

COMMISSION OF INQUIRY INTO HIGHER EDUCATION & TRAINING

22-03-2017

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Set8 Hearings1 – Public Hearings

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

PARTIES PRESENT:

The Chairperson

Commissioners

Head of Evidence Leader

Evidence Leader

Experts

Secretariat

WITNESSES:

Mr. Njabulo Nzuza – African National Congress Youth League

Mrs. Naledi Pandor, MP – African National Congress National Executive Subcommittee on Education, Health and Science and Technology

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SESSION 1

JUDGE HEHER: The presenters. Thank you for coming. Mr Mabuda, I guess you will lead the evidence.

ADV. MABUDA: Yes Chair. The next presenter is the ANC youth league and we have with us the Secretary General of the Youth League, Mr Njabulo Nzuza

JUDGE HEHER: Mr Nzuza do you have any objection taking the oath?

MR. NZUZA: No, I don't.

JUDGE HEHER: Will you swear that the evidence you will give will be truth, all truth and nothing but the truth? Raise your right hand and say; so help me God.

MR. NZUZA: So help me God!

JUDGE HEHER: Thank you very much. Mr Mabuda.

ADV. MABUDA: Thank you Chair. Mr Nzuza before we begin, can you just please give us the summary of what it is you do at the ANC Youth League and also give us the summary of what ANC Youth League is.

MR. NZUZA: My name is Njabulo Nzuza. I am the Secretary General of the ANC Youth league. I am responsible for the day to day management and running of the organisation. I am also the custodian of the records of the organisation. As to what the ANC Youth League is and why we actually came here, it is actually contained in the presentation, under introduction and background. I think it will be of the interest of the commission to then go to that particular part, so that we can then further elaborate and explain ourselves on what brings us here today.

JUDGE HEHER: Mr Nzuza, the Evidence Leader will lead you on what they will like you to address, and so you don't have to give in the evidence that you are not sure to be rudiment by the evidence Leader. So, I assume that they will lead you on this aspect that you prefer. So, please go ahead Mr Mabuda.

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ADV. MABUDA: I have gone through the presentation, just for the sake of allowing Mr Nzuzza to flow with this presentation I would go on sequence and we ask question.

JUDGE HEHER: And feel free to say anything that you will want to say.

MR. NZUZA: Don't worry, I will do exactly that. We have prepared a presentation, but we will first explain that the African National Congress Youth League is the biggest youth formation in South Africa. It is established to rally the young people under the banner of the ANC and champion the interest of the young people, which is what brings us here today. Because as an organisation, it is our mandate to the champion the interest of young people, and we believe in the fact that the lack of free and quality education impact mostly on young people of this country whom are the future of these country.

As an organisation which represents them that is why we are here today. It is also the view of the ANC Youth League that to build National Democratic society as envisaged or contained in the National Development Plan, education remains a critical pillar, we can never realise National Democratic if continue to have a national uneducated youth. We strongly hold the view that uneducated nation, can never be able to grow economically and we would table our fact when it comes to those and why it is important to invest on education. The situation that was done released by the statistician general last year we are accuse that our parent as a generation are more educated than us, is actually a worrying issue and it points to a future that seems to be bleak for this country, and as such is that is brought us here today.

ADV. MABUDA: Mr Nzuzza, before you proceed, which report are you referring to? The report issues by Statistician General of South Africa?

MR NZUZA: We are referring to the point that sometimes last year, I think in September. I think in reference to the report issued by the Statistician-General sometimes issued last year. I think in September. We can provide information to this Commission in terms of returned submission on that report.

JUDGE HEHER: I don't think you need to make that point then if that is correct we cannot but agree with you.

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MR. NZUZA: It is correct and there are records to prove that it is

JUDGE HEHER: And if it isn't correct we still agree with you.

MR. NZUZA: Our understanding of the role of the commission is to establish the feasibility study of making education fees free in South Africa. The reason why we go to the understanding of the role of the commission is such that our input is able to shape the kind of the report that comes from the commission and that is why we come here to table evidence and it is important that we say what it is we understand about the role of the commission.

The process of feasibility study, we believe in the ANC Youth League, should be a solution driven and proven. It should not be a process that will come at the end of the day saying it is feasible or it is not feasible, if there are solutions which can be implemented to make sure we attain the height that we can say that we have attained free education in South Africa. The process of feasibility should also consider ways of how we make education fees free in South Africa. We use the term Fees Free because the terms of reference to the commission specified to Fees Free but we believe that the role of the commission is to investigate the issue of institutional autonomy viz a viz the funding models and modalities of free education.

It is important that we establish what we mean by fee free higher education. It is the view of the ANC Youth League, and we submit that Fees free education should not be described as tuition free education. Tuition fees do not in their own mean the total fee of education. Fee free education should be considered today as education fee should include the following, tuition fee, books and study materials, accommodation fees which is lodging and travelling from residence to campus. Why we say that is because tuition fee are the basic. Accommodation becomes an enabler because people travel from far distances in order to access education and when they do have such, to make the condition favourable they must have accommodation. They can never study without books and other materials. They can never be able to study if accommodation is not there; that point is particularly repeated and I think we need not remove one. Then, travelling is very important because we are not talking about people travelling from their places of dwelling or from their households to the universities but we mean in a way that a campus is established somewhere and residency is in another area which is inside a town. Therefore, part of fees free

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education should include fee that students are expected to use to travel from that destination to their institution.

JUDGE HEHER: Would you say that includes medical expenses?

MR. NZUZA: Well, medical expenses are part of it. They are even in the current context included. They are levies that go through; when you take that they are levels that should be included of students when are dwelling on residency.

JUDGE HEHER: So, we put that in as well?

MR. NZUZA: Yes.

JUDGE HEHER: Assuming that will include provision of clinics on campus and that sort of thing?

MR. NZUZA: That will mean health care.

ADV. MABUDA: You did indicate there is no difference between the second bullet and the fourth?

MR. NZUZA: Yes I did indicate that, it still the same, which means tuition fees is accommodation fees that includes travelling materials, accommodation and health care. It is the view of the ANC Youth League that a fee free higher education should therefore have no fee implication on issues primarily mentioned. The calculation of fee free higher education should include 5 components with the fifth component being health. Now the implementation of a fee free system goes together with institutional autonomy and that is one of the terms of reference of this commission. Institutions autonomy is the first barrier to fee free education, because institutions are on course of study which means different institution at different stages says different amount it is going to cost and they factor in their own and as a society there is no standardised cost of tertiary or higher education in South Africa.

JUDGE HEHER: How can that be? Because every institution has different demands on it and is in different places and different circumstances, so how can you have a standardized fees?

MR. NZUZA: It should be standardized because institutions are supposed to be at the same level. We are not supposed to be having a situation where institutions or

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other people get better education than others. Therefore, if you have institutional autonomy, it means that you have institution deciding at their own will what kind of technology they put in and what kind of technology they don't put in the system. The idea is to have an educational system that equips all those who go through it, in an equivalent manner. And that is why we are saying that institutional autonomy becomes first area, because we are supposed to be level in the field keeping the playing field levelled. Then you may begin to have some problem. That is the idea.

JUDGE HEHER: Does it matter if it is fee free and let's say XYZ is a university and cost is R80,000.00 a year and a student probably wants to go the university with a tuition is R90,000.00, should both get a fee free education, what is the difference?

MR. NZUZA: First, the government is carrying a burden as per those who decide to study higher but I want to go into this in details because of the infrastructure that they have that is making it expensive for the them to run the university at a cost that is higher.

JUDGE HEHER: That truly that will be the case because in urban area, the fees are more expensive compared to the universities in country area.

MR. NZUZA: It is not just only about the cost of living and the way we live either the University in Venda land or Zululand University that are behind because of low technology that they charge less. So it will be unfair to say you decide if you are going into a university with better capabilities or with lower capabilities and when you take out the issue of university autonomy and then upgrade all this universities to be on the same level in terms of technology, in terms of the quality of education then you will have solved the first problem.

JUDGE HEHER: This can't be. You cannot say that at the University of Venda, you will have same faculties than the University of Wits will have. One thing they don't have is the people that want to go to the university because you can't say to the University of Wits that you must limit the number of your faculties to those at the University of Venda. Surely the demand must be satisfied in the area where it stands.

MR. NZUZA: With all due respect, I believe that people travel from institution from area like Venda to come and study at the University of Witwatersrand because they

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believe that Wits offers better service. If we are to offer the same level of service at the University of Venda, probably our students will not have to travel from Venda to the University of Witwatersrand. But as we can, we must be striving for equality. We cannot have a country where there are consistent gaps in terms of your upbringing.

JUDGE HEHER: I don't disagree with you in principle, but the application is very difficult to see.

MR. NZUZA: It is difficult but it is something that this country should strive to achieve the situation where the study at the University of Venda should yield the same result at the university of the Witwatersrand. That is the point we are making and what drives that is the issue of institutional autonomy.

ADV. MABUDA: Mr Nzuzza before you proceed. Please indicate what you understand by institutional autonomy and compare with academic freedom?

MR. NZUZA: The institutional autonomy means that the institution has the power and the authority to manage and run their own affairs in a separate manner or separate approach than other institution. That is the first thing about institutional autonomy. We must see during the 'Fees must fall' protest that you had institution on their own and according to their assessment saying I must raise fees with this percentage and the other says the same thing. And that situation which I put on number 3 and number 4 of my presentation is that institutional autonomy further entrenches offers about the black and white education, because those who can afford are able to go to certain universities which are expensive and those who can't, are not able to access those institutions.

JUDGE HEHER: There are former black students and white students who studied in the University of Johannesburg

MR. NZUZA: Obviously, that will be the case. Obviously that will be the case but the issue is not about race, or black or white. It is about ability to afford the university education. That is why I am saying the legacies of apartheid, because apartheid is the one who separated those who can afford and gave them colour white and those who cannot as colour black. That is what we are talking about legacy. I am not talking about students. All I am saying is that institutional autonomy entrenches a culture that says that those who can afford can get better education and those who

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cannot afford can then be segregated to get somehow less or inferior set of education.

JUDGE HEHER: What you are saying I don't disagree, but I am seeing how I can work in practice. Can you centralise a scheme which runs all universities? How will you run the universities?

MR. NZUZA: Well NSFAS, currently at a runs university a national financial aid that cuts across all the universities. But the issue here is about infrastructure, if tuition because Wits can charge you more, they are in a position to use what they charge to upgrade their infrastructure and because the university cannot charge you more, you have to offer some palliative standard of education. All that we are saying is that the person who came in through the educational system in South Africa, they must all be looked at the same way and that is what we are trying to address and that is the issue of institutional autonomy places value on the basis of prestige and qualification. That means someone who come with limited qualifications from the University of Zululand, may not score the same as the person with the same qualification. Even right now, if we are studying from the University of Zululand which is the situation where I came from and you want to move to an institution like Wits, there are certain courses which they do not recognise; saying that you go some certain modules lower, which means the University of Wits sees itself as a university of prestige which the University of Zululand does not. This means there are two different type of education in the country. What we therefore seek to do is to remove that prestige which is attached to your qualifications in terms of where you are coming from.

ADV. G. ALY: Mr Nzuzza, I get your point but it is being conflicted with other area you have issues. You still haven't dealt with the issue of academic freedom and institutional autonomy and that is an important point to understand. What do you say if you take away institutional autonomy do you then take away academic freedom? The other issue that you've touched on that I have problem with is the cost of study. Now unfortunately, presently we have research being done by a department on higher education in relations to fee capping and whether it is something that is desirable or not. It would have been better if we had that study done before or actually conclusion of that study during our proceedings, because it assists us in

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understanding where you are coming from because the issue you raised is complex and cannot just be said; 'well make all of them charge the same'. The Chairperson has put to you the problem that is on ground presently. You have the infrastructure that you have in the university. How then do you keep them maintained?

And I would like to see an argument that takes into account and still try to move forward because if you just shut everything down, people say; 'fine, then we shut down the universities'. So, that option mustn't be there. We've got to be innovative and come up with solutions in respect of those particular issues.

MR. NZUZA: Thank you very much. I think maybe it will bring the issue of institutional autonomy in terms of our view into a conclusion. It is impossible to wake up in one year and say Wits; 'you are now going to be equal to the University of Zululand and that you must now charge an amount that is equivalent to the amount being charged by the University of Zululand'. It is not going to happen over a one year period. Firstly, there must be legislation put in place, to give government more oversight role over the institutions. When we talk about institutional autonomy, we are not talking about the issue of capping fees and saying when you have said Wits, Universities of Zululand and Venda should charge the same amount, we have achieved; we have taken away institutional autonomy. That is why I said it involves the overall management of the institution; how they shape their academic calendar. What courses they choose to go through and all those things. So, it is quite a complex process. It requires a process that ideally should result into a situation where Wits is lower and be downgraded in terms of structure, but a process where there is somehow equitable or prioritization of government spending. If you prioritise more on the University of Zululand to build its infrastructure, that is what you must do. But that will require for government to be more involved in the University of Zululand and its management and how it actually conduct its business. Because if you leave it at it is right now, you are looking at a situation where our institutions will be running like ABSA and Standard banks. They will both compete or say what do we do to improve our business model and it is only the business that improves whereas it does take into an account societal issues. And that is why by institutional autonomy, we mean government will play more role in the management and how the institutions actually deal with themselves. Fees capping can be part of it, but is not the only issue.

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JUDGE HEHER: One important role will be the greater infrastructure grant for presently poorer universities. I think the greater subsidy to poorer universities to uplift them.

MR NZUZA: Exactly. When we go to the issue of who qualifies in the presentation, we also touch on particular issue; to say- when we are talking about fee free education, the mistake we made which the whole country make we are looking at almost 1 million people who are already in the system and think that we want to make those people not pay fees. That is not the problem. The problem as the ANC Youth League- we speak for the millions of young people who are sitting in townships and rural dwellings who could not even set a foot in an institution of higher education because they don't have the money even to register for that particular course. So, you can't say you want to take millions of young people through education system if you have not invested in infrastructure. It means the process must involve investment in infrastructure. Otherwise, you wake up tomorrow and say its fees free education. You will have 6 million young people from townships in your door steps saying; 'yes education is free now we must enter'. What we should be doing right now is investing in infrastructure. You look at the situation of buildings in Johannesburg that are in the control of Department of Public Works which we should be busy right now upgrading to prepare ourselves to help young people who will coming through when we start to implement fee free education.

JUDGE HEHER: I don't disagree with you for one moment, but it has one consequence that the more you pour into infrastructure and subsidies the less you have for tuition fees.

MR NSUSA: Well, it depends on how look at it, because for instance, we are not saying when you are providing for fee free education, you must just increase the budget. We have to also identify savings. It is not just as if education is operating on its own in government fiscals.

JUDGE HEHER: Yes, but we are talking about very large amount of money for subsidy and infrastructure development and very large amount of money needed to upgrade the system in the universities and TVET colleges. And the point I am simply making is, it is difficult enough to fund fee free education, but that the more you put

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into building structures, the less available you are going to have money to provide fee free education.

MR NZUZA: Yes, some of the infrastructures are already there. It must just be infrastructure that will be renewed. Part of our developmental agenda is to identify the strategic infrastructure that will assist us in our school and part of that strategy is infrastructure building, part of it must not be only amount that comes from the Department Of Higher Education in training but the department that are responsible are Department Of Public Works. Those buildings, if you remove the issue of institutional autonomy will then be by government anyway. So, they are part of assets of government that are registered as such. So is not just an issue of saying, you now pump 10 billion because you must provide for buildings, but it is also about intergovernmental relations.

ADV. K. PILAY: Mr. Nzuzza. May I just ask a question? My question is that the issue you raised about institutional autonomy it is an extremely important one. And it is one we have been looking at over a long a period of time. For us to completely understand the impact of what you submitting, we need to locate it very concretely in the information we have been gathering for over number of months. Now you are specifically saying about institutional autonomy is what we need to translate into. For example, we know that the government intervenes and has a hand to a large extent in the governance of universities. For example, on the question of course selection, through the programme qualification process mix, government has got a large hand in what the universities offer as part of their course selection. In terms of funding through the funding metrics or module, government has got a large hand in how universities are funded. One issue that which has now been raised is the question of fair regulation and that is the issue which government is concerned about now very concretely. There is a proposal that the CHE is looking to administer on the question of fee regulation.

So, when you speak about institutional autonomy, what is you are really trying to probe is beyond that; beyond the government having a say through PQM process; beyond the government having a hand in funding through the funding formula and beyond question of free regulation, specifically what is it that you are submitting? or

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are you advocating for the nationalisation of the university , in other words, they must become state-owned and controlled bodies? Is that what you are submitting?

MR NZUZA: Yes. I hope that answer the question quite clearly?

ADV. K. PILAY: It does.

MR NZUZA: Nationalisation of f education. We as the ANC Youth League are very much not happy with the fact that education continues to have the element of it being privatised. Part of the issues that we have a serious problem is the look of privatising the NSFAS. So, we have been for sometimes being against the issue of privatisation. Maybe what I should have done earlier on was to hit it straight and say that.

ADV. K. PILAY: In other words, the Youth league is submitting that all public universities should be state owned and completely state controlled?

MR NZUZA: Yes, and in fact we should borrow from the Cuban model.

ADV. K. PILAY: And within that context, the discussion of the inter-relationship should between institutional autonomy and academic freedom can become quite important one. And you know that the notion of academic freedom is enshrined and protected in the constitution. Now, if we have universities that are completely state-owned and controlled, how is that we will protect the right to academic freedom?

MR NZUZA: Well, even currently, if you look at the education system as you are saying that government has structures and institutions that actually control the kind of education we must receive and if it actually qualifies a certain qualification is relevant. The issue is that our students have variety of education choices to make in terms of which streams they go to. To me, the issue of academic freedom is also goes with the sense that we have sort of removed the legacy of the past where there were certain qualifications certain people were not allowed to do. Even right now, I will argue that we are in a phase that we have academic freedom, where students can choose what kind of field of study do they go into. I have not heard of a student who qualifies for a certain course and get denied access. But government must have some sort of control to link education to what the private sector wants to have as

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qualifications because that is another problem. You can't just have an educational system that is not structured for the need of the economy.

ADV. K. PILAY: I completely understand your submission about the legacy of apartheid and how it is impacted on our higher education institutions. That is crystal clear. What I am to understand is in terms of what we have in place at the moment, where government has got a large hand in running of universities. Bearing in mind the mischief that you want to address which is the legacy issue. What is missing in the current model that needs to be fixed in order to arrive at the point you want? What additional issues should be incorporated into the current issues? Can the current governance model be adjusted to address your concerns?

MR. NZUZA: I think we somehow seem to be stuck on the issue of institutional autonomy. There are two emerging schools of thought. The one that says keep the system as it is; try and fix it; get government men to have more control in a sense of management and administration of universities which is something government does not have right now. By management, I mean strategic financial and investment decisions that institutions take. Even it goes into the issue in terms of academic points that a person must score before he can be admitted into a certain qualification. Those are all management and administrative decisions that the institutions can take. Those are where we are saying the government can have more roles and it translates into government taking decisions on the management and administrative running of institutions which government has more power in terms of how the institutions are run.

Again, the issue that you want to eradicate, when you do that, it is a situation where other institutions, go into different directions in terms of how they take financial decisions. For example, it is difficult to go into Wits for a B.Com degree as it is difficult to go into the University of Zululand for the same degree. Who takes that decision? It is the management of the institution, whereas if you are to remove the issue of institutional autonomy on the management of institutions, then you will surely have entry requirements for B.Com, Accounting degrees being the same in both Zululand and Wits. That's where government must come in and that's why I say, we advocate for the nationalisation of education.

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ADV. K. PILAY: I completely hear your bold submission. The point I am putting to you is the more nuanced one. At the moment, government utilises a number of mechanisms to steer higher education and it does so in a very sophisticated manner. Is there anything of the current government model and system that you believe can be enhanced in order to arrive at the conclusion which you want us to arrive at which is to start eradicating some of the legacy issues?

MR. NZUZA: It is the improving of the management and the administrative roles that government must come closer to. The current system as it is, to us, it hasn't worked. The reason why we have this commission is because of the crisis that has happened. And the particular crisis was given by the fees must fall situation where various institutions took decision on their own. Currently, talking about government intervening, they intervene in terms of giving money to these institutions but they do not have control over on capping expenditures etc, and the institutions are not accountable totally to government, but to themselves through their councils. We have seen a situation where these councils can't even control the running of the institutions. We are saying that government must have more power over the management and administrative roles in the institutions.

ADV. K. PILAY: The last concern I want to put to you is if universities become completely state-owned and controlled, wouldn't one of the negative consequences be that you will discourage third-stream income to universities and wouldn't that jeopardise that source of income?

MR. NZUZA: Government can have third stream income if it wants. You look at the municipalities model for instance, where there would have revenue enhancement. Even institutions can still have that but as it stands, for me, it is not negative, because if those third revenues were assisting then we will not be having these institutions consistently pushing up prices. Sometimes, the third revenues are kept as revenues and they don't assist. They are kept in banks and generate interests. For who? The issue of third revenue is not much of an issue, it is not raising enough money as required to make education fees free.

ADV. K. PILAY: Thank you

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MR. NZUZA: I then go to the part of the presentation which says: the poor, the working class and the missing middle. We argue that education should be for the poor, the working class and the missing middle. Oxford dictionary defines poor as a person lacking sufficient money to live at a particular standard considered comfortable or normal in society. That is problematic because what do you say is comfortable. Do you say a person earning 300,000 is living comfortable? Poor is relative to the nature and standard of society by society they are living in. So, when you say the poor, you can't wake up and say it is those who earn 122,000 that are poor and you close it there. A person can earn 2000,000 and be poor. We come from a society where we are expected to take care of a larger family and some others in same society are not expected to do so. Then, you equate people on the basis of what they earn and define them as such. We are submitting that poor such should not be defined on the basis how much you earn, but should also border on the issues of responsibilities that you have. .

ADV. G. ALY: Mr Nzuzza, I will ask you, do you submit that fee free education should be for all or do you submit that fee free higher education should be for certain group in terms of the economy? If you say fee free for all, then you don't need all these qualifications and definitions. Perhaps, we should start off with the position of the ANC Youth League on this.

MR. NZUZA: We do not submit that fee free education should be for all and that is why we are including those particular categories. You can have working class who works and can afford education through his labour. Therefore, you cannot say fee free education should be for working class only. The use of working class to determine who can get free access to education is very dangerous. The question of the missing middle and those who are classified as not qualified for NSFAS but can't afford education. We are submitting that the issue of the 600,000 barometer is a quick fix to the problem because it talks about gross income before tax and deductions. It does not take into account how many students the family has to take through university. It does not consider the living standard of an average family. The 600,000 was to be a household income, so you can have both parents having 300,000 each and immediately those people don't qualify. That's why I am saying when you are looking at who can or cannot afford education; it must not just be about what you earn. We are saying this commission must get rid of NXASANA's

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commission's definition of poor and working class as an average household income of below 122,000. We believe this is flawed because no person in South Africa can live comfortably at household income of 122,000. The solution that we propose on the formula consideration on who must pay or not for education are as follows:

- We must ascertain the affordability on the basis of the net earnings of household.
- The qualification threshold should increase for each family should be on the basis of each person who must undergo higher education and training. This means you can equate a family with one person going to university with family that has three persons.

JUDGE HEHER: I am not quite sure I understand how you grade this. For example, there might be a household which has three children at the university at the same time who are going to get all the benefits of education. Now, that household is better off than a household who have one person in the university and two who are not in the university.

MR. NZUZA: I am not sure but let me explain how we believe the formula should work. We are saying if you put the household annual income at a net of 500,000, and that particular family has one child. They probably can afford to take their child through university. That means that they qualify. But there is another family with the same income but with three children that have to go to university. The issue is that you will have to administrate that annually as you administrate your tax returns through SARS. When you are filing your SARS, you are able to declare who is under higher education under you. That's why we are saying the administration of qualification for those people must then be administered through SARS. Every time you file your tax, you then be able to declare these are the number of my dependants who are in the university. Then you are deemed by SARS whether you qualify or don't qualify in order to consider those who can get free education or not.

JUDGE HEHER: Shouldn't you just do what SARS does at the moment? You are allowed to calculate your tax returns according to the number of your dependants.

MR. NZUZA: Exactly! That is why we are saying let us use the current infrastructure that we have to make certain determinations. The problem we have now is that we

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increasing the administrative burden of the universities when we leave them to determine these things- those who are poor or not. And that system is open for abuse, but if you use the current system that is tested, you are guaranteed to have less mistakes. Our view also, honourable judge, is that for those who can afford to pay for education, they must not be determined at the doorsteps, but when SARS is taxing them. They must pay for the education of their children through being taxed by SARS. And all of that money is collected into one basket and the institutions are given the money.

JUDGE HEHER: It is clear from what you are saying that you have a view on the Nxazana's report. Would you like to explain to us what is the view of the ANC Youth League on the task team report?

MR. NZUZA: Our overall view is that we have some problems with it. But I will not be comfortable in dwelling on that report in much here. I think we must be future looking. Lets not dwell much on the past, let's focus on what we can change. And what we can change is to make recommendation that says let us go for it. Let us implement fee free education.

JUDGE HEHER: Well, you know that the Nxasana Commission report has recommended that there should be fee free education at a low level and gradually it go up as income levels increase.

MR. NZUZA: Yes, I am fully aware of that, but the problem with that such recommendations till to date they have not been implemented. That is why I say we should dwell less on the past and focus on where we are going now.

JUDGE HEHER: Nxasana report is going into a pilot stage with proposal if the pilot stage is successful, it will be implemented next year.

MR. NZUZA: That is why we have consistently argued that... We have said this year that it was possible for government to take all the first year students through a fee free education structure.

JUDGE HEHER: So, you are in principle in favour of the Nxasana Commission report?

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MR. NZUZA: There are some aspects that we are not happy with. One of them is what I have already cited around the issue of 122,000. That is why I am saying I am uncomfortable discussing the report here because there are aspects that we are happy with and those we are not. Currently, you have institutions receiving budgets from the government

JUDGE HEHER: Thank you.

ADV. G. ALY: There is an issue that I must put to you and ask for the comment of the ANC Youth League. You are aware of the Section 29B of the constitution making reference to further education. There is also a Covenant dealing with social and economic rights which we have ratified as a country. It speaks to education and says you must realise free education. But the government make certain reservation on that covenant with regards to basic education only and says it will be on the light of our national educational policy. In your deliberation, have you considered that taking into account education is compulsory in South Africa for primary education? This leaves out higher education. What your organisation view with regards to that?

MR. NZUZA: Our view as the ANC Youth League is that whatever it takes; if the constitution or legislation must be changed, we must thrive for the change. The ultimate objective is not throwing loopholes, but to close those loopholes and deliver free education for the young people of this country. Whatever that must be done must be done because the future of this country depends on it.

ADV. G. ALY: I will try to put it to you much better. What I put to you was that the government must try and provide fee free education not to the poor but to everybody and that is not what you are saying.

MR. NZUZA: And our view is that those who can afford must pay for their education.

ADV. MABUDA: It's just one last question from me. We've received a number of calculations on the costs of fee free education. I have seen that you have indicated that based on the assumption the 70% of the students cannot afford, currently a total 38.2 billion is needed to fund free education. I just want to find out where these numbers come from.

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MR. NZUZA: We have commissioned some research on this issue. And I believe some of these figures have been presented here before by the person we've been working on that research. If not I have got the real document with me and we glad provide the basis where make the assumptions; the baseline of these figures. They have gone to the Department of Higher Education and Training for verification of the figures contained there.

ADV. MABUDA: I just want you to establish your understanding of these numbers. Is this fee component of the cost or does this include the subsidy that goes into funding universities?

MR. NZUZA: No. This is on top of the subsidy. There is a subsidy that we talk about. There is subsidy that universities are getting that makes the costs of education go down. So, we have been using the figures that have been provided where subsidies are being provided to universities. For example, you have UNISA, they will charge 30,000 for a degree programme, but they charge 30,000 because they have received subsidies and grants from government. Without these subsidies and grants, they will probably charge you 40,000. So, when we are calculating we are doing so based on the 30,000 exclusive of the grants.

ADV. MABUDA: Thank you. No further questions from us chair.

JUDGE HEHER: Thank you. Mr. Nzuza, thank you very much indeed. Thank you for subjecting yourself to our questions. We appreciate it.

MR. NZUZA: Thank you. I appreciate the opportunity to be here on behalf of the ANC Youth League which is very passionate about the issue of free education. We do not believe that just by 'toying-toying' on the streets we can achieve, but for us to match our being on the streets with being able to be here and provide some solutions and intellectual thinking to the process.

JUDGE HEHER: Yes, we are glad that you have done so. Thank you.

ADV. K. PILAY: Thank you Chair may we adjourn for lunch now.

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SESSION 2

ADV K. PILAY: The next stakeholder to address the Commission is the African National Congress. Before you, Chair, you have members of ANC's Health, Education, Science and Technology Sub-Committee. Representing the Sub-Committee is Minister Pandor who is accompanied by Dr. Confidence Moloko, who is the head of Secretariat at the ANC's Sub-Committee.

JUDGE HEHER: Minister, do you have objection to taking the oath?

MINISTER PANDOR: No, I don't.

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

MINISTER PANDOR: So, help me God.

JUDGE HEHER: Thank you very much. Yes, Ms. Pillay?

ADV K. PILAY: Thank you Chair. Minister, may we begin with you describing for us what the sub-committee is and how it relates to the ANC as a whole.

MINISTER PANDOR: Thank you very much. Good afternoon chairperson and the rest of the members of the Commission. Thank you for this opportunity. The sub-committee is one of the policies sub-committee of the ANC. Its purpose, both oversees, is monitoring of the policies of the ANC and provide support to the various sectors that are part of the sub-committee. Our sub-committee focus areas are three sectors: education, health as well as science and technology innovations. So, that would be the sectors where we have some purview in policy terms as well as in support terms. It is made up of members of National Executive Committee of the ANC. That is the senior committee of the party and I am a member of the NEC as well as member of National Working Committee, which is a smaller number of elected NEC members who see to the day-to-day running of the business of the ANC.

JUDGE HEHER: Thank you.

ADV G. ALLY: Thank you Minister. We know that the ANC has prepared with a presentation. Perhaps you can begin with the presentation and we will pose questions as they arise.

ADV M. LEKOANE: Sorry, Minister, before you continue, I just want to check if the sub-committee's decision are persuasive in nature or are they mandatory once the committee has looked at them?

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MINISTER PANDOR: ANC's senior committee make decisions. Our committee essentially makes recommendations. The party decisions-making organ between the national conferences of the ANC is the National Executive Committee. So, we will process policy matters, deliberate within the sub-committee, provide advice and propose amendments etc to the various sectors that bring policy proposals to the sub-committee. From there, we will then take these to the National Executive for final decision-making.

I like to begin by thanking the Commission for the opportunity granted to the ANC to make a presentation. While the ANC recognises that the key mandate of the Commission is investigating the possibility of fees free higher education, we believe the Commission should also reflect on some of the general points on transformation in higher education that we and other organisations may present. Secondly, we are hopeful that the very important process of a Commission appointed by the President will lead to emergence of solutions that will advance the cause of achieving inclusion for all in South Africa by decisively tackling poverty, unemployment and equality.

I should now proceed to the ANC's presentation. If I could speak to Slide 1, I shall attempt to be brief, but tempted to make those slides self-explanatory as much as possible.

JUDGE HEHER: Don't feel in anyway hindered by time. You can as much as you would like to.

MINISTER PANDOR: Thank you very much chairperson. I'll tend to be very precise and fast. To the respect to the first slide, we speak to the matters of free higher education needing to be seen as part of the demand for transformation both in higher education as well as broadly in society. We (sit) on a legitimate demand as linked to several demands for transformation which we believe remain unresolved.

Firstly, we refer to university autonomy being seen as a shield against transformation. Secondly, we refer to the alienation experienced by many students, particularly black students and women in many of our institutions in the country. Thirdly, we refer to lack of curriculum reform particularly with respect to content in many of our institutions. Firstly, the challenge of the privilege of the limited knowledge perspectives and the exclusion of Africans from the learning and teaching that we observe in our institutions. Fifthly, limited access to non-traditional disciplines. many students, particularly black students and women; so paucity of access to engineering, science, medicine and other key disciplines. We refer to the challenge of racism and sexism embedded in institutional culture. And finally, to the problem that we have prevalent in our country of what is termed a revolving door syndrome; that is you enter and exit without having accrued anything. This is the significant problem in the sector which requires attention. So, the call for free higher education cannot be distanced from these either perception or realities that subsist in the higher education sector.

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I then chairperson, refer to some of the challenges we've had at the time as the ANC with respect to education- basic and higher education. I refer firstly to a document in 1948 of the ANC Youth League which called for academic, vocational and technical training. They stated the following:

- The ultimate goal of our African nationalism in so far as education is concerned is 100% literacy among the people in order to ensure an effective democracy. Some of the means to that end are free and compulsory education to all children with the concomitant of adequate accommodation, adequate training facilities and adequate remuneration for teachers. All children should have access to that type of education that they are suited for. They should have access to academic, technical and vocational training.

And I do note again that this is 1948.

ADV G. ALLY: It is important then, Minister, to perhaps reflect on the language that is used in 1948 in respect of the word- children. Must we then assume that the word children used in that context refers to persons at primary and secondary education or will it also be referring to persons attending further or higher education or let's put it wider as- post-education institution?

MINISTER PANDOR: Thank you very much, Commissioner. As you would note the reference to all children, refers to the types of education they are suited to and continues to refer to academic, technical and vocational training. One may assume then that both basic and post-school education is being referred to.

We then come to the Freedom Charter which directly spoke to the matters of education and culture, and refer with respect to higher education; the call of higher education and training funded through State's allowances. This is the first time we see the references to the State allowances provision in ANC document referring to the subject of education. But the Freedom Charter went further in that it states that the door of learning and culture shall be open. The aim of education shall be to teach the youth to love people and their culture, to honour human brotherhood, liberty and peace. Education shall be free, compulsory and universal and equal for all children. Then, it distinguishes higher education and technical training shall be open to all by means of State's allowances or scholarships awarded on the basis of merit. Adult illiteracy shall be ended by a mass State education plan.

Chairperson, all these aspirations beginning from that early period of 1948 and even earlier, I couldn't do a full search of the past document. Coalesced in 1994... (cuts)

ADV K. PILAY: Minister, before we get to 1994, may I ask you in terms of the Freedom Charter, and the portion of the Freedom Charter dealing with higher

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education specifically, how is that ANC understands that position? What does that provision provides because that has become a subject of debate in this Commission as to what that means?

MINISTER PANDOR: The ANC understands this to refer to us needing to provide State funding to all those are eligible by way of academic merit to enter post school education. It, we believe, does not say free for all in the Freedom Charter.

JUDGE HEHER: It doesn't exclude it.

MINISTER PANDOR: But it does give the state responsibility.

ADV K. PILAY: And to you, the ANC interprets merit to academic merit not deserving of assistance?

MINISTER PANDOR: We have not sought to interpret if you qualify by way of academic qualification for entry, we will provide you with state funding and support as available through schemes created as a response to this clause of the Freedom Charter. I would think that the reference to merit was a conditionality that would limit in some way our implementation of policies since 1994 as in far broader than this particular statement in the Freedom Charter. And I believe since the advent of democracy, the ANC has gone well beyond the provision of the Freedom Charter. But that is my assessment.

ADV M. LEKOANE: Minister, I want to check may be you will get to it later. But over the Freedom Charter, are we able, when we analyse the policy further to give an interpretation that might be different the Freedom Charter or the intention of the Charter at that time?

MINISTER PANDOR: You very well could as you know policy formulation has not remained static or limited to the Freedom Charter. It has evolved over time through various policy conferences of the ANC. And in that time, there has been an elaboration of policies that go well beyond these initial provisions.

ADV M. LEKOANE: It has not changed?

MINISTER PANDOR: Fundamental intentions have not been altered. I think it has been improved upon but I don't think it has diminished in any way and there are aspects that remain unaddressed as I referred to the broad challenges earlier. If you refer to the first bullet; honouring human brotherhood which I would assume mean both men and women as well as liberty and peace, we would note from some of what we've seen over the years in our institutions of higher learning that we've always not achieved these objectives.

ADV M. LEKOANE: On the last bullet, Minister; 'adult literacy shall be ended by mass state education plan.' Has this been elaborated on later or what was the intention of the drafters of the Charter when they looked at this? Are we talking adult

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literacy from what stage and for who, and the broader community? And how do we differentiate when and where? Maybe it will come out later.

MINISTER PANDOR: Yes, this is not something I deal with since we've been asked to speak to higher education in this meeting, but I can speak to the matter in that the government introduced in 2005, a mass literacy strategy and that added to the number of earlier strategies. But the one produced in 2005 has been one of the most successful. That was the literacy programme called 'KARUKUDE' which means let us learn. It has helped to significantly decrease the number of illiterate persons in South Africa. And the government is now looking at further expanding that programme to significant that the report indicated.

ADV M. LEKOANE: Just the last one. And in terms of priorities, we've heard where adult colleges as compared to higher education, the allocations in terms of priorities, where would you place this adult literacy on the decision of priorities?

MINISTER PANDOR: I think there has been an attempt to address both adult literacy as well as basic education at the same time. Adult education has suffered as a consequence; reason being the report and statistics that we have- number of young people who have not had any education or training indicate that we continue to face significant problem and that we need to diversify the nature of institution and provision in order to address the broad range of needs that exist. This is why the government of the ANC have recently adopted post-school education policy which seeks to introduce a new form of college which is called the community college to provide skills training as well as basic literacy to response to the multifaceted range of needs that exist among young adults in our country, but it is not the subject of my presentation today.

If I might proceed then, I come to 1994 when the process of, I believe, higher education began in real earnest. I refer here to some of the statistics over time. Our students' headcount enrolments have now reached over a million students in higher education by 2015 up from just 495,000 in 1994. That has been a significant advance for our country. Our university participation rate has reached 20% of the age range that should be in post-school education and that is up from 15.4% in 2003. These are significant shift for a nation of our size and economic ability. We also had students' population in 2014 in our higher education which was 72% African, 15% white, 6% coloureds and 5% Indian enrolments up from 62% in 2003, of African, 25% white, 6% coloureds and at that time 7% Indian. Thirdly, female students' population in our higher education system has increase from being a minority of 43% in 1993 to 54% by 2014, and that a majority for the first time in our history. Our technical and vocational training enrolments in 2015 have risen from 800,000 up from 345,566 students in 2010. This is significant because South Africa has had a problem in that in what it is called the 'upside pyramid'- too few in technical education and too many in higher education. We are trying to alter that

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pyramid because our skills needs are in the vocational, artisanal and technical sectors.

ADV G. ALLY: That, Minister, has been a problem for this Commission. In this sense: how do we invert that pyramid as it is the moment, taking into account that from the time I was schooling, you always wish to go to a university rather a college, for the reason that society at that particular time and I would think so, are saying colleges are lower than universities, which isn't necessarily the case. So, how do we change the mind set of society, because you might say we want to steer, but you can't steer if the person doesn't believe in what you are trying to steer them to.

MINISTER PANDOR: Commissioner, what we've seen at the moment is a shift indeed and that it is through greater communication and improved support for the TVET colleges sector and clear indications for if you are looking for establishing successful enterprises and entering the employment space, attending TVET colleges actually provides greater opportunities. But we understand the history, job reservations and lack of access to technical colleges caused the situation. And so, marketing through communication and funding and a range of other means, you begin to turn the situation around. Changing the history of education in South Africa will never take you a decade because it is a long history. But change is beginning to occur and to have had almost three-fold increase in a period of about 6 years is, I believe, a significant shift which will grow. The challenge will be how do you address the successes that are emerging.

JUDGE HEHER: You will appreciate that our mandate, Minister, is to determine whether fees free education is possible, feasible is the word. Strictly speaking, that does not include a consideration of how the TVET sector should be improved. But it may be within the concept of feasibility, which is the real practicability of you applying money to the purpose is the question of improving the sector into which we you are going to put the money. And we should say something is necessary says something about that. And the same time goes to some extent for the universities because they have been proposals presented to us for the improvement of the curriculum in the universities particularly to provide better articulation to schooling in universities. And they have been proposals on a number of levels for the improvement of the TVET system not only in relation to the curriculum, but also in infrastructure, and the workplace employment situation and so on. And it may be that we will come to the point where we would say that these things are necessary in order to render any idea of feasibility reality. Therefore, you can't do one without the other. Now, we noticed that from 2013 whitepaper (I think it was), the Department of Higher Education has expressly recorded and said that one should not wait to increase enrolment until one is able to improve the sector; that one should go ahead into increase enrolments and the sector will be improved concomitantly. That doesn't seem to have worked especially in the TVET sector. They have been substantial increase in enrolment, but the improvement has not kept up. And it is a question of

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whether we shouldn't be considering saying; what is the use in pouring money into this bag until you fixed the biggest hole first? Have you particular idea on that?

MINISTER PANDOR: Well, the question will be how do you incrementally free the hole, because access is a demand you can't push back.

JUDGE HEHER: Well, you fix the biggest hole first.

MINISTER PANDOR: And I think what you might do is to look at where there is efficiency and how you use that efficiency. And perhaps we have done well enough as yet. I think the recent agreement with the State-Owned-Enterprises has been very helpful in that they have re-opened their training facilities which are primarily technical and vocational. And to some degree, they have removed and relieved pressure from colleges that are not able through their workshops or the quality of the lecturers, not able to provide the level of training one requires. So, you really look for where remedy may lie. But I am, chairperson, most hopeful that the Commission would at least pronounce on this matter because it is of great significance to South Africa achieving the kind of diversity that it would require. At the moment, funding directed at supporting two students at post-school sector, addresses the support both at the TVET level and university level. So, I don't think the Commission can leave out a reference to the TVET sector.

JUDGE HEHER: Thank you

MINISTER PANDOR: So, to continue from 1994, but before that we've had a mass increase in loans and bursaries provision via the NSFAS from all needs students from all races in our country. And I mention from my own perspective given concern that we have a sub-committee, that we've also had a significant growth in the graduation rate of doctoral candidates in South Africa up from 1052 in 2003 to 2258 in 2014. I mention this, Judge, because we are concerned in our sub-committee that we are focusing on undergraduates funding only and yet we require knowledge workers in South Africa as well. And so, we require the honours, masters and doctoral graduates as well and they also would need to be funded. But in the current we are debating the matter of fees; it is to the neglect of post-graduate education.

ADV K. PILAY: Minister, may I ask the question around 1994 time period? Can you tell us what the ANC's manifesto was in 1994 in relation to higher education?

MINISTER PANDOR: As regards the higher education, we of course had in the (RDP) creation of a state scheme for support for students and attention to access, particularly for black African students and women and the black population being coloured and Indian people in general. We also proposed that we should pay attention to increasing the number of black candidates with what you would call then, scarce skills domains; and these would be engineering, science and technology. So, access was a strong feature as was areas of disciplines to be focused upon and the

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matter of state-funded support. The expansion of NSFAS was regarded as a response to that and 'ring-fencing' funding to support students to enter scarce skills domain was part of that response. Where I think there is perhaps has been inadequate attention has been in preparing for students' success in this revolving door syndrome and how you deal with students' academic ability as they enter first year, is area that I think needs direct attention. The ('RDP') spoke of foundation colleges, but we didn't really make much inroads with respect to that.

So, when we wrote the manifesto, we made the these general references from the RDP to our education, but the document that enshrined the most detailed perspectives on our education has subsequently been called the yellow book on education of the policy of the ANC. It spoke of the need to include as a socio-economic right in the Bill of Rights, the right to education and training which would ensure, we have enforceable and expanding minimum flow of entitlement for all. And that all individuals should have access to lifelong education and training irrespective of race, class, gender or creed.

ADV K. PILAY: At the time, how did the ANC understand minimum flow of entitlement?

MINISTER PANDOR: Primarily, it was defined as access to basic education for all. The standard was 10 years of compulsory education and that is in the first School Act; and providing support to access to higher education which was elaborated in 1997 Higher Education Commission. It spoke to steps to address equity which are very close to what I have referred to, but also to faster achievement of the 20% participation rate which was only achieved in 2014.

ADV K. PILAY: And the question of fees free higher education, did that feature in 1994 manifesto?

MINISTER PANDOR: I don't recall that it did at all. To my recollection, no.

I then move on to the progressively built-in introduction of free university undergraduate education for the poor. This was a resolution of the 2007 conference of the ANC. So, as you see, it was at the point that we began to actually speak to this matter.

ADV K. PILAY: Can I just ask you about that Minister, and the reason why I am asking question around ANC's manifesto is because we are going to pose questions to you around political and budgeting priorities, and the link between the two which is the testimony we've had from Minister of Finance thus far. So, we really want to track the ANC manifesto over a period of time to understand: firstly, what was ANC's position and how that translated into budgeting decisions. Now, is the 2007 the earliest time that the ANC introduced the notion of free higher education in its policy?

MINISTER PANDOR: My recollection, yes it was. It is stated as it is, but if even then there was a qualification which I think has been part of the practice anyway.

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JUDGE HEHER: I am not sure whether Advocate Pillay is reflecting what is on slide 6 it says progressively introduces free education for the poor until undergraduate level. It doesn't limit to higher education.

MINISTER PANDOR: That's right. It didn't specifically limit us to higher education. It was for the poor which after that period led to us introducing the 'quintal' system for schools and thus having from 'quintal' 1-3 having to be free schooling. And the matter of undergraduate level was still being dealt with through the state allowances of loans and bursaries through the NSFAS.

ADV K. PILAY: That was going to be my next question Minister. Was the manifesto deal with free education undergrads level? I think the question was prompted by the Judge. What specifically was meant by that? And what progressively introduce mean? Was there a time frame around when you would full implementation of free undergrads education?

MINISTER PANDOR: The progressive introduction was left for decision by government. What was recognised was that steps had been taken by the government to expand the NSFAS, and conference appreciated that. However, many young people in the conference made constant reference to exclusion and to the fact that the cost of higher education was increasingly an inhibitor to achieve the levels of participation that South Africa needed to pursue. It is for that reason they said we've got to address costs and support for higher education up to the conclusion of an undergraduate degree. The view was once you finish an undergraduate degree, you should have the means to be independent support beyond that.

ADV G. ALLY: Is that how we understand this resolution? This question is very important Minister because we've had a number of students' formations who have appeared before us and have raised expectations which resulted from the ANC's resolution over the years that there would ultimately be free higher education – at the very least, free undergrads education. So, we just want to understand this 2007 resolution. Was the resolution that there would be progressively free undergrads education?

MINISTER PANDOR: I think yes, we should understand it that way. But I think it says don't leave out for the poor. It didn't say everybody. So, I think that it is an important qualifier which is hardly referred to because it doesn't say free education for everyone. It is says for the people and we have attempted to address that.

ADV K. PILAY: And at that time, was there discussion within the ANC around what does it mean when you provide free education? Does it mean at no cost or does it mean income contingent loans? Were those discussions held?

MINISTER PANDOR: If you could allow me to produce, perhaps the question will come again and I can give further resolutions.

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ADV K. PILAY: I just want to check with you Minister because the next resolution was taken in 2011.

MINISTER PANDOR: That's right.

ADV K. PILAY: And it is important for us to get over time the discussions held and decisions that were made, because the question I am going to pose you next is to understand the relationship of the ANC as a political party and government as government. and not the one impacting the other. And the reason why this coming now is because when the Minister of Finance was testifying the ruling party manifesto as one of the key documents that dictates budgeting decisions. If you accept that proposition, then, it is important to understand along the continuum exactly what the policies decisions that were taken by the ruling party and how those policy decisions impacted on budgeting decisions taken by government.

MINISTER PANDOR: When you take policy decisions, you don't say that 40% must go to education and 20% HIV's ARVs, you look at the entire spectrum of responsibilities that government has and therefore, you have to allocate the budget as it is available. Policy maybe out step with budget but that it is important because policy should be a very firm guide to government. But government cannot spend money the state does of have nor can neglect a particular responsibility in the interest of what seems popular a policy statement. You always have make reasonable judgements and allocations based on the resources available to the state. And so, what you need to assess is; is there change of the time? Is the movement towards achieving stated policy outcomes? As you would see in a number of these, few have a date stated and therefore, you would read ANC's resolution and you see at times from conference to conference, a matter continued to be asserted as an imperative may not be achieved immediately. That it remains an ambition that we would have. Available of resources is a consideration and has to be.

JUDGE HEHER: What you are saying is that there might be an idea, but implementation is a pragmatic thing?

MINISTER PANDOR: Implementation, Judge, is a realistic assessment of what you are able to achieve and what is so urgent. So if you determine that when we identify that you are HIV positive, whatever the count with respect to viral load, you will have access to ARVs. That is a particular cost and resources are directed towards that. If you saying housing cost has risen dramatically, but you continue to have a policy of providing free public housing. That remains a cost. And so, you address within the means available to you what you can address. Having a policy with 60% of what is provided to NSFAS is converted to bursary is a very progressive policy for a country of our standing to have. So, i think it is important to recognise that while policies will serve as a firm guide, it will not immediately lead to adjustment and neglect of other areas of actions that government has to attend to.

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ADV K. PILAY: The challenge Minister is following, is that you have in this particular instance, the policy on a very sensitive social issue and something which forms part of the ruling party manifesto and something on which people decide on not or to elect a particular party. Which is exactly the point that has been made by students as they appeared before us; this was part of the ticket of the ruling party and hence, they call for accountability and respect of that portion of the ticket.

MINISTER PANDOR: What the manifesto and the resolution said in 2014 was progressive education for the poor and the increases in the NSFAS, and that support to increasing number of poor young people is a realisation of that progressive.

ADV K. PILAY: Hence the question Minister, when the ANC in 2007 decided on free education. What is that free....(cuts)

ADV G. ALLY: The one the board.

MINISTER PANDOR: The evidence leader consistently refers to free higher education and I am pointing out it is progressively introduce free education for the poor. Now, if you extra two words from a statement and expect me then to account on those two words and leave out everything else, you are posing a dilemma for me because I am not going to ignore the rest. I refuse to.

ADV K. PILAY: Minister, I accept that. The question was the following; in respect of the word free education that was used in the resolution, how do we understand? Was it conceptualised as income contingent loans or beyond that? I just want to be clear on what ANC's manifesto was in 2007.

MINISTER PANDOR: Which manifesto were you referring to? 2011 or 2014?

ADV K. PILAY: The manifesto from 2007.

MINISTER PANDOR: 2007 was a policy conference. So, the reference to the content of the policy conference would have been the election of 2009. And that manifesto made reference to progressive introduction and expansion of the NSFAS which is not purely an income contingent loan. A portion is an income contingent loan. 60% is a bursary.

ADV K. PILAY: So you are saying we see free education as it appears in the manifesto of 2009, we accept that to be a portion of an income contingent loan and a portion is also a grant?

MINISTER PANDOR: I think that is how it's been seen. However, as I said, if you could move to the next slide. In 2011, you would note that we introduced the conversion of the loan to a bursary upon completion of one's undergraduates' studies and that has been implemented.

ADV G. ALLY: Now Minister, you would be aware that 60% of the conversion refers only to your final year. So, if in your final year, let assume is 30,000, 60% of that

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30,000 is converted into bursary, the 40% must still be paid via loans scheme. So, it is not all the years that you have spent. On the whole, you will still be paying back some of the amount. And the position you are putting forward is that that is progressive realisation.

MINISTER PANDOR: I am arguing that over time, the level and the numbers that impacted upon by the provision have altered substantially. Hence, I am saying this would be defined by us as progressive realisation.

ADV K. PILAY: May I ask Minister the qualifying criteria for NSFAS assistance. We know if you can keep between the time we are debating until 2009, no change in the qualifying amount of 120,000 for NSFAS assistance. Was this an issue that was debated by the ANC with a view to increase the amount, to adjust for inflation or to cater for more people who couldn't afford higher education?

MINISTER PANDOR: Yes, it was debated almost every year, in every meeting; what we call the annual Lekotla, where we discuss a set of broad policy questions. Each year, concerns will be raised particularly the students wing of the organisation and the Progressive Youth Alliance that what is provided is not adequate. The justification would be that the resources for much larger contribution are not immediately available, and as they become available adjustments would be made.

ADV K. PILAY: May I ask a question around that Minister because we know that in 2015 when you have your first lots of serious disruptions in our universities. You see large amount of money being made available from the government from 2015 onwards for the purpose of higher education and the argument that has been put forward by students formations is that when they were social upheavals in our institutions of learning government was able to find large amount of money. Now if that was the case from 2015 till 2007, why in the years from 1994 up till 2015, government wasn't able to find additional money needed to ensure more deserving students receive financial aid?

MINISTER PANDOR: I think what you would find if you look at the budget made available to the NSFAS from 1994 up to this current period, you will find in each year, there have been increases, not as substantially has happened in 2015, 2016 and 2017. However, what you would also note in the budget, the operational is word is not find resources, but redirect. That means there is another priority which, therefore will be neglected. And what we are all not looking at is that what is that priority? I would answer- it is more PHDs, more Masters, more engineers and other areas. There are things that you give up and things you achieve. And I think we have to have an appreciation of that as we deliberate on these matters, because there isn't some of the resources that are available freely. As government we have programmes and budgets and others on the basis of emergency and urgency, as it happened with the drought, you will redirect and there areas you then lose achievement.

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ADV K. PILAY: Minister, the Minister of Finance testified before this Commission. One of the issues which were put to him and which he conceded that there was rampant inefficiency in government. There is problem with corruption and if all these were dealt with that there will then be sufficient money to be redirected towards higher education and that was accepted by Minister of Finance. Do you have a comment on that?

MINISTER PANDOR: I would agree with him. If you stop corruption and the theft of public resources, clearly then you will be more able to appropriately direct resources where they should. But I would disagree that all inefficiencies are within government. I think they exist in public institutions as well as State owned enterprises; and all these inefficiencies must be addressed. But addressing corruption will be one of the ways in which we could assist. But achieving economic growth which he has a responsibility for; we need to seriously plug some of these gaps.

JUDGE HEHER: But if we were to put that in our report, it will just be words.

MINISTER PANDOR: I am sure Chairperson, if you make a comment, with us needing to end corruption, and speak to it consistently, you will be listened to by both the public and public servants of South Africa. We need to make more of this. What we need to address is how do we build this moral fibre of our nation? How do we generate more voices that are directed towards delivering the goods rather than identifying the negative which is what we tend to be focused on?

JUDGE HEHER: But I am not sure that this report is the proper place to say that. Unless we are able to put our fingers on a particular corruption that needs to stop

MINISTER PANDOR: I would agree with you chairperson. However, I am the witness who has to ask the questions of your evidence leaders no matter how general they might be.

JUDGE HEHER: May be just let me give you an example. One particular political party has been here and said that the government should cut down on number of foreign embassies, that they are wasting money. Now, that may or may not be correct. But what is the point of us putting us in our report. Not at all but it is equal to what you are saying that corruption should be cut down.

MINISTER PANDOR: I don't whether you want to put in your report that corruption should be cut down, but it is a statement of fact. With number of embassies, I will hesitate to make such a reference till I have done a proper study.

JUDGE HEHER: Exactly. I say please give us fact. They said it is not for us to tell you. You must find it and I think the same applies to the case of corruption, I am afraid.

MINISTER PANDOR: I don't know if I should continue or stop.

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ADV K. PILAY: We've reached 2011 Minister.

MINISTER PANDOR: Here we are with respect to 2011. The ANC agreed that and then announced in January 8. That we will have the arrangement of providing a loan equivalent to full fee and living expenses for final year students. And once they have graduated, this will be converted to a full bursary and would not have to repay the amount. It was said that this would be phased in over several years to include students in early years of their studies. I sought to check whether this has been done and I have been able to establish that this has been introduced. And a number of students who have benefited from the conversion of the final year of loan to bursary now stand at 26,208 graduates. This excludes the number that we are yet to collate for the year 2015 and 2016.

ADV. M. LEKOANE: Sorry Minister, on that point. I don't know if any inquiry has been made. You referred earlier to the revolving door syndrome... if in these 26,000, do we have (drop out triple rate) in the beneficiaries of. Because we have heard a lot of evidences of the lack of enough graduates referring to the lack of access and success?

MINISTER PANDOR: Perhaps what we might ask is that to be done is that the council on higher education should provide the Commission with its annual report. Then, you will see the graduation rates. There has been an improvement in the past few years, but it is still a serious problem particularly at the first year level.

ADV. M. LEKOANE: Maybe later on, on other statement. That is what I want to check if this has been revisited and analysed if there is a change of policy on how it is being implemented from the ANC to improve on it.

MINISTER PANDOR: Yes, certainly as I would indicate to the conference of 2012 which followed this one, there were proposals to expand on what has been proposed in 2011. I would also indicate that from 2011, the students' rate in TVET sector who qualified for financial aids were exempted completely from paying fees and that's the progressive realisation we referred to earlier.

ADV K. PILAY: Minister, may I ask question about that- the funding of the TVET colleges, because the department has got 80/20 policy where it says that 80% must be funded and the students must find the 20% of it. And then, you have students who qualify for NSFAS and the 20% will be covered by NSFAS and those who don't qualify will NSFAS have to pay the 20% on their own. Realistically, the evidence we have had before, and this was put to the Minister of Higher Education, Dr. Nzimande and he accepted that it is true. That works out at the moment as 50% of the total programme costs that is being covered by government funding. In other words, there isn't 100% funding even for NSFAS qualified students.

MINISTER PANDOR: If Dr. Nzimande has said that, how can I contradict him?

ADV K. PILAY: He has accepted that there is that particular problem at the moment.

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MINISTER PANDOR: There is such problem. But we must recognise... I should have begun by taking us through the economic difficulty of South Africa. Clearly, there are problems posed through inadequate growth and government reduction of budget in order to attend to a range of urgent priorities. And that would mean in the period of 2008 through to this year for around 9 to 10 years, we've had difficult challenges with respect to availability of public finances.

ADV K. PILAY: Is there a reason, Minister, why the decision as it relates to higher education was properly implemented, but not the decision as it relates to FETs at the time?

MINISTER PANDOR: I don't know whether the Minister made particular choices, but I will you may need to pose that question to higher education which I understand is appearing tomorrow. As ANC, we will not be able to answer that question now.

I come then to Manguang resolution of 2012 which speaks to implementing free higher education for the poor. The conference referred to the significant strides which have been achieving in working to finalise the policy on free higher education; that the progressive realisation mentioned in 2007 for students in poor communities; proposed phased implementation according to conference from 2014. Also, noted that a draft policy on free higher education had been completed and that various processes of interactions and decisions will ensue between the departments and treasury. With that resolved, that we should adopt the policy by the end of 2013. Of course, we are unable to do so, as I mentioned the issues of public finances became a barrier to advancing to a fully-fledged policy. Nevertheless, we continued the growth in the provision of the quantum for the NSFAS. So, whatever the financial strictures, we've always made more funding available through NSFAS.

ADV K. PILAY: Minister, at this stage, did ANC accept that the income contingent loan was the proper way of providing assistance to deserving students?

MINISTER PANDOR: Much as we were not happy that we were unable to implement the policy, we accepted the explanation due to the lack of resources and the poor growth at that time, we will not be able to fully implement if even we adopted the policy. And we said, let's look both at improving the efficiency of NSFAS and expanding the reach of the fund.

ADV K. PILAY: And did the ANC consider how onerous the income contingent loans are on students? We have had many students who appeared here as speak on the burden of debts particularly on poor and black students.

MINISTER PANDOR: We are aware of the genuine concerns of a number of students who have loans and who have not been able to find employment that allows them to begin repaying the loans. However, we are also aware of thousands of young people who have been positive about the support they have received which allow them to access higher education and who have been able to repay the loans

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in a shorter period than specify by the policy. So, you come across great deal of worry around negative loan and financial burden, and also positive and invigorating experiences of the impacts of the loans and the nature in which the existence of the scheme changes the lives of families. I have come across many students through meetings and that's why I am aware of the challenges as we are as ANC. We aware given our means, that's the best the country can do and that it has had a positive impact on many young professionals who are black and white.

ADV. M. LEKOANE: I am not sure that if this is the right time to talk about the means part of our feasibility, to see where can we get the resources? Can the country say when you are talking about different sources where you can get funding other than the fiscals... (cuts)

MINISTER PANDOR: I wonder if you would allow me to just finish and you could pose your questions. We are dealing with next slide which is the 13th. All of this is actually saying that this matter continues to be a concern to the ANC and the sub-committee. We had another proposal from a free working group on free education and the main recommendation was that for full course loan without an upfront family contribution for students from households not liable for income tax. Then, next category of students will be similarly funded but not without some household contribution.

With respect to NSFAS, our view as ANC and sub-committee is that the NSFAS is a viable instrument for providing financial aid to student in post-school sector. Historically loan repayment rates are on par with those who similar systems elsewhere in the world. In around 2008/9, there was view that the NSFAS Act was in conflict with the Credit Act and there was pull back on loan recovery efforts. But this has now been rectified and we began to see improvement in loan recovery. But again given the nature that there will free, no cost at all higher education, we are concerned that they maybe again a pull back on loan repayment. I will say that the loan goes back to provide more funding for other students.

ADV G. ALLY: Minister, there is a broader question and I want the sub-committee to address if possible, if you are not able, that is fine. It comes to the Section 29, 1B of the constitution which you will be aware of, deals with further education and the right to education in the Bills of Rights. You will be aware further that there has been ratification of the convention o socio-economic rights. To be fair to you, I need to read the Articles 13 and 4, and government's reservation in respect of that. It states: the state parties to this covenant recognises the right of everyone to education. They agree that education shall be directed to the full development of the human personalities and dignity and shall strengthen the respect for human rights to fundamental freedom. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding tolerance and friendship among all racial, ethnic and religious groups and for the United Nations maintenance of peace. 13.2 states that state parties recognise that with a view to

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achieving full realisation of this right; a, primary education shall be compulsory and available free to all; b, secondary education in its different forms, including technical and vocational, shall be made generally available and accessible to all by every appropriate means and in particular by the progressive introduction of free education; c, higher education shall be made equally accessible to all on the basis of capacity, by every appropriate means and in particular by the progressive introduction of free education.

Article 14 indicates that each state-party at the time of being a party has not been able to secure its territories, under its jurisdictions compulsory primary education, free of charge that takes two years to work out and adopt a detailed plan of action for the progressive implementation within a reasonable number of years is to be fixed in the plan of the principle of compulsory education free of charge for all.

Now the government made a declaration in respect of this covenant and indicated the following: .

The Declaration in the Article 32 is a primary education. The government of South Africa will give progressive effect to the right of education as provided for in Article 32(A) and Article 14; the progressive realisation- within the framework of national policy and available resources.

I just want to know if the ANC understands the implication of the particular Covenant and what the constitution says in terms of realising rights that are contained in covenants and international laws because what I am reading here, and you can correct me if I am wrong, is that the government must provide free education at higher as well as secondary education whether in qualifying or making the reservation they did not think of the whole implication. I am not sure. So, I will just want to know if this is a realisation of what this actually means.

MINISTER PANDOR: I would like to answer on behalf of government. Yes, there is a realisation and that is why our policies have been implemented as I have stated. We are aware of what we are able to achieve as a country and I think we have progressively worked at achieving more than we started with in 1994.

MINISTER PANDOR: Chairperson. The first thought that came to my mind was that I hope that by referring to presentation as seductive, you didn't imply that mine was not.

JUDGE HEHER: No I assure you that is why I wait till the end before I raised it.

MINISTER PANDOR: Well Chairperson, I think as the ANC we believe there must be some public contribution to support students who do not have the means to support themselves as well some elements of private contribution from the private sector. We also believe that the first target of support must be the poorest in our society who have the academic ability to be successful and to enter higher education. We think NSFAS provides the basis of a likely transformed institution. We don't say it is part

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by any means, but it is an institution which we change in order to respond in a different way. Thirdly, Chairperson, I am not as positive about the bank's response as the seductive presenter was. I think they would be rather wary about some of the suggestions. Fourthly, the minute we are asking the state to guarantee, we are placing further burden on the state in already fairly over-burdened socio-economic provision.

JUDGE HEHER: Now, this I didn't say to you. We've spoken about R42 billion which is lying unused in unclaimed pension funds. With the amendment to the UIF, the actuarial costing of the UIF shows that with that amendments implemented, in 10 years time the service of UIF will no less be R209 billion. The UIF has other generous benefits that we should still introduce. You are told according to actuarial calculations, that if those benefits are introduced, in 10 years times the 10% of the funds will be nonetheless be R124 billion. So, that we the state needs to meet the guarantees, money is available to meet the debts of the students who have not paid or who cannot pay.

MINISTER PANDOR: As against the guarantees against the state owned enterprises; the guarantees in other areas. This constant call on the state being the key provider is a challenge for the country. And in higher education, many countries have found that they cannot meet this demand; even extremely wealthy countries.

JUDGE HEHER: Minister, that is perfectly true, but this money has been lying around for a very long time and they haven't been used for any of the purpose that you've suggested to me.

MINISTER PANDOR: Judge, I think we will be very keen to see whether those judges can be lent to those purposes that are suggested by the seductive presentation. My suspicion is that they may probably not be, but let us explore the models that are possible. However, as the ANC, we say our attention must be to the need. They should not be prohibited from access.

JUDGE HEHER: On the seductive presentation, the need will immediately have free education. Free in the sense of not having to commit anything throughout the period at the university and not to have to pay until capable of paying. What could they want more than that?

MINISTER PANDOR: My experience in government has been that which appears very seductive is hidden in the cloth of invisibility and when the truth is revealed you often there are assumptions that you are making which in reality does not allow.

JUDGE HEHER: That may be so, but we are not allowed to say that at this stage and that's why I want to hear your view. And I thank you for it.

ADV M. LEKOANE: Just follow up on that; on your reluctance on the banking sector to participate.

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MINISTER PANDOR: It is not my reluctance. I am not a banker. It is my belief that they would not agree to the conditions.

ADV M. LEKOANE: Ok, your concerns. I am saying there was a proposal that says may be if there was a legislation that is imposed to compel banks in that respect doing business in South Africa and there is a need for loans of this nature and this is the percentage that we expect the banks to contribute.

JUDGE HEHER: It speaks of responsibility contribution.

MINISTER PANDOR: Well as it has been said in the proposal that has been put forward by Nxasana You can't make that demand on just a demand on one sector. There has to be quid pro quo. So, if your quid pro quo is that this your equity equivalent may be it will work, but if it is just an expectation of a social responsibility without any part of your incentives in the regulatory scheme falling into place, I don't think you have an attractive proposal. That's just me. I am a little cautious by nature.

ADV M. LEKOANE: But will there be an objection in the sense of creating that legislative environment that is meant for the banks so that it doesn't become an expectation or generosity from them?

MINISTER PANDOR: I wouldn't object if it makes us as attractive as all other investments destinations. If they detract from that, and loses us investments and jobs, I will be worried.

ADV M. LEKOANE: So further investigation needs to be done?

MINISTER PANDOR: I as Minister of science and technology, research and investigation are important to me.

ADV M. LEKOANE: Thank you Minister.

JUDGE HEHER: Thank you Minister Pandor.

ADV K. PILAY: Thank you Chair, we have no further questions.

JUDGE HEHER: And again, thank you for taking time and efforts to have come. And the efforts you have put into the presentation. Thank you.

MINISTER PANDOR: Thank you chairperson and I wish you well in your work.

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SET 8 – HEARING 1 – DAY 7

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