion into African Bank in order to save it so that it does not have a domino effect on the market. So the capital is in the free private sector, it is there, all they need is for the state to come and say we will hold their hand, we are the guarantor let us do the deal.

ADV. M. LEKOANE : The distinctive feature there Mr van Wyk is it not that it is a bail out so it is a once off so what do you say about the sustainability of your model, the model that you propose?

MR. A. VAN WYK: You see we every time go ahead to the, what the state must do and we do not have the recommendations, what I am saying is that we are relying too much on the state in order to solve the problem where the capacity exists already in the free market and the free market needs to come to the party and they need to be convinced and the only person that convince them is the state. Now once that happens we then start making more money available, you then have Universities that would have access to infrastructural grants where they can expand their campuses, you know I have a situation where a client wants for example to expand a campus in Cape Town, they have been struggling three and a half years just go get the money to do it because the private sector does not prioritise that as a good opportunity and that is where you need the state to come in.

And I believe that once the employers are given the opportunity to buy out a loans from the students or take over those loans by way of a tax incentive you are going to see significant movement in the marketplace in skilling people because some of the reasons why students are often reluctant to take these loans is that they fear that they will be sitting with indebtedness at the end of the graduation period of they cannot find a job so SARS, Department of Labour, National Treasury and Trade Unions will have to go to give some input here in terms of how we can entice the employers to create this ability to by out the student loans when they enter into employment.

The Skills Levy Fund I believe can ring fence or reinsure the employer should the worker terminate the employment or are fired for any reason whatsoever and both the middle income and the lower income markets can be sufficiently catered for this type of state theoretical aid.

JUDGE: I am trying to understand how the state induces willingness in the private sector to cooperate?

MR. A. VAN WYK: Like I said Mr Chair the banks does not worry if a farmer does not pay him, well they have the management tools but the overall indebtedness of farmers does not worry them because there is a mechanism where the land bank comes in and guarantees those loans.

The loan market no bank is worried about it because there is a mechanism in how the process, there are process involved in what to do when those accounts becomes delinquent. What you have in the national student loan market you do not have any entity in the state that any bank can go to if that person defaults on the loan and that is a problem.

So while that situation exists there is no incentive for any pension Union to say we are going to give R10 billion to student loans because the statutory restrictions alone will not allow them to do that because there is nothing to back up that loan so if there is nothing to back up we need to create a mechanism then between the affected parties which will include the Universities, the national students finance system and some of these administrative to create something with government that can accept those risks, it does not have to be government itself it can be a special purpose vehicle created for that specific objective and that is broadly what I am suggesting.

JUDGE: I am trying to understand why the incentives for anybody to create this special purpose vehicle?

MR. A. VAN WYK: Mr Chair in the bond market, if I buy out R10 billion worth of bonds I do not pay R10 billion I pay a percentage of that and that has to be negotiated and agreed to, you value the asset and then you agree to a percentage so I may offer for example to NSFAS, I will pay you 20 cents to the rand for example, that is the incentive. You then use that discounted fee in order to go to the bond market and say look I have got R10 billion worth of assets, I have got it now, I need to raise against this X amount of money, the bond market will then calculate, you paid 20 cents in the rand so you paid R2 billion for asset, there is a R10 billion asset so we are willing to give you another R2 billion and that is how the bond market basically work and that is what the asset company will do under the circumstances.

COMISSIONER KHUMALO: Is there payment of interest in this scenario?

MR. A. VAN WYK: The interest will be calculated as per normal rates in the marketplace and that will be the rate that will be set by the Reserve Bank. And now we come to the part where we ask the question of how will the state create an incentive, we believe one should have an asset management company that can take over these loans, they will be able together with the national student finance assistance guarantee, go into the marketplace and offer in theory a guarantee on all the loans that will come in through the new system. So for example like I said if you place a guarantee on R10 billion you are not paying R10 billion for that guarantee, you are paying a percentage of which will be between 4 and 6 percent subject to what the market see the risk as being.

COMMISSIONER ALLY: You know Mr van Wyk if I recall Mr Sachs's evidence and submissions is that you are dealing with unfortunately Rating Agencies that are there and they look at you and see how you run your economy and he says to us at the moment we are only busy with consolidation and that we are not looking to spend more. Now if you are going to stand guarantee or guarantor for these bad debts and you say the bank does not worry if I get it back or not because the state is standing guarantor, me on the outside looking in I say this looks very, very shifty, then what happens, you cannot borrow anymore because they say these people do not know what they are doing, do you see where I am going to with this?

MR. A. VAN WYK: Yes, yes, yes.

COMMISSIONER ALLY: I know this is a means that you are also trying to put forward as a proposal so that the state is not left with the basket of spending more money that it does not have but at the end of the day if you are standing guarantor someway you are paying, you say at a lesser percentage but when you add up all these percentages the Rating Agencies and the people you are borrowing from say I do not know if these people will be able to pay us back, what do you say to those kinds of arguments.

JUDGE: Especially as in the South African environment a very small percentage does pay back.

MR. A. VAN WYK: Mr Chair the state has an infrastructure known as the South African Credit Guarantee Corporation, the government for example borrows money to Zimbabwe, Zambia, Mozambique periodically. The state does not take full responsibility for those loans, it is underwritten by the credit guarantee corporation which is state owned so the Credit Guarantee Corporation will look at that debt and would say fine we as Credit Guarantee Corporation will underwrite this debt on behalf of government at 8 percent. Credit guarantee then goes to Zurich and speak to financial institutions then say we have got this proposal, 8 percent of 10 billion, South Africa wants to borrow to

Mozambique or Zimbabwe we will give it to you at 6 percent so that is how the credit business.

When you say the government is a risk taker, it does not mean the government is physically hundred percent responsible for the risk, the state has a specialised agency known as the Credit Guarantee Corporation and they in turn have affiliates overseas, Zurich reinsure you know there is 11 of these type of agencies and the only business is to overwrite and underwrite government debt, so I am coming back to the point if we say for example there is going to be R100 billion worth that is going to be put by the private sector into the student loan market and credit guarantee say right we will come in we will underwrite them at 8 percent, the risk to the government is only that 8 percent or 6 percent whatever they agree to, it is a very specialised industry and they know how to calculate it so that is the risk the government, the only risk to the government is the premium that is required in order to put up the guarantee, it is not physical money.

JUDGE: Yes this is all very well but as I said to my colleague it sounds like a pyramid scheme where you recycling the debt and at some stage the explosion is going to take place because the debt is going to have to be rapid and it can be no doubt is shared between the various guarantors.

MR. A. VAN WYK: And this is why I mentioned the European situation, today in Europe not a single bank is worried about over indebtedness because there is a mechanism in place how to diffuse the debt and how to take the debt out of the market so that no single bank ought to theoretically be in a situation that they need to fold because of European debt and the same situation will exist ...[intervenes]

JUDGE: Is that because there is essentially multiplicity of guarantors?

MR. A. VAN WYK: Yes but also the state is in theory providing a risk management hand to the private sector and with this, what this debt will allow to do is that new students will come into the marketplace and gain skills and that is where economic growth will come out.

COMMISSIONER ALLY: And you are saying to us Mr van Wyk you see I am also wrecking my brain here about how the economics or macro economic policy of the country works and how it was explained to us during this commission and how like I said to you earlier on, somebody outside looking in saying you are standing guarantee but you are not actually a guarantor for the whole amount and but you will get the money in you know, it just well you have said you have put the proposal to Treasury maybe they can make sense of it but from where I am sitting it sounds like a system that can work in where all things are equal, the problem here is that things are not all equal and there is really a problem if you, like we said to you earlier if your economic growth is at 0.71 percent per annum and let us say between now and 2030 the most you get to from what Treasury was saying is probably about between 2 and 3 percent people are looking at that and saying but how can you be standing guarantee for things that are so uncertain of whether you get money so you say well there is this South Africa Guarantee Corporation and I must tell you it is the first time I have heard about it but ...[intervenes]

JUDGE: It sounds like Lloyds which eventually came to a sticky end.

MR. A. VAN WYK: That is right.

JUDGE: When the risks became so great that they could not cope with them any longer but from the, let us just take it from the students point of view because whatever we do here if we are going to put forward a solution it will have to be one which must have some hope of being accepted by the student. Now are the students not going to say about the scheme that you motivate all you are doing is looking to the interest of the person who is guarantying the risk and you are minimising the risk for the various people who provide the guarantees, but as far as we the student is concerned we are still going to have the financial burden of repaying the debt, now how do you deal with that?

MR. A. VAN WYK: We dealt with that by suggesting that the employer must be able to buy the debt out and they must be a tax incentive for him to do so, so once he has got employment the debt is nullified.

JUDGE: Well a couple of points about that, first what about the person who becomes indebted but does not become employed or does not graduate?

MR. A. VAN WYK: That is, at the moment we have a situation where this is a grey area anyway, the reason why the NSFAS is a bottomless pit is because (1) if the student decides he is not going to pay there is no recourse that the NSFAS has other than putting on a credit bureau and because there is no recourse other lenders are not coming to the marketplace and I am suggesting if you have a structure in place in order to underwrite or mitigate the risk as we call it, you will have more credit providers coming forward, there is more skills coming to the economy and the economy is going to grow faster.

JUDGE: Are you not going to have a situation that students who will become more and more handout dependent with more and more realisation that it does not matter because they are never going to have to repay any thing anyway?

MR. A. VAN WYK: My response to that Mr Chair is that every single country in the world even the United States have a problem with student over indebtedness that is a given fact.

JUDGE: Yes.

MR. A. VAN WYK: University education is very expensive so it is not unique in South Africa that students must go and make a loan it happens all over the world, what we are saying is that where the stats says the system is free there is a consequence to that and the first problem with that is that it is not really free the taxes will have to go up.

JUDGE: Yes.

MR. A. VAN WYK: And that is when a lot of scenarios will come to the fore which existed in Europe and I am saying that we do not have the infrastructure, the current moment that should there be a derailment because of over indebtedness in South Africa that Europe has seen we are finished, there is no bail out of that size that can help us, the European community is a big economy, it is a 12 trillion rand economy, we are a 400 billion rand economy.

JUDGE: Well the next question is, what is there that will entice the employer to offer this incentive to students?

MR. A. VAN WYK: Good will, we are South African citizens, every single corporate in the country has a responsibility or requires to make it possible for us to that this country will go for the sake of our children so there has to be a national will and that will must start with government, once the state takes the, has the political will to do this the private sector will follow.

JUDGE: Well you might forgive me for saying that there is a very manifest element of selfishness both in the government and in the private sector it is not the sort of?

MR. A. VAN WYK: A large proportion of it is not a charitable investment, this is why the state appointed this commission to debate the pros and cons and then come forward with a proposal, a policy proposal.

JUDGE: I am not quite sure what that answer means.

MR. A. VAN WYK: As I said to Mr Chair earlier in the speech that we have a two prong situation in National Treasury, let us borrow the money and let us provide the education to students, the other one say let us grow the economy, those two are conflicting opinions and what the state has done now through this commission and say let us weigh up the options what is the best proposal going forward in order to provide higher education finance in South Africa and my suggestion is that it cannot be the state alone that must have that prerogative, it will have to be the private sector and the European example is illustrating it.

JUDGE: Right so what you are suggesting in a nutshell then is a loan scheme which is backed up by adequate security.

MR. A. VAN WYK: Correct.

JUDGE: Yes thank you, sorry Miss Lekoane.

ADV. M. LEKOANE: Thank you Chair, just on that point, if I understood you correctly you indicate that the guarantor guarantees a portion, you said 8 percent so how is the balance secured?

JUDGE: Well on this point number 3 the loan vendors is as a registered financial institution which is still required to apply risk management tools, policies and recovery procedure before they can resort to the guarantee a is the case with the other banking products so nobody can run to the state and say look the student has not paid so I want my money now, they would first have to go through due process, go through the courts etcetera and once they have the judgment then the asset company is the last resort that they can, the asset company then takes over that loan, tries to recover it from the students but pay out the agreed amount that the guarantee stands for whether that be 80 percent of the loan, 60 percent or 40 percent is part of the mechanisms that has to be put into place.

COMMISSIONER KHUMALO: If you are to attach maybe incentive to success, is that a possibility in your model?

MR. A. VAN WYK: The percentage of which success ma'am?

COMMISSIONER KHUMALO: Say if a student does not have to repay because he has succeeded, is that a possibility?

MR. A. VAN WYK: You just need to ...[intervenes]

COMMISSIONER KHUMALO: Repayment, if you saying a student does not have to repay, excuse me, if a student does not have to repay the loan because maybe they have passed well or they have got good results.

MR. A. VAN WYK: The financial institution all have their management risk or their market risk analysis and they would only give the amount of money which they can write up the risk for so one bank may decide they want to put 6 billion, another one 2 billion based on what risk they can afford and the percentage of people that will default the banks then decide that based on their own model of what they research or what they are going to do or they will do their own research in terms of how bad the industry is but once they have a guarantee schema in place it mitigates those risks.

ADV. M. LEKOANE: And have you considered what type of guarantee schemes?

MR. A. VAN WYK: We have to decide on the amount that we want to invest for example I said we, at the current moment the shortage of funding is between 75 and R100 billion that is if you want to appease every single person that needs a loan in the student market and if we you see that then as a fundamental model it would imply that over a five year period the minimal amount of money that needs to be invested from the private sector would have to be a 250 billion and the state will also still come with its funding through the national finance agency based other terms for example the threshold in terms of low income families and so on.

JUDGE: Now your loan vendor, who is the loan vendor of first resort here, would that be FNB, Standard Bank, VIC?

MR. A. VAN WYK: That is right, that is the existing situation, all of these banks have student loan sections, it is very small, like I said the combined availability of funding is probably about 10 billion but it has to be much more than that.

JUDGE: Ja but all of these underwrite their debts anyhow.

MR. A. VAN WYK: Yes.

JUDGE: They all go to reinsurers or whatever to minimise their risk. Now what is the difference going to be once you start applying this it student loans on a high, it is in a high number, is it that the existence of the state as a guarantor?

MR. A. VAN WYK: No we will need to create the asset management company together with the NSFAS as a guarantor, they need to underwrite these loans the state in this case is the NSFAS.

JUDGE: Now have you seen the model that is being developed by the ministerial task team?

MR. A. VAN WYK: No I have not Mr Chair. I am only basing the proposal on what can be done in the private sector not on what the state would want to introduce over and above where the state act as a hundred percent.

JUDGE: Well what has been proposed by Mr Nxasana and others is that there should be a model which involves the private sector in a public private partnership with loans essentially made as I understand it through financial institutions, I think that the proposal is that they should be underwritten by the state but I am not sure and I wondered whether that is reconcilable with what you are proposing?

MR. A. VAN WYK: Absolutely it is.

JUDGE: I think perhaps you should have a look at that proposal and give us your comments on it because you may say that this is actually is to our mind where we should be going and I think you might on the other hand also suggest improvements to it.

MR. A. VAN WYK: Right so.

JUDGE: Miss Lekoane what do you say about this, there seems to be some measure of concurrence between the two?

ADV. M. LEKOANE: Yes Judge we are just trying to establish the status of the report whether it is still confidential or has it been released to the public, we can make it available to Mr van Wyk to consider.

JUDGE: Well Mr van Wyk would you be prepared to have a look at that?

MR. A. VAN WYK: Yes I would Mr Chairman.

JUDGE: And perhaps if you have anything that you would like to say to us about it you could let us know or let the evidence leaders know, it would be helpful.

MR. A. VAN WYK: Very well.

COMMISSIONER ALLY: Well it has been gazetted for public comment.

MR. A. VAN WYK: Okay.

COMMISSIONER ALLY: And I would have thought perhaps in your, when you were doing this particular paper you would have come across it but be that as it may Miss Lekoane will give you the necessary details regarding the ministerial task team report and their proposals.

COMMISSIONER KHUMALO: If maybe on sight of the report we could just get your opinion on the sustainability especially with the loan component, you know we have had evidence, well there has been concerns that if the loan components are attached to where the students are able to repay that, even if it is cascaded to the lowest you know just to see because I have been going through that I do not know if I am missing out of where it has been covered?

MR. A. VAN WYK: Yes well it is very, very easy to use the NSFAS loan structure and convert it to a guarantee system where they become the wholesaler and the financial institutions become the retailer whereby the actual money now or the predominant source of funding will be the private sector financial institutions within the existing system of NSFAS it is very easy to convert that.

COMMISSIONER KHUMALO: Can you just have a look at it again, maybe have a look at the challenges of NSFAS and how that as a system still has got holes with the very easy that you are suggesting.

MR. A. VAN WYK: Right, the last point Mr Chairman is that I mentioned that we, if you have a bad bank with you know all these loans now securitised it has to be on the back of a good bank where there are good assets and bad assets so the asset management company would have to raise debt on the back of the good assets which exist in a good bank, that could be an existing bank or a bank to be or a financial instrument to be agreed on by the state.

JUDGE: No but this is all very well, if you take the African Bank example, the fact of the matter was that it had two classes of debt, one involved the loan account which was bad debt and the small loans that it made and so on which was not likely to be recovered or with difficulty, what was the good section of African Bank?

MR. A. VAN WYK: Ja they had insurance products ...[intervenes]

JUDGE: What did they put into the good bank?

MR. A. VAN WYK: They put in the good bank all the loans that were paying and that was current and the best customers they took and put it in the good bank and the insurance business.

JUDGE: Now where are the assets for your good bank going to come from?

MR. A. VAN WYK: This is the point, the state has a desire to create a stakeholder, a stake in a South African financial institution because we have a problem in this country in that most of these banks are not really owned by South Africans and if they are owned by South Africans the bond holders themselves are based overseas to me that represents a risk in terms of our national interest and an opportunity exists at the current moment where UK subsidiary wants to dispose of their South African asset and I believe that the affected stakeholders must come together and agree with the Reserve Bank on a strategy how to bring that asset back to South Africa.

JUDGE: Yes I hear you but in your situation where are the good assets, the assets for the good bank going to come from?

MR. A. VAN WYK: The state will have to act somehow as a warehousing entity because nobody at the current moment, even despite the fact that the PIC has the liquidity to do a deal in order to acquire the shareholding from that overseas institution, the statutory limitations would not allow them and especially the Basel 3 regiment of financial regulations overseas will not allow them to take over the majority stakeholder in the bank in any case. If the shareholder is more than 15 percent the Reserve Bank has to agree to it. Secondly if it goes up to, exceeding 49 percent the Minister of Finance will have to agree to it and you know there are roadblocks there, legislative roadblocks.

JUDGE: Given all that where are the assets for the good bank going to come from?

MR. A. VAN WYK: There will have to be a negotiation Mr Chair between PIC, the National Students Finance Agency, the Pension, Trade Unions to agree to a roadmap in order to acquire those assets.

JUDGE: And what ...[intervenes]

MR. A. VAN WYK: And the Reserve Bank has done it before.

JUDGE: What do you imagine the value of those assets should be?

MR. A. VAN WYK: Well it would probably exceed R60 billion.

JUDGE: Okay so if the state has R100 billion to invest, could that be used.

MR. A. VAN WYK: For the good bank?

JUDGE: Yes, now how would it be used in the good bank?

MR. A. VAN WYK: A bond would be raised against those assets and the interested parties would have an agreement with the Reserve Bank to buy those assets from the state at a time which is opportune to them, the Reserve Bank has done it in the case of African Bank.

JUDGE: For what purpose would the bond be raised?

MR. A. VAN WYK: Just to clarify that Mr Chair?

JUDGE: You said a bond would be raised against those assets, for what purpose?

MR. A. VAN WYK: To acquire it.

JUDGE: Yes but the money that is loaned on the bond where would that go to?

MR. A. VAN WYK: It would have to pay the overseas vendor of the assets.

JUDGE: Ore any other member.

MR. A. VAN WYK: Correct.

JUDGE: Now but how is that going to help the education sector?

MR. A. VAN WYK: Then you have the assets in order to unlock the broader spectrum of finance that will come into the market because the student ...[intervenes]

JUDGE: That is speak language, I do not know what you are trying to speak but what do you mean by unlocking the assets for that purpose?

MR. A. VAN WYK: The bad bank for example, let us say the bad bank buys up all the bad loans in the country at the moment, they will be sitting with a book of, the book will be in theory R20 billion but in reality the value of it will be about R2 billion that is not sufficient to raise a guarantee to buy another bank of R60 billion so what the state would have to do is to say right that is a good asset so we will buy it, we will warehouse it at an agreed time, you will come forward and you will become shareholders and then we will release the shares to you as your capability is displayed to buyer.

JUDGE: Yes but what is the business of this bank going to be, of the good bank?

MR. A. VAN WYK: It is merely serving as a bank asset Mr Chair, the asset of the bad bank is not sufficient and you need a good bank in order to back up, in order to raise more money in the marketplace.

JUDGE: For education?

MR. A. VAN WYK: Because the bad bank alone cannot do it.

JUDGE: For education?

MR. A. VAN WYK: If they want to raise money they will only for example raise R2 billion in the scenario as sketched and that is not going to get us anywhere.

JUDGE: Is this to raise money for education?

MR. A. VAN WYK: That is correct.

JUDGE: Infrastructure and tuition?

MR. A. VAN WYK: Correct Chair.

JUDGE: Funding students.

MR. A. VAN WYK: Yes Mr Chairman.

JUDGE: Alright thank you Miss Lekoane.

ADV. M. LEKOANE: Thank you Chair. You may proceed.

MR. A. VAN WYK: Mr Chair there are other entities that would need to come into the discussion that would include the Reserve Bank, the Development Bank of South Africa, Industrial Development Corporation, the Bricks Bank, the Public Investment Corporation, Commonwealth

Development Bank, Trade Union Pension Funds, Commercial Banks, Insurers, Multi Lateral Development Agencies. A sole instrument can be constricted and pegged against Bricks member currencies for example, this is an ideal new product which can be used as a source of funding for state guarantee to the National Students Finance Agency they can use the guarantee to raise billions of new money to come into the capital or the student loan market.

The asset management company will for example be able to set up a new loan administration system and either work in conjunction with or strip that functionality from the existing infrastructure that exists to recover these loans on behalf of the state. And that in a nutshell Mr Chair I have given further particulars there but I do not think it is necessary now to go into it, that in a nutshell is my strategy and in going forward my suggestion will be that a technical team comprising of the National Treasury, Education Department, Reserve Bank and DTI and effective investors these are now the Pension Fund administrators that I mentioned, the PIC can go into a discussion with the Reserve Bank regarding an establishment or an acquisition of a good bank.

Thereafter broader technical workshop must be held with key governmental and private sector players to define common ground on risk mitigation and now in theory the state can aid, shape this to achieve this through recreation of a good bank and a bad bank.

COMMISSIONER KHUMALO: Sorry Mr van Wyk the Asset Management Company is it, what would be the legal status of it?

MR. A. VAN WYK: It will be a special purpose vehicle to collect, to buy out all the bad loans from everybody that gives loans to students at the present moment.

COMMISSIONER KHUMALO: Would it be state owned?

MR. A. VAN WYK: It does not have to be state owned it can be the existing shareholders, sorry stakeholders, for example the Pension Funds, financial entities that wants to participate as investors and people like the National Students Finance Agency and the Universities, anybody that has loans outstanding can clean the slate and say right from this day onwards we are going to hand over the loans that we cannot manage to an entity that can manage it on our behalf and we will be stakeholders or equity participants and we will also be participants in a good bank to pack those assets to raise more money for the student loan market.

COMMISSIONER KHUMALO: So whether at a point of distribution or collection what happens to the treatment of interest?

MR. A. VAN WYK: The interest will still, the interest is set by the Reserve Bank and you cannot acquire money below what the Reserve Bank is offering the institutional rate that the reserve bank is offering so that will remain as is. The issue is capital unfortunately you cannot dilute capital so interest will be compounding on those loans.

COMMISSIONER KHUMALO: But it can compound by virtue of it being banked.

MR. A. VAN WYK: Yes but we have got a National Credit Act, we have got a section 105 which deals with interest in that the interest is not allowed to exceed the capital sum, however in the situation that we exist now at the moment that rule is not being observed by many institutions.

COMMISSIONER KHUMALO: But I am saying if there is any interest that is accumulated in this vehicle does it get replanted back to the vehicle that you are suggesting or it increases the pool from where you either distribute or repay?

MR. A. VAN WYK: Yes all the income that is derived from this proposed Asset Management Company will do two things, it will pay off the loan that they may have incurred in buying the good bank and it will also you know pay the current running administrative costs of that institutions.

COMMISSIONER KHUMALO: May there possibly be an incentive to the successful students?

MR. A. VAN WYK: Yes.

COMMISSIONER KHUMALO: Thank you.

MR. A. VAN WYK: Mr Chairman that is the end of our presentation, any further questions I would like to answer?

JUDGE: Many, many questions.

MR. A. VAN WYK: Right.

JUDGE: You do not have a magical word like abracadabra do you?

MR. A. VAN WYK: No Mr Chair.

JUDGE: No but I look at this and I see that what you are really proposing is a major restructure of the South African financial system.

MR. A. VAN WYK: Not necessarily Mr Chairman, there is laws that sufficiently supervise, our banks are very stable, there are laws that those laws must be applied but the, as you mentioned the political will for these corporations to come to the party does not yet exist.

JUDGE: Well let us put it slightly differently, the foresight has not broken through yet, it has not dawned because when I look at your proposal for going forward I see that what you propose is a technical team joined by the National Treasury, the Education Department, the Reserve Bank, the DTI and affected investors which will require to be established on acquisition or establishment of a good bank and a bad bank and thereafter a broader technical workshop with key governmental and private sector role players, this seems to be a major undertaking which is far, far beyond the remit of this commission with all due respect which is why I assume you went to government first.

MR. A. VAN WYK: Yes Chair there are several things at play Mr Chairman the (1) is what are we going to do with economic growth in the country, (2) what are we going to do with the shortage of skills and (3) it is quite evident that the poor ownership of South Africans over our banking systems is presenting a problem to our national interest and that is why the discussion with the Reserve Bank and the National Treasury is very urgent in acquiring a good bank.

JUDGE: I cannot disagree with you because I do not have the knowledge and the insight to disagree and I am sure you have done a lot of preparation on it but none of that seems to impact directly on our remit.

MR. A. VAN WYK: It impacts in the sense that if we for example, if the recommendation by the commission for example is let us raise the VAT, let us derive a hundred billion from there, the impact of that will be that you create hardship on a large portion of the population because the indirect tax on the poor. If you go the route where you are asking corporates to raise the money by way of a higher tax you entice these people to go create offshore trusts in which they will siphon off all their profits to overseas service company's. So in order for the state to avoid those risks the state need t decide, let us get the private section involved and we will help me, we will stretch a hand in order to help them to come over and be part of this whole push.

JUDGE: Alright thank you, I appreciate that. I would like you thought to look a the ministerial task team report.

MR. A. VAN WYK: I will Mr Chairman.

JUDGE: Because it seems to me that what you have said may either provide an additional input into that report to their benefit and to our benefit generally or it may lead you to say something additional in relation to the more direct position that we face, I hear what you are saying about the consequences of a recommendation from our side. Could we leave it at that at this stage.

MR. A. VAN WYK: Yes Mr Chair.

JUDGE: And we would wait to hear from you even if it be only in a very brief note to say I have got nothing to add to this and I am in favour of it or I am not in favour of it or it does not seem to me that it will work or something of that nature.

MR. A. VAN WYK: Fine.

JUDGE: I do not ask you to write a report.

MR. A. VAN WYK: Right.

JUDGE: That is what we are looking for. Thank you.

MR. A. VAN WYK: Thank you. Mr Chair if I can add one, some of the discussion that they had here was already you know sounded, like I used the existing financial institutions that is in this business of underwriting debt as a sound board and the overall opinion was that there is nothing existing at the moment for them to make a decision to invest in the student loan sector.

JUDGE: Yes.

MR. A. VAN WYK: I have been to the major ones and I am talking credit guarantee, the major insurance and such.

JUDGE: None of them has come forward to make any representations to us.

MR. A. VAN WYK: Yes.

JUDGE: Thank you very much I am not surprised to hear that. Thank

NO FURTHER QUESTIONS

ADV. K. PILLAY SC: Thank you Chair.

JUDGE: Miss Lekoane I would expect you in due course to give a detailed summary of that proposal explaining it to us in all its ramifications.

ADV. M. LEKOANE: Will do Judge.

JUDGE: Thank you.

ADV. K. PILLAY SC: Thank you Chair may we then adjourn until tomorrow where we hear from, we hear tomorrow from the PIC and from the GEPF.

JUDGE: Yes thank you very much indeed.

MEETING ADJOURNS

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