

03-04-2017

03-04-2017

Set 8 DAY 11

COMMISSION OF INQUIRY INTO
HIGHER EDUCATION AND TRAINING

PARTIES PRESENT:

The Chairperson

Commissioners

Head of Evidence Leader

Evidence Leader

Experts

Secretariat

WITNESSES:

Ms. September, (MP).

Chairperson, Parliament Portfolio Committee on Higher Education

Ms. Y Phosa, (MP).

Chairperson, Parliament Portfolio Committee on Appropriation

Mr. Yunus Carrim, (MP).

Chairperson, Parliament Standing Committee on Finance

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

JUDGE HEHER: We appreciate your trouble in coming to present to us. MS. Pilay, who is going to lead the evidence?

ADV. K. PILAY: Thank you Chair! Appearing before u today, Chair, we have three parliamentary committees. The first is the committee on higher education. The second is the committee on appropriation and thirdly, the standing committee on finance. Representing each committee is their chairpersons. Representing portfolio committee on higher education is Ms. September.

Representing portfolio is the committee on appropriation is Ms. Phosa. Representing standing committee on finance Mr. Carrim. May I ask that they either take the oath or affirm?

JUDGE HEHER: Is that the order in which you prefer to handle presentations?

ADV. K. PILAY: I think the presentation as I understand it Chair. The overview will be provided by Mrs. Phosa after which we deal will standing committee on finance and after that it will be Higher education and appropriation.

JUDGE HEHER: Mrs. Phosa, do you have any objection to taking the oath or do you prefer to affirm?

MRS PHOSA: _ I will take the oath.

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

JUDGE HEHER: Do you swear that the evidence you will give will be the truth and nothing but the truth? If you do, raise your right hands and say, so help me God.

MRS PHOSA: So help me God!

JUDGE HEHER: Thank you very much, Mrs Phosa! Your official position is?

MRS PHOSA: I am the chairperson standing committee on appropriations.

JUDGE HEHER: Thank you. That makes you a member of parliament?

MRS PHOSA: Yes.

JUDGE HEHER: Thank you. Mrs. Pilay.

ADV. K. PILAY: Thank you Chair. Mrs. Phosa the evidence leaders of the commission have posed some questions to the members of the parliamentary portfolio on appropriations and I know that presentation has been prepared in response to those questions. So, we can begin with presentation and when questions arise we can pose them to you.

MRS PHOSA: Honourable Judge Heher, Commissioner Ally, Advocate Leah Thabiso Khumalo, Evidence Leader, Advocate Pilay, Advocates Mabuda and Lekoane, experts, Prof. Mosia, ladies and gentlemen. Firstly, the delegation wishes to acknowledge the works of the Commission of enquiry into higher education and training established by the President of South Africa in terms of Section 34 sub-section 2F of the constitution of the republic of South Africa 1996, Act 108 of 1996. Clause 7 of the amended terms of reference of the

03-04-2017

commission clearly states that all organs of state, institutions and stakeholders are required to cooperate fully with the commission. It is against this background that we wish to apologise profusely for the misinterpretation and misunderstanding of the laws as how it relates to the power of the commission, and the needs for all stakeholders including the committees of the parliament to cooperate fully with the commission. In the same spirit, we wish to thank the commission for offering another opportunity to take part in this significant process which aimed at assessing the feasibility of making higher education and training fees free in South Africa.

The structures and functions of the parliament-

Parliament consists of two houses of the National Assembly and the National Council of Provinces. Each house has its own distinct roles and functions as set out in the constitution. However, there are many instances when the two houses act together to conduct what is called joint business. In the national sphere of government, the legislative power of the republic is vested in the parliament. Parliament is responsible for making and passing laws. The National Assembly also chooses the president and it is a national forum where issues are debated openly and publicly. The assembly also has to scrutinise and oversee the actions of the executive.

The National Council of Provinces must ensure that provincial interests are taken into account in the national sphere of government. It does that by taking part in the lawmaking process, and being the forum where issues affecting the provinces are debated publicly.

03-04-2017

The roles of the parliamentary committees:

Parliamentary committees are established as instruments of the houses in terms of the constitution of the Republic of South Africa to facilitate public participation and oversight over the executive. These committees are the engine room of parliament oversight and legislative works. Committees scrutinise legislation before parliament oversee government action plans and interact with the public. One of the most important aspects of the oversight functions is the consideration by committees of annual reports of organs of state and the report of the Auditor-General. Depending on the purpose of the oversight, the committee will either request a briefing from an organ of the state or visit it for facts-finding.

The national provincial budget process is a continual cycle that runs from April to March the following year that is the final year. During the first quarter, the Minister of Finance tables the national budget in parliament at the same time as the appropriation bill, division of revenue bill, fiscal framework for the financial year and subsequent two years, revenue proposals and micro-economic assumptions underlining the fiscal frameworks. During the second quarter, parliament deliberates and adopts the fiscal frameworks for the upcoming year and begins hearings on division of revenue bill which is then passed in parliament by both houses. The appropriation bill is passed in parliament by both houses. And based on this, funds are allocated to departments on monthly basis, as the constitution specifies that government

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

can only spend money if it has been approved by parliament. The parliament passes the budget through the appropriation bill.

During the third quarter, parliamentary committees focus on analysis section 32 of the Public Finances Management Act 1999, report for April- June first quarter period of the financial year, conduct oversights including briefings and specific oversights visits and also reports on the annual reports and financial statements for the financial year.

During the fourth quarter, parliament focuses on the consideration of the medium-term budget of the policy statements. The medium-term budget of the policy statements is a mini budget that highlights key government priorities, the size of the spending envelope for the next three years, the proposed division of revenue and measured adjustment of conditional grants to provincial and local government allocation.

The MTBS is also a government policy document that communicates to parliament and a count to the economic context in which the upcoming budget will be presented along with fiscal policy objectives and spending priorities over the three years expenditures period. During this period, parliament also focuses on phase 1 of budget review and recommendations reports; that is to analyse Section 32 of the PFMA report for the July-September period which is the second quarter of the financial year; evaluates strategic plans and also conducts oversights including briefings on specific visits and site visits. It is also in this quarter that parliament passes the revised fiscal frameworks, division of revenue amendment bill and adjustment appropriation bill.

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

On the budgetary reviews and recommendations reports, in respect of the Department of Higher Education and Training over the last 4 years; during the 2012-2013 financial year, the PC on higher education observed that the demand for financial assistance exceeded the available funds with NSFAS.

Further, the funding needs of students at the proposed two new universities; the University of Mpumalanga and Sol Plaatje University were going to stretch the limited resources available to the scheme. The committee recommended that the Minister approach the national treasury for additional funding. During the 2013/2014 accounting period, the committee observed that despite the increase in funding from 4,440 million in 1999 to 9 billion in 2014, the demand for financial aid exceed the supply. The increase in the students' protest across higher education institutions even where the new model was piloted was highlighted as a major threat to stability in higher education.

Furthermore, the new model did not make provision for top slicing. These infuriated some needy students as they were not funded for the 2014 academic year, particularly, in the institutions where the new model was piloted. During the 2015 financial year, the committee observed that the NSFAS loans recovery for 214/2015 financial year was very low.

Further, the poor loan recovery strategy was seen as disincentive to possible private funders/donors for the scheme during the period under review. The committee recommended that adequate funding for higher education be assured as well as strengthened partnership between private sector business and the department on funding for higher education. During the 2015/2016

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

financial year, the committee observed that the department was in contact with the Historically Disadvantaged Institutions that were experiencing financial constraints after the implementation of a zero fee increment. This intervention was aimed at bringing stability in the institutions to mitigate eventuality that might have negative impact on academic programmes. The committee welcomed the additional funds allocated and other interventions such as the establishment of the Commission to consider the feasibility of providing fee free higher education in South Africa. During the 2016/2017 financial year, the committee observed the department and some of its entities continued to be underfunded. The current funding of the department was found not match its expanded mandate of producing a skilled and capable workforce to support an inclusive growth path.

On the discussion and recommendations on the post-school higher education and training since 2015, on the 18th of February 2015, the PC on higher education had briefings from the Department of Higher Education and Training on registration and enrolments in higher education institutions and technical vocational education and training colleges in 2015. The committee also received a briefing by the National Students Funds Financial Loans Scheme on the allocation of study loans and bursaries to higher education institutions and TVET colleges in 2015. On the 10th of February 2016, the committee received briefings by the Department of Higher Education and Training on registration and enrolments in universities and TVET colleges,

03-04-2017

and a briefing by NSFAS on the allocation of funds to universities and TVET colleges in the 2016 academic year.

During the process of the 2015 medium-term budget policy statement, the standing committee on appropriations engaged with various stakeholders on the funding challenges facing the higher education sector. During the deliberations, it became clear that further research and information were required in order for the committee to apply itself accurately on the matter. To this end, the committee requested the parliamentary budget office to conduct a research and analysis on the matter. Their findings thereof are contained in the PBO presentation as presented on the 18th of October 2016 and will also be presented tomorrow.

Discussions and recommendations on the funding of fee free higher education and training.

The issue of fee free higher education and training was discussed during a meeting of 24th August 2016 when the Minister of higher education and training and the department briefed the committee on the development in the higher education sector and the proposed fees adjustment for the 2017 academic year as well as the feasibility of fees free higher education.

Now, the discussion and recommendations on the funding and decision taken in 2016 that public institutions would not increase students' tuition and fees for accommodation for the 2016 academic year. The portfolio committee on the 4th of October 2016 conferred with the standing and select committees on

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

appropriation mainly on funding of higher education sector and post-school education and training sector in general. It was during this meeting that the department presented on how the 0% fees increment shortfall of 2.33 billion was going to be funded and funding requirements for the and post-school education and training sector as a whole, as well as engaging on the recommendations contained in the 2016 budgetary review, recommendations report of the portfolio committee on higher education and training. The observations and recommendations are contained in the report of the standing committee on appropriations of the 2015 medium term budget policy statement dated 25th November 2017.

The consideration which affects the allocation of funds to the post-school education and training sector: the portfolio committee observed that the 2016/2017 funding of the department does not match its expanded mandate to produce a skilled and capable workforce to support an inclusive growth path.

ADV. G. ALLY: Sorry Mrs Phosa. If you can go back, I am sure it is typographical error. Is the date 25th November 2017 Correct? So, it should be 2016 I would think

MRS PHOSA: Yes sorry. Our apologies, Honourable Judge. May I proceed?
Let me start under 8.

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

It was also noted by the committee that there was no funding allocated in the 2016 MTF to cater for 0% fees increment in 2017 academic year going forward.

Further, the department targeted to cover at least 80% of college students with NSFAS bursaries. However, the investment of 2.4 billion for 2016/2017 was insufficient taking into account the National Development Plan and Whitepaper targets.

The 2016 bursary shortfall was estimated at 2.3 billion which was projected to grow 5.6 billion if the current level of funding is maintained.

Once more, we really thank you for allowing us the opportunity to engage with the commissioners. And indeed, at the end of it all, we are looking forward to the outcomes of this engagement.

JUDGE HEHER: Thank you for your crystal clear oversight. Who is the next witness?

ADV. K. PILAY: Thank you chair. If I just may ask one question?

JUDGE HEHER: Yes?

ADV. K. PILAY: Mrs Phosa, I just want to be clear something. The report we have is that of the standing committee on appropriations on the adjustment of appropriation bill, but it is dated 25th of November 2015 and not 2016. I just want to double check the year of the document you referred to.

MRS. PHOSA: 2015.

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

ADV. M. LEKOANE: On the fee free, is it on the total costs of? Fee free, what does it mean in the presentation that has been submitted? Anyone can answer

JUDGE HEHER: MRS September, do you swear that the evidence you will give will be the truth and nothing but the truth? Would you prefer to affirm? If you do, raise your right hands and say, so help me God.

MRS SEPTEMBER: I will take the oath.

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

MRS SEPTEMBER: So help me God!

JUDGE HEHER: Thank you.

MRS SEPTEMBER: Thank you very much if I can just answer the question. If I can just focus on number 6, it says discussions and recommendations on the funding of fee free higher education and training; the issue of fee free higher education. What this point informs us is really what happens in the meeting. That does not mean that the discussion was that we were discussing merits or demerits of whatever of fee free education. Secondly, you would remember that the Minister made an announcement that would cover both the universities and the TVET colleges. And far as that was concerned, they were then not going to have an increase. So, that is the context of the discussion in what the point is trying to tell us here.

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

ADV. M. LEKOANE: Just to follow up. Does the loose use of the term have impact though in the consideration on appropriations bill and all of that- in the costing?

MRS SEPTEMBER: I refer to finance.

JUDGE HEHER: Mr. Carrim, would you prefer to swear or to affirm?

MR CAROLL: Affirm please.

JUDGE HEHER: Mr. Carrim, do you affirm that the evidence you will give will be the truth and nothing but the truth? If you do, raise your right hands and say, so help me God.

MR CAROLL: I do.

JUDGE HEHER: Thank you.

MR KARIM: Very quickly. Obviously, I was not present at that meeting, but if it is relevant at all, my two colleagues will add. There is no, as I understand, commitments either by government or the parliament at this stage to completely fee free education system. It seems to me that that was a discussion that occurred in the education committee, but there was no outcome that said we recommend. Now, because of the nature of the (Money Bill) Act, what happens is, and we are reviewing that Act. In fact, the priority now is the second quarter of this year, the finance committee in cooperation with appropriation committee and their counterpart committee in NCOP, is to review the Money Bill Act because of its onerous nature. But what happens is

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

that because the finance committee has to look at the fiscal frameworks, and we have to do within 15 days; public hearings and everything from the day the Minister presents the budget, to the day we present our fiscal framework, it is only upon our presentation to the house of the fiscal framework that the appropriation committee- (has got 14 days) - to finish their far more onerous task than ours; looking at each department and decide what goes where. So, in our committee, this issue came up. And we said, if you look at longer slide presentation that was presented to you on Friday morning -slide 35- you will see what we've recommended. We said the best thing is there are two categories of people we have to address. One is those who already qualified for the NSFAS grant, but in addition, because it was a public debate, we should also consider the missing middle as well. I am sure you are familiar with the term. So, the term we used is 'needy'. We say in the resolution we took; we think that the executive should give consideration to free education for the needy/

ADV. K. PILAY: Mr. Carrim may I just interrupt you. I am so sorry to do this. The difficulty with this topic is that everything is inter-related. Your presentation from the standing committee is very structured, and we have some specific questions around your roles on getting to your position on the question of fee free higher education. May I suggest that you begin with your portion of the presentation and we take sequentially and pose questions around your role and eventually get to your position on the financing of fee free higher education? With your leave, Chair, if I may ask.

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

JUDGE HEHER: I am in your hands, Ms Pilay.

ADV. K. PILAY: So, if I may ask that you deal with your presentation as it sets out from slide 40 onwards.

MR KARIM: The question is what you mean by fee free education. That is what prompted that and the reply is simple; that there was no decision taken by any committee in parliament. And our own committee for its work used the term needy. And in our proposal and recommendations we've said the executive should engage with the department of higher education and training to establish where the boundary begins and ends with the needy. So, that is the precise answer to the question.

ADV. K. PILAY: Just to contextualise that answer for the benefit of commission. We posed those questions to the committees and they then structured presentation in response to those questions.

MR KARIM: In that case, I think we have explained what the role of the finance committee is. It is essentially to look at the fiscal frameworks. Basically, what we look at the projected economic growth forecast, inflation rates, and things like revenue proposal- where the money is going to come from? How much income will come in terms of personal income tax as corporate income tax, VAT and as against customs and excise? We do not look at the division of revenues or the appropriations- what goes to each department.

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

ADV. K. PILAY: May I ask Mr. Carrim when you look at projected revenue, do you consider whether or not there is a need to investigate other sources of revenue? In other words, whether they should be a tax increase or graduate tax etc?

MR. CARRIM: Yes, we do. But we should also explain that the truth is that we do not have the technical capacity in parliament certainly as against the capacity national treasury has got; where it has people who served like the current DG for 20+ years with PHD and Masters in Economics; where they have people like Ismail (Momayan) who has been in the struggles for over 40 years and who has got the technical expertise. They go to IMF, World Bank and the G20 and go for courses as well. On our side, we've got some very bright, young, emerging economists with MAs and they can't match them. In short, in terms of the Money Bill Act, we are empowered to make proposals on getting further revenues, but we don't have the technical capacity to do it. So, what we do is in our recommendation, we say for example, our current concern- VAT. We are very concerned about the effects disproportionately on the poor and the lower income groups. So, we propose on very broad things like; when you decide to change the tax structure or increasing the amount of revenue, can you take this into account? Or if you are increasing the corporate income tax, can you take into account that it could have effects on the economy? It would even disproportionate effects on emerging African business people. So, that's what we do, but we leave it to the executive to respond to that.

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

JUDGE HEHER: May I put quite bluntly to you? As a parliamentary committee, are you there to look at the parliamentary interests of the political party that you represent, first of all? Let's not take the actual of the South African parliament, supposing you have Party A and Party B representatives on a parliamentary committee in this situation, anywhere in the world, do they look first at what are the aims of our party? And how can we best achieve these aims with the balancing of the money, whether you are in party A or b, whether you are in power or not?

MR. CARRIM: It is not different, if you like, from any democracy. It is not the government that goes to an election. It is the party that does. And obviously, it goes to the electorate with an election manifesto. And it is obliged, if it is a majority party to implement as much as that manifesto as possible. So, yes, the broad guiding framework is the election manifesto and the policies positions taken by conferences of the party. Particularly in our case, the ANC, it will be the 5- yearly conference and national general conference in 2^{1/2} years which is the mid-term conference. But also in between the National Executive Committee, there are resolutions on issues that affect our respective committees. But clearly, given the sensitivity of where we are as a country in the last two years especially, we take into account what the other parties are saying. And I can only speak for our finance committee. We hear them. We also need to say that we have to take very stringent account of what the public say. So, the Business Unity of South Africa will come, Banking Association and COSATU as well as FEDUSA. We have to take that into

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

account too. So yes, we seek to implement the party political positions, but not in a crude mechanical, mechanistic and authoritarian way. We have to take into account what the opposition party is saying and all parties have to listen to what the public is saying. And given the changing balance forces of particularly since 2014, we realised that we have to listen more carefully to what the opposition parties are saying.

JUDGE HEHER: So, you hope at the end to achieve what is in the best interest of your country?

MR. CARRIM: Yes, we try to see in our committee, and I suspect other committees to different degrees, to see, depending on the nature of the issues discussed, the opinions and mandate, we try to secure consensus on issues like tax. Frankly, the issues are too complex technically. And in our committee, we are very lucky. We've got two DA members, for example, one comes from the financial sector; he has been an investment and insurance person. So, we are less party politics driven when it comes to tax issues. It is when you have to decided whether to have fee free education completely or whether you are going to have the needy only covered or you are going to do just NSFAS, then the two committees here, they major on that. For us, we do what I say we do and you can check it. You can Google it or check on YouTube and see how our committee works. If it is relevant at all, in our committee, we allow public hearings till the very day before we vote on our bill. So, we take the public very seriously.

JUDGE HEHER: Thank you.

03-04-2017

ADV. K. PILAY: Mr. Carrim, just before you continue. One of the issues we've raised with the former Minister of Finance was the question of priorities and prioritization; budget priority versus political priority. What the former Minister was saying in his evidence was to sketch out for us some of the founding documents that govern budgetary priorities; so that when the national treasury makes a decision as to which priority to allocate money to; taking into account as you mentioned, the election manifesto etc, we would like to find out is the fiscal frameworks which your committee is responsible for, what role does that play in the determination of budgetary priorities?

MR. CARRIM: There is a national development plan that provides a broad framework for government. It has been converted into 5 year programme from 2014-2019, which is the medium term strategic framework. So, we look at the medium term strategic framework. And we look at what affects our committee. Obviously, the NDP is related to the election manifesto. So, that is the framework within which we do it. As I understand the way our national treasury works, it does then take into account other departments' priorities within the broad framework. They have the MINCOMBUD- ministerial committee on the budget and they have another structure which name escape, where they invite two chairs from the NCOP committees, the NA committees and also the appropriation committee, but we don't have any speaking right there, although previous ministers are very lax and easy about it and we can speak, but it is really to hear what. And that is how we get some insights into how the executive decides.

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

JUDGE HEHER: But you have to work with the priorities that are presented to you. You can change the priorities?

MR. CARRIM: Oh, you can. Parliament has the power to do so. You have structures; parties political structures where you confer, study groups where you engage in other structures. But, you can, yes indeed.

ADV. K. PILAY: Can we just understand how your three committees would work on priority for example fee free higher education and training? We know that in 2015 there was huge social upheaval attached to the demand for fee free higher education and training. We know that the difference between your committee and appropriation committee is that yours would focus specifically on revenues and the appropriation committee will focus on expenditures. Now, when the demand comes forward and if for example, the cabinet decides that is an apex priority for government, does your committee probe the question of whether or not you look for other sources in order to entertain demand or the feasibility of entertain demand?

MR. CARRIM: As you know, most government in a democratic regime, you first decide on the policy. And I think your commission will assist in that regard. We look keenly forward to the final report and recommendations. We will treat it with the urgency it requires. In the first instance, the way it works is the political party will discuss to what extent you want to provide free education and to who; which categories of students? Once, it decides that it will be the frame work in which the government will operate taking into account our budgetary consideration. One that is agreed to; this becomes is

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

the policy of the government taking into account the policy of the ANC, but bearing in mind in a policy conference of 3000 delegates, people can say, for example, give land to everybody tomorrow, but government has to adjust that and say, it can't be tomorrow. Tomorrow morning, we will start and increase of the next ten years and these are the targets and timelines. So, what governments do is agree with the policy, but how you implement depends on budgetary resources and other constraints. And then you develop a programme of implementation. What we are saying is that this same applies here; it is for the ANC and government to decide what the goal is and they bring it to the MINCOMBUD, councils that deal with these issues across the three spheres with the national treasury as the head and they will come up with a proposal. And the role of the parliament is terms of the Money Bill Act, is to say that we don't think the timelines are reasonable; make it faster. And we propose to the appropriations committee – Mrs. Phosa will speak for herself – which the money be taken straight from sport. I am just giving an example.

So, the question you ask. Do you look at improving revenue? Well, yes, only if the ANC as a majority party, government and the higher education committee which is the experts- once they have decided that that is the route, we have to look at their report and they would say we think the money can come from here or there. Then refer the report to us, then we can say you are taking money from sport or international relations; but we will look at what they are saying and suggest, can we maybe look at increasing income tax? Ours is like

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

the initial thing about the fiscal frameworks and the last thing when it comes to implementation; policy, where the money comes from; then, it is ours to do. So, it comes back to us. Complex as it is, that is the way it is. Maybe we should simplify it.

ADV. K. PILAY: Just coming back to you, Mr. Carrim briefly on the fiscal framework, what is the interrelationship between the fiscal framework and a budget for a particular year?

MR. CARRIM: Alright, when the minister brings his budget –between first or third week of February, the budget has a fiscal framework, the division of revenue across the spheres and the appropriation bill, the latter goes to the appropriation committee. So, we have to look at the overall framework because the many things Mrs Phosa’s committee would have to do depend on the economic growth forecast. We look at the economic growth forecast. We bring in experts. Of course, we also have the parliamentary budget office independently mandated to tell us as they do competently- they will say no, we don’t think this forecast is saying these here or these are valid. So, they will come and tell us what they as technical experts of the parliament think about what the executive are doing. And we will have the finance and fiscal commission appearing before us, we have academic experts appearing before us, and then we write a report. Once they do all of that... we also look at inflation target. We look at micro-economic framework. Once we are clear about the fiscal framework, then we hand over to Mrs. Phosa’s committee because they have to say if we are going to achieve this target and allocate

03-04-2017

this money to for instance, the department of sports, what does the finance committee say about the prospect of the growth rate, say, being 1.3% of the financial year. They say it is not possible. So, they have to take that into account. Immediately, we vote on our fiscal framework, our committee sends our report to them. So, they have to wait because whatever they want to do they have to know if it is plausible and realistic forecast of growth; is debt to the GDP ratio reasonable? Is the VAT increases possible to raise? Now, if you don't get growth, you are not going to get taxes. So, they will have to look at our fiscal frameworks in taking into account their decisions on division of revenue and appropriation— what goes to each department. But we all agree that if we agree that the Money Bill Act is far too onerous. If you want to change things the executive has made things so difficult. The judge asked us can you change things. Yes, judge, we can change things but it is very difficult because there a whole lot of criteria there. Secondly, you have to have technical expertise. Thirdly, you have to have the minister to look at and come back to you and say, yes or no. So, we are working and also Mrs Phosa's committee on focusing in the second quarter on changing the Money Bill Act because it is not a bill from the executive, it is a bill from the parliament. We will change it to make it users-friendly and we will change to empower parliamentarians and technical experts to effect changes.

ADV. K. PILAY: Some interesting issues, you raised Mr. Carrim because when we had national treasury before us and they've testified on many occasions. The theme of the evidence of the national treasury, when we were

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

probing budgetary decisions, was that they are merely technocrats and that budgeting decisions belong to parliament, not the executive. But you are testifying that the Money Amendment Bill is not conducive to that argument.

MR. CARRIM: They will say they are technocrats especially when the Minister or his deputy are not around. That's the way they do it all over the world. If I work under a Director General I would do the same. If the director is a politician, he would do the same.

JUDGE HEHER: Are you saying the view of the technocrats is; oh no Minister, you are the boss, but I know I am the boss?

MR. CARRIM: Yes, exactly. Now, that reminds of the *Yes, Minister*. I don't know if you have seen it.

JUDGE HEHER: Exactly what I have in mind.

MR. CARRIM: Wonderful series. It also applies to us especially in clime where you 4 finance ministers in the space of 18 months and four communication ministers. So, they know more. But of course the DGs are there. To answer your questions precisely because you ask questions that are complex. In the constitution, it is clear like in most democracies it is the parliament that passes the budget. Technically, legally and ultimately the budget process is the duty of the parliament. That is correct. Now, let me put it to you, the cycle of... as I understand it... all I am saying to you is that all that is true in theory and law, and in the constitution. But you see, they start in June of this year to come to the process of finalising the budget in February next year. How many days do

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

the finance committee have to process that? 16 days. Within what we've got we have to give 7 days to public hearing. Two, the weight, the balance of power is on their side. They've got experts that are full time. We process over 500 pages of bill last year. Just how do we match the national treasury? Let me put it to you, if you want parliament to be more effective on our oversights; we have to find the means where we have far more effective research support. We are not technical experts, we are politicians. So, what I am saying to you is that they are right to say that, but in practice... (Cuts).

JUDGE HEHER: Long and short of it is you are telling me what the present Money Bill Act does is ensure that the technocrats hold the power?

MR. CARRIM: Yes, Well it wasn't intended to do that, but the technocrats in the department carry the full weight. What I am saying is the parliamentary budget office which flows from the Money Bill Act, is a huge asset, but they work 25 hours a day, 8 days a week. But they cannot match because they cater for two committees here and other committees. They are not staffed enough.

JUDGE HEHER: I think we got the picture.

MR. CARRIM: Okay thank you.

ADV. M. LEKOANE: Mr. Carrim, from your committee, are we able to establish or give an assurance that order than prioritization, we can get an increment in the allocation of funds to higher education?

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

MR. CARRIM: With due respect, that is a matter we don't deal with. It is a matter that Mrs. Phosa will deal with it based on the discussion they and the education committed have had. If I am speaking in my personal capacity, I think it should be done. I think there has to be consideration to expand the categories of people who get free education, but those who do well when they graduate must contribute over a longer period if you earning less and over a shorter period if you are earning more. And SARS must play whatever they can play in the law. But our committee has no view on the matter. Thank you.

MRS SEPTEMBER: Well Honourable Yunus has already explained how the budget process unfolds. Starting from them, considering the fiscal frameworks, then only after they have tabled their fiscal framework that it gets referred to.

ADV. K. PILAY: Mrs. Phosa, I am sorry to disturb you but if we have a new speaker, the speaker must place himself on record for the purpose of our transcription.

MRS SEPTEMBER: Okay. I am Phosa. I am taking it up where he left off. When the division of revenue and appropriation is referred to the committee, the committees will then call the minister to come and explain so that we satisfy ourselves about what informs the allocation of the budget to the different departments, provinces and local governments and also allocations to certain entities. After that, we call FFC, which plays a crucial role. It is a key stakeholder in the budget formulation, to come and explain to us the roles they play in influencing the allocations of the budget. On quarterly basis, we

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

receive expenditures report of departments from the national treasury- we do oversights of about 40 national departments. We will then prioritise on those that need attention. After that, we will call them to engage with them. Thereafter, we call key stakeholders for public hearing purpose. Then, we will analyse to see whether there is money that can be used or where we can swap or change the allocations.

We have to be very realistic, when I came to the committee; my purpose was to amend the budget. It is easier said than done because if you want to get money from the money that has already been allocated, it means you must go to another department's programmes and take money from those programmes, and if you succeed, you must know that these departments fight over these limited budgetary resources, because there is a bidding process where they have to explain why they need the money. So, if you take that money, you must then call the department and engage with them. You must also call the Minister and inform the Minister about your intention to amend the budget. You must then give the Minister about 10 days to apply his mind and he must come back and gives us reasons if he agrees or doesn't agree with us; and we must reflect that in our report. Also, the Money Bill says our amendment must be consistent with the recommendations by the finance committee. In our engagement, we had a study group on where we can find more money for higher education.

ADV. K. PILAY: Mrs Phosa, when were you the Chair of the Higher Education committee?

03-04-2017

MRS SEPTEMBER: From 2014, to last year May. In our engagements, Honourable Judge, we couldn't find money. You spoke about government priorities. They don't just come up like that. You have a whole process; Lekgotlas- they look at the NDP targets- which ones are going to prioritise? Every year all these things get reviewed. It is in the course of the review that reprioritisation comes in. But it is not easy for us when a department has said these are our priorities for this year and then, we want to take the money and give it to education.

ADV. K. PILAY: We can we just test what you have just testified to see if it can work in practice. If I can just refer you to slide 27 and I am just trying to assess how the committee does it work having regard to priority which has been done already. The point that you are making here is that you have regard to the allocation to higher education and training and the committee highlighted that the investment government has made into higher education has increased significantly over the past years through increase in expenditures. It has not been proportionate to the skills level of the country workforce. Can you take us through how that discussion happens? How does the committee look at the medium term framework objectives or the priorities that are outlined there? How does it assess those against proposed allocations to the departments?

MRS SEPTEMBER: I think it is a bit tricky for me. If you can just simplify it for me, I will be able to respond.

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

ADV. K. PILAY: What you were doing with the first observation is taking us through the process how the committee looks at priorities especially those in the medium term framework and it looks proposed allocations, we just want to understand how the process work in practice? What does the committee do? How does it realise whether a proposed allocation aligns with medium term framework?

MRS SEPTEMBER: You see in the committee, we have researchers who that work for us. Also, when the Minister comes, he comes with his team, there is when we interrogate him on the allocations. Sometimes, we tease him knowing that it is going to be a difficult exercise and say to him what if we take money from here? For instance, in this financial year, treasury has already determined lower budget ceiling. You can imagine after he has done that, you go into a department, where he has already reduced their expenditures budget, and you say I want to take from this. That is why treasury has reprioritised the budget itself. Once you touch, then woes begin. We have said in our committee that we need to find ways to teach the DGs about compromise because everybody holds their budget tight, they don't want you to touch. One criterion treasury uses to reduce budget is some department will get allocations, but they will not spend it. The treasury will just take the money. And we have argued with treasury that they can't take the money because there is already a plan for the money. But they get punished for under expenditures in their budgets. So, the interpretation of under expenditure is maybe you asked for money you did not need. So, we deal with

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

situation that the national treasury has tried to intervene being involved in your economic environment, which is often a difficult environment but he was forced to intervene. When he comes to us, we don't find a space to tamper with budget to amend. But we are seriously looking at amending. We then ask PBO to do research for us and give us serious analysis because we want to use that information to inform decision to amend maybe in the best interest of education.

ADV. K. PILAY: And under the Money Bill Act as it stands now, when the appropriation committee looks at MTSF and it sees the increase in the skill level of the workforce of this country, it looks at the allocation to the department of higher education and decides that the allocations to department which respect to TVET and NSFAS is inadequate and will not reach disadvantaged communities, and promote development of skills to these communities, does the committees has the power to say to treasury, that this is inappropriate and inadequate, and you need to relook at it?

MRS SEPTEMBER: Yes, at the right time and when we have information, we will be able to do that. That's why we say to you that researching to see how we can so that we don't disturb and cause wars between departments. I think it is correctly explained every budget has got its policies and obligations to implement those policies. In our oversight, we look at alignment with those priorities.

ADV. K. PILAY: We know Mrs Phosa that your committee focuses on the expenditures side which why you refer to competition and jostling among

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

departments. But does your committee has the power to say we've looked at the allocation to the higher education, it is not sufficient, we don't believe there is other money to be taken from other departments. But we want the standing on finance to look at the income side of things whether they can find other sources of revenue to increase the allocation to the department?

MRS SEPTEMBER: Honourable Commissioner, we do that. We look at what can we amend. And we analyse all the budgets; where can we find money? The way we are desperate to find money, last week, we looked at the department of health; there are a lot of problems. So, we said to all the provincial departments to come and give us their programmes, in all of them we found an item that said other. Because we are looking for money, we asked what is this other? It was not specific. We actually wanted to take that money. Can you see, we looked from national all through to provincial departments? Then, they gave us a breakdown. We said that what they ought to have done. Plans must be smart. We wrote to them that we are e looking form money for education and they then gave us a breakdown.

JUDGE HEHER: I find it fascinating it just like I have been listening to Yes, *Minister* again. I think I like to take an adjournment if you don't mind. Thank you.

03-04-2017

SESSION 2

JUDGE HEHER: Yes Ms Pilay

ADV. K. PILAY: Thank you Chair, Mrs Phosa you are still dealing with your presentation, perhaps you want to pick up from 27 as it is on my slide.

MRS PHOSA: I was explaining that indeed we have observed that government has tried it's best to increase the budget over the years for the department of higher education and training but i will really like to illustrate one thing. The needs of that department are huge. Honourable judge presently we are dealing with an urgent problem of funding tertiary education, TIVET colleges and so on. At the end of the financial year you have a huge number of students who passed matric who you cannot tell 'wait we are still solving a problem' and that aggravate the problem. That is why I am saying it has increased but if you look at whether we have achieved what we want to achieve, it looks like something that is difficult but I am not saying that a solution cannot be found.

If you look at our presentation on slide number 33, we tried to come up with recommending possible solutions because we can only talk about possible solutions whilst we are walking hard to analyze the budget looking at where we can find another money within the already allocated budget so that we can

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

again try and augment what the budget that is already allocated for education. It is true that government is determined to find the solution. I guess one other alternative to finding a solution is to get a commission in place and so they can assist, and in our public hearing we can get people even HRSC (Human Research Council) to come up with recommendations and in our work we then consider the recommendations and highly professional people would also come and advise us and then we are also to come up with recommendations that we have come up for National Treasury to consider in it's allocation in the next financial year.

JUDGE HEHER: Your recommendations we have largely but not entirely considered, because we have not really looked at the question concerning none strategic asset because it is not really our business and nobody has made any presentation to us on that but for the rest we will certainly considering all the options.

ADV. G. ALLY: Perhaps Mrs. September can indicate what has happened because this were recommendation from your time and then went over to Mrs. September in terms of the implementation of that particular process, regarding this issues. Has there been any progress in terms of that or has anyone reported back regarding that issue raised in 2015 MTBPS exclusive on those recommendations on slide 33?

JUDGE HEHER: You know as we know that there is been a ministerial task team that has to some extent addressed the fifth or last point, are you aware of that?

03-04-2017

MRS PHOSA: For information sharing, this recommendation will be tabled to the parliament and Parliament after adoption of report will then refer this or make recommendations to National Treasury to say in your next, or as you continue this processes can you also look at this. I am trying to say what then needs to happen as a follow up is that in our next meeting when we finish with the budget process we then summon National Treasury asking How far have you gone with the implementation or we just write to them and say can you submit a report on how far you have gone with the implementation and ask if you they have got challenges that what are those challenges. Just as way of finding an action in place. Committees do it differently and in our scope...

ADV. G. ALLY: The question that I am asking should not be asked from Mrs September because it came from your process and National Treasury takes it on board and you engage with them through the budgetary process. Thank you.

MRS PHOSA: I don't know if the PBS will cover it tomorrow on how far we with the engagement with the municipality on most presentation we've had. It is a struggle to allocate TVET student. So I see a lot of recommendations to involve the Municipality. I am sure we will get a report tomorrow on this slide 27 on appropriation. This is a recommendation and ours is to make a follow up to know if they were able to implement or and if not what are the challenges so that we can start to deal with the challenges.

ADV. K. PILAY: And to see the capacity of the municipality, to know how much they can swallow?

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

MRS PHOSA: It is because they must do a visibility study before, they not just.....and thereafter look at the budget and then they must come back and tell if there is a plan because there is a budget.

JUDGE HEHER: Yes sir?

MR. CARRIM: What you are also raising also point to some vacuum in the Money Bill Act. What our committee is doing differently, we in the fiscal frame work report we make various recommendation. In our report if you see them, you will see that rather than next quarterly report of National Treasury and SARS they must give us another progress report within 6 months by the third quarter of this year they must give us a report or in the first quarter of next year because we do quarterly report.

So make recommendation, because it is a very useful question that you are asking, and then what happens are different committees do it differently. In our committee i can tell you we are expedient we insist that when they give us a quarterly report, they start by looking at our recommendation and say what have you done about that and that. Sometimes we see finance man disagree with them and say 'no we didn't agree and you haven't done enough, explain to us why. Can you come back in the next quarterly report or can you in 7 or 10 days give it to us in writing. So we do quarterly engagement so that those recommendations have words on paper. Secondly the problem asked from the question asked by your colleague there, is not in the Money bill act, and

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

says if the executive doesn't respond this is the course of action that. Secondly if you look at what the leader of delegation explains, if you look at the BERRR Project recommendations report, they are meant to be recommendations to the executive. The difficulty with that is the public finance Management act says all annual report must be submitted by the end of September. Invariably Parliament breaks for a quarter, you have 2 weeks constitute as a period. So you have a very limited time to influence the medium term budget policy statement. Often in fact we submit our report within 48 hours before, by which time the minister is redrafting the MTBPS. What happens is that they only look at your report at the next circle.

So what we have started is that we have started having a discussion on is that whether we need to bring forward our deadline to the end of August or may be the end of July. There are a lot of difficulties that the executive says they have to do. Secondly what we also doing is, we are saying that the money bill act needs to be amended to ensure that parliament shapes the deadline in such a way that we have more time to engage with the ministers because they understand the budgetary constraints and so on to benefit the Treasury. I hope my colleague agrees. They are very good department.

I may disagree with them ideological at times and on policies me but quite frankly I have shared 4 committees or 5 committees in Parliament since 1997, they by far the best department and frankly its world class in some respect and they are really good in replying. They are very good compared to previous ministries or department. Either the minister will come or the

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

DG.They report and if we don't accept they reply to our recommendations. I must say I see the Professor..... (Indistinct) the Head of the PBO and Audit, they are very good. So it's not as if, you know there is a sense we are coming across and i will like to suggest that all of us agree but my colleagues are free. Is not that we are powerless or lack the will and three of us are have got deep root in the movement and let alone coming to Parliament in 1994. Our political involvement goes ahead years, so we have the will and the commitment, what we lack is Better legislative framework and what we lack is the technical expertise.

JUDGE HEHER: Yes Ms September?

MRS PHOSA: Chairperson, the chair on the Portfolio committee on High Education and Training, I insist on the training part because when I was introduced it was Higher Education and the training part was very important. I think to take from where they left off, particularly the question that you also asked which was partly also answered by Honourable Phosa and there is of course each committee in parliament that makes recommendations and those recommendations are the ones you have asked will ordinarily go to the National Assembly. In our instance because we in the same House.

I think the important one relating to the question that you asked is then what is the part and passage of that, and that is located within the report then becoming the ownership of the National Assembly because after they have made the recommendation if there are no objection to the report the way it is always been in the house then the National Assembly has taken a decision.

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

So, the recommendation that you would see in the report, if they are not in the National Assembly and they are still floating, but if they landed in the National Assembly for us it is a powerful one because the speaker of the National Assembly then takes ownership of the report that has been adopted in the National Assembly and the speaker will then communicate to the relevant people on the National Assembly has decided on the following recommendations , can you now whatever words the speakers like. That empowers us to then further decide on the fact to decide that it is the property of the national Assembly that has been communicatedand then they must report to the Speaker timely on the letter the speaker would have sent to us, that is then referred to the relevant committee on that, and within it is quiet an important process because it then assist in all this recommendation that we have made, who for us if you look at any funding issues, we would go in so far as it has been the response to Parliament on that.

So far as the portfolio on Higher education and Training if concerned we actually go a little further than them. So for us if you look at any funding issue we would go in so far as not only just looking at fees. We would go in as far as what is the parameter within which legislatively constitutionally will look at. I think we are all aware that the constitution gives expression on the bill of right on how we need to deal with the issue of Funding and how a few as a committee will do oversight on what the constitution talks about progressively realize and we need to give expression to (indistinct) How they r progressively realize and you would then take it back into policy imperatives that have been

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

put in place to give expression to all of that. That empowers the committees that at the beginning of the 5 years of parliament then you are one that we have now.

We would consider what is it that the department before us as far as the plan is concerned, 5 years which we look at year on year. Secondly we would look at what expression does the President give in his state of the Nation after first one which is again the 5 year message that he gives and then of course again year on year.

Our committee would not only look at what research is there, we would either physically either ask them to come to parliament to explain to us the different thing. We would go outside of the parliament also and we would go to every institution and so on and we would then be motivated by also physically what we would be seeing. So, if we have been for example, we have heard quite a bit about universities we are making a mistake if we exclude the TVET colleges. There are far many TVET colleges in the country of course. They outnumbered the universities completely. Although, they have been underfunded and they are migrated towards national because they were in provinces but we think that there is a case to be made for the TVET colleges including the community colleges also? How do we bring that together, we would then as a committee be able to see what has the department put forward in his post-school education. The entire whitepaper and others because for us we have to look at the entirety. If your post school education is not funded, that is then your first problem, because that means that you have

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

not looked at all the different facet of your entire education system that would include also; how NSFAS is located within that and how NSFAS would be funded?

If you go through our report you would see that we would have a (indistinct)...on a quarterly basis; for the department coming to present to us the finances on a quarterly basis. And we would see if it trains there on whether whichever section or the entire section. And that is why you would see among the three of us what is the similar thing among the three from our different committees is we have been consistent in saying that underfundedness requires more make a recommendation to treasury to do this. And each one of us have had our own creative recommendation that we have made; whether it is been....all of us we have been consistent in there in that, saying what else do we need to do to realize that you would then see in our instance in our BRRR processes.

You would see that we continue to say and we say last time what happened now, we think we must now further make the following recommendation that would take us to the next level. What is the issue? The issue is if you unpack the different facet of Higher Education, you will see that the TVET colleges have got some free already and free in relation to them being bursaries oppose to just getting NSFAS grants just like that. Those that are excluded are the ones who are in the categories which Honourable Carrim says of the kind of poverty is ... They would not be in that. If you then unpack what is the

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

issue we are driving towards, when you rethink, the commission will probably by now in the interim report have given some expression on some already.

If you look at the different facet, you ask what the fees structure is. So, South Africa requires a Funding Model. A sustainable funding model that not goes with ad hoc arrangement where student go on demonstrations and we then give an increase to cover, it is not a prudent a fiscal programme that we must continue on and ours we trust that this process can lead us to sustainable and certainty in the sector. No university can plan on the basis of uncertainty. The TIVET colleges cannot continue on the kind of trajectory that they are in. The community colleges are now relying on some schools that are going until they can use their class room and everything else that goes with that. Can they pay the water? Can they pay the electricity? It is impossible to do all of that.

So, I think for us that our hope is that the outcome from this must go towards a sustainable one, we accept that in many parts of the world that it does not happen overnight but i think what will happen is that what are the parts that we are choosing to get to the final sustainable outcome that brings certainty to both the economy of the country and also for a very young person that wants to go through the entire system.

So I submit that yes, at the beginning of the year when the department comes with the plans the APP and all of that. We would look through to see what are the priorities? Have they shifted and what the challenges were and when they come at the end of the year when they give us the annual report? Have they been able to spend the money? It is nice thing to ask and if it is not spend, the

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

Treasury comes and they want to take the money away. On a quarterly basis, we do that. Our oversight evidence coming from physically going through the different institutions, last week we spent the entire week in Limpopo and you can see the differences. The University of Limpopo absolutely is what they call HDI University, but still carrying the TIVET colleges around them. They would need much more from where they are now. That is the ability that we have as a portfolio committee to be able to see those realities that are there. So I thought I must give just that.

JUDGE HEHER: Thank you. Mrs Phosa, do you have anything you want to add on your report?

ADV.G. ALLY: Sorry Mrs. Phosa

MRS PHOSA: What I mean by us recommending to National Treasury is because National Treasury is bonding. I have here a response by National Treasury two recommendations on this funding for post school education and training, our recommendation.....

JUDGE HEHER: I am sorry. Is this on our presentation or.... (Indistinct)?

MRS PHOSA: No, I am just illustrating, it is something to illustrate the recommendation is in the....

JUDGE HEHER: You are telling us what National Treasury response was?

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

MRS PHOSA: The response from the National Treasury is not part of the presentation. I am just illustrating to say this is how he has responded because we do insist on them coming back to us with a response. When the minister of finance and the minister of Higher Education and Training should ensure that the National Treasury consider the various options for the funding of higher education and training, and inter departmental task team lead by the National Treasury is investigating options to finance the whitepaper because there is another that is coming. That whitepaper didn't have a plan now. And now, there is new money for the implementation of that plan. That is why I said the problems here are huge. I think it just needs patience; this problem is like we are eating an elephant.

JUDGE HEHER: The cause of the problem is the number of trials and it is on parallel line who are always racing to get to the finishing line.

MRS PHOSA: I was trying to illustrate that the National Treasury has responded. In the next quarter week, what we can do is because we've got staff who tracks this resolution, to say what the other outstanding issue are from, when they come we can say how far you have gone with this. So, that we can push, because if we don't push may be this may end up not being implemented.

JUDGE HEHER: What date was it that Treasury responded?

MRS PHOSA: What date is it? It is not an old one, let me see.....

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

ADV. G. ALLY: Well if that was 2015, when the recommendation was made.
Probably towards the end of 2015/2016

MRS PHOSA: Yeah, if you know the date assist us?

MR. CARRIM: This are the responses tabled together with the budget with minister of finance, it contains the requirement of the monetary team...it contains the recommendations of the committee

JUDGE HEHER: Which Budget is this? This year or last year?

(Indistinct responses.....)

ADV. G. ALLY: You are not going to assist us, let me perhaps clear this. Mrs Phosa has asked you, to assist with the date, and if you don't have the date and you can't be guided because you are not....Now she is asking for assistance, if you have the date, give her the date so she can express. If you don't have the date, then you don't have the date, so you don't have to say that it is or is inMr. Carrim?

MR CARRIM: It is useful that we give you the date and if necessary we can write you a reply, we don't have it but i think the point Ms Phosa is making is extremely important because i think the question you are asking is a very crucial one. You can write all this recommendations. We have added word on paper unless you as parliament persist with the executive and say of this thing which can yield now, which could be in few years time....we want to tighten money brought back in that regard but very important thing is, every year in

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

the budget document, it is the law as our colleague said that the executive has to reply to our recommendations and when they appear before our committee, we then say that we don't agree with that.

So, basically I think there is some room for the legal frame work as we speak to give us more time and to be slightly more prescriptive to the executive. Obviously parliament is looking into more capacity, but clearly is not as if the executives get away. Nor as if we write these things as a fool feeling good thing.

In a variety of different ways, some prescriptive in law and some in case of our two committee and some shaped by the constitution is provisions or by the rules of parliament to hold the executive to account. The different between our 2 committees and other committees, is the issue around money, and they are extremely complex, because you have to have an overview of the 34 or 36 department, and you to work out, it is very easy to say we can handle all our external offices of Telkom or we can look at the complexity. The minster of Housing will come and say come in and say, there are House provisions. The education authority will come in and say how do you expect us to produce in basic education good thinking mind? Then if you say lets close down some of the embassies, they will say to you which embassies must we close? Do you know in Mongolia...? (Cuts)

ADV. G. ALLY: May be they don't need to ask you can ask the Chairperson because you colleague from DASU from the DA was here and he says we must close down the embassies. So the Chairperson wants to know from him

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

what the basis is for him saying so. He says we must invest. If you are saying something at least you have some substantive investigation that is the preliminary that you have done on your own so that we can take note of it's the issue you are mentioned is part of what. Is there any other issue Mrs Phosa, beside the one you want to answer, because the Chairperson wants to know?

ADV. K. PILAY: Sorry before she answers. I wanted to check if there has been any appropriation for the pilot programme of the ministerial task team us? On the last one, pilot programmes, I don't have informatize it and now is before the end of the day we will be able to provide you with a response. All others that the budget process, does not only involve us, there is Medium term expenditure committee that is waiting for that, where all the technocrat meets. It will come with a guide on what will desires and claim that place for them .Then they took it to provinces for provinces to work on those guides and then it will at the end come back to the committee and the committee will submit it to the ministerial to the financial committee. That will work and scrutinize it and satisfy themselves to say these allocations are accepted. It is an allocation that will help us to achieve our vision as a department .After that table gets to the table to the cabinet also a player role so there is public participation, technocrats involvement, the committee, the technical committee medium terms expenditure and it then take it to the ministerial committee and the committee tables it. Once the cabinet then adopts it and agrees on a budget that is when the minster takes it to the Parliament.

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

So there are many stakeholders. So in the form of intervention if you could also together, how this other stakeholder can help find money or reprioritize money because the president at the beginning of his term said that education is not an apex priority. To me, what it means is that the budget is supposed to talk to that but it does not do that.

JUDGE HEHER: Well you know, in the Himalayas there you have a lot of tall towers, you choose which one is it you can use to describe exactly any towers, that is the truth of it.

ADV. G. ALLY: Just to mention to you that we put that to the former minister of finance, because this issue that is troubling us. How in one breath you say it is your priority and in another breath you say we don't have sufficient amount of money to show this pay peg priority and as Mr. Carrim said it is a complex issue but somewhere down the line you got to know what it is that you want to do and it's that our hope is coming out of this with recommendations and motivations for all the processes. With regards to how you look at things, especially in our sphere now in higher education and training and we have not even touched the community education. When we started there is no such things as community education and training sector because they came here and explained that they called, community education colleges. So we ask what virtue, knowing there is money for that but there is no physical burden. So, there is a whole but not in all the sector but in some and it is mine field that we got a gold through. As the Chairperson likes to put

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

it here; have you seen the light at the end of the tunnel yet? But it is good
.Thank you.

JUDGE HEHER: Thank you. Thank you. Have you anything more to add and
if yes, thank you.

MRS PHOSA: I don't know if with this one I will put myself into trouble. When
politicians take decisions I think they must also be careful where this money is
going to come from, because it is easy to take decisions part of finding the
money is another problem.

JUDGE HEHER: That is what we are supposed to be looking at it.

MRS PHOSA: I think that will be mine

JUDGE HEHER: I just want to ask a simple question, has any of your
committee ever looked at the risk of getting rid of NSFAS?

MRS PHOSA: Getting rid of NSFAS?

JUDGE HEHER: Yes, pros and the cons and what it will cost?

MRS PHOSA: Getting rid of NSFAS? That would collapse the country.

JUDGE HEHER: No, No!! It depends on what you put in its place, it might be
that will collapse the country. If not considered the possibility may be NSFAS
may be unnecessary?

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

MRS PHOSA: Actually NSFAS is necessary Honourable Judge because it was able to cater for those previously disadvantaged who are just sitting at home after matric.

JUDGE HEHER: We know what NSFAS does and we know what contribution but it also has huge disadvantages of all kinds and huge inefficiencies and if what you are talking about can be provided for in better way, then there may be no real role for NSFAS, and that is why I will consider that anytime.

MRS PHOSA: From Higher Education Law

JUDGE HEHER: (Indistinct) Mr. Carrim

MR CARRIM: Just some quick comments. One is it is true you can have an apex prioritization but you don't have the money for it nor the value of that is that you are signalling how importance of it. Even though you don't have more money now, the intention is to make more money available overtime. I agree there is discrepancy between having an apex priority and not having the money, but i still think it better we have this apex priorities because that signals to you and all the departments when they are bidding that education is key.

JUDGE HEHER: Mr Carrim, that sounds comforting but when we hear from the evidence of the department of Higher Education that year by year they put in over budget of over 120 Rands and more 100 rands and 100 rands, and

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

more rands and they are cut back to 10 or 20 or 30 something that looks like a long way back and this happens year after year. Then, your word of comfort sounds kind of ineffective.

MRS PHOSA: Well it is more than word of comfort with due respect, it is actually an option there is not to have a priority, the challenge is to ensure that when you don't deliver the money that is commensurate with the priority that you should explain why that is the case. Also when you talk about priority, what goes with it? Is it timeline or programme or is it strategy? So I would beg to defer, I think apex priority provided there isn't a shopping list. This is your priority, is such is the higher education committee. It's the two committees here that should hold the executives to account. So that is the first point.

The second thing I think is this notion that there should not be NSFAS, is something that the higher education committee in particular should look at and the appropriate should committee to it to an extent .If the commission comes with the proposal that you can drop NSFAS and have another structure that's more efficient, provided the goal of catering for those who are needy is covered. It seems to me that it is something the commission should pursue this, looking to relevant members of the executives or relevant committees look at it.

JUDGE HEHER: One wouldn't even suggest such a thing; this one is capable of putting something in place but theoretically better.

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

03-04-2017

MRS PHOSA: Nothing has ever been resonated at any of our committee, because our concern is; can NSFAS be expanded? Can it be given more funding? Can it be more efficient? Can it be devoid of wastage? Those are our concerns and there hasn't been any substitute for NSFAS.

JUDGE HEHER: Well I hope so. Mr Carrim, you are to catch that plane. Please don't wait for us.

MRS PHOSA: If I may thank you, I am very grateful and appreciative for your kind consideration on this as I explained to Advocate Pilay and in my letter, if there any further question, you can email them to me and I will respond within 24 hours.

JUDGE HEHER: We are indebted to you, thank you. Anything else?

ADV. K. PILAY: Thank you chair we have no further question.

JUDGE HEHER: Thank you all of you!

03-04-2017

TRANSCRIBERS' CERTIFICATE

Hereby is certified that insofar as it is audible the foregoing is a true and just transcription of the proceedings which is mechanically recorded.

SET 8 – HEARING 1 – DAY 11

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

CASE NO:	Inquiry
RECORDED AT	Centurion, Pretoria
TRANSCRIBERS:	I. Oshin/ G. Zungu
DATE COMPLETED:	03-04-2017
NO AUDIO FILES	2
NUMBER OF PAGES:	52

This is to certify that the following problems were experienced with the above matter:

1. This is a verbatim transcript.
2. Due to the fact that this is a true reflection of the record, and it is transcribed as heard, grammatical errors may occur because of the way role players speak throughout.
3. Where names, places, esoteric terms etc are unknown they are spelt phonetically.
4. A few section of the recordings were inaudible, therefore certain words might have been omitted but not to the extent as to affect the overall meaning of the speech at affected instances. Where these exist ellipsis marks are used to indicate such occurrences.

03-04-2017

Kgantshi Solutions

(TRANSCRIPTION, TRANSLATION, WRITING & EDITING SERVICES)

Unit 32 Vintech Park 4th Street Wynberg Sandton

061 492 6674

info@kgantshisolutions.co.za