

Submission by NSFAS on Fee-Free Higher Education

Submission to the Commission of Inquiry into the feasibility of a Fee-Free Higher Education and Training in South Africa, referred to as the
“(the Fees Commission)”

Terms of Reference:

The Commission shall enquire into, report on and make recommendations on the following:

1. The feasibility of making higher education and training (higher education) fee-free in South Africa, having regard to:
 - 1.1. The Constitution of South Africa, all relevant higher and basic education legislation, all findings and recommendations of the various Presidential and Ministerial Task Teams, as well as all relevant educational policies, reports and guidelines;
 - 1.2. The multiple facets of financial sustainability, analysing and assessing the role of government together with its agencies, students, institutions, business sector and employers in funding higher education and training; and
 - 1.3. The institutional independence and autonomy which should occur *vis a vis* the financial funding model.

SUBMISSION MADE BY:

NSFAS

18 Court Road | Wynberg | CapeTown | 7744

www.nsfas.org.za

30 June 2016

TABLE OF CONTENTS

List of Abbreviations	3
Executive Summary	5
Introduction.....	8
Defining “fee-free” higher education in the South African context	11
i. Funding for first opportunity access – defining ‘higher education’	11
ii. Funding the “right” amount - ‘Tuition fee’ versus ‘the full cost of study’	12
iii. Who pays what when – what does “free” higher education mean?.....	16
iv. Funding the “right” student – ‘who’ should receive	19
v. Global practices in the provision of Fee-Free education, deferred tuition or mixed mode higher education financing models	25
vi. Global Best Practice in Financial Aid services for students	27
Policy imperatives and social and economic considerations	28
i. The Constitution and the Bill of Rights	29
ii. Linking the Constitution and Bill of Rights to higher education policy	30
iii. Transforming higher education through the promulgation of the NSFAS Act 56 of 1999	31
iv. Perspectives taken from global imperatives for social change	34
v. Education and inequality – the developmental state objective.....	36
Recommendations towards funding a fee-free higher education system	41
i. Recommendation 1: Sustainability through loan recoveries	41
ii. Recommendation 2: Different financing models/scenarios for higher education...	48
iii. Recommendation 3: Policy considerations for review	52
Conclusion.....	53
Full reference list.....	55

LIST OF ABBREVIATIONS

ACWR	African Charter on the Rights and Welfare of the Child
ANC	African National Congress
CEDAW	Convention on the Elimination of Discrimination against women
CUT	Central University of Technology
CPUT	Cape Peninsula University of Technology
CPI	Consumer Price Index
CRPD	Convention of the Rights of Persons with Disabilities
DFA	Dakar Framework for Action of 2000
DHET	Department of Higher Education and Training
DUT	Durban University of Technology
EFC	Expected Family Contribution
HE	Higher Education
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICERD	International Convention on the Elimination of all forms of Racial Discrimination
IZA	Institute for the Study of Labour
MUT	Mangosuthu University of Technology
NDP	National Development Plan
NSFAS	National Student Financial Aid Scheme
NSF	National Skills Development Fund
NWU	North West University
PER	Performance and Expenditure Review (by National Treasury)
SARS	South African Revenue Services
SASCO	South African Students Congress
SAUS	South Africa Union of Students

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

SETA	Sector Education and Training Authority
STATSSA	Statistics South Africa
SU	Stellenbosch University
TVET	Technical Vocational Education and Training
UFH	University of Fort Hare
UJ	University of Johannesburg
UN	United Nations
UCT	University of Cape Town
UNISA	University of South Africa
UNESCO	United Nations Educational, Scientific and Cultural Organization
UFS	University OF Free State
UP	University of Pretoria
UKZN	University of Kwazulu-Natal
UZULU	University of Zulu- Land
VUT	Vaal University of Technology
UL	University of Limpopo
TUT	Tshwane University of Technology
UWC	University of the Western Cape
UDHR	Universal Declaration of Human Rights
UNCRC	The United Nations Convention on the Rights of the Child

EXECUTIVE SUMMARY

Since the ushering of the democratic dispensation in 1994, South Africa has experienced rapid growth in economic activity and social development. Central to these two aspects of a nation's character is education and training, which are the core to national human resources development goals and the aspirations of the National Development Plan Vision 2030. The continuous rising demands on our economy over the years have steadily contributed a growing demand for higher education and the greater post-schooling system.

Hence for many young people who come from poor backgrounds, the National Student Financial Aid Scheme (NSFAS) has narrowed the gap between them and the unaffordable cost of higher education in South Africa.

Therefore, this unique position has exposed NSFAS to the changing dynamics that plague higher education in South Africa, one of which is the escalating capital needed to access it. It has also exposed NSFAS to the effects of poverty on young people who want to access higher education in order to be able to play a meaningful role in the economy of their country. It is for this reason that NSFAS has been positioned responded to this need in increasing volumes over the years.

In 1991, the scheme disbursed R21 million for student funding, which increased to R510 million in 2000, R3.6 billion in 2010, and R9 billion in 2014. However, despite these sharp increases, the demand for higher education funding keeps running ahead of the allocations, leaving a massive pool of eligible students without financial cover. This position paper is therefore responding to the request of the Commission on the following:

- 1.1 The Constitution of the Republic of South Africa, all relevant higher and basic education legislation, all findings and recommendations of the various Presidential and Ministerial Task Teams, as well as all the relevant educational policies, reports and guidelines;



Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

- 1.2 The multiple facets of financial sustainability, analysing and assessing the role of government together with its agencies, students, institutions, business sector and employers in funding higher education and training; and
- 1.3 The institutional independence and autonomy which should occur *vis a vis* the financial funding model."

Furthermore, this position paper provides a picture of the role government has played in the complex dynamics of poverty and higher education, the possible estimated cost of higher education funding for poor students, as well as NSFAS' understanding of the possible implications of a fee-free higher education in South Africa.

Over the past few years, NSFAS has progressively implemented some of the recommendations for in the National Development Plan, wherein it advocates full loan and bursary funding for eligible NSFAS students so as to cover their tuition fees, accommodation, books and other living expenses. In reality, NSFAS does not fund the Full Cost of Study for all students as some universities apportion the available funding between all eligible applicants, meaning that all are underfunded to a greater or lesser extent. Collecting money from our debtors has been and remains the biggest challenge for us. In 2015, we saw the decline to R247.5 million in recovered loans, from R338.8 million in 2014.

The lower rates of recovery have been worsened by the effects of legislation as NSFAS is not set up to collect the outstanding debts. The NSFAS Board has established the Debt Recovery Task Team to assist in findings ways to effectively collect outstanding debt. The entity has also approached the National Credit Regulator to amend the National Credit Act (NCA) (i.e. provisions relating to the positive consent) allow NSFAS to easily collect outstanding debts owed to it. Recent amendments to the Tax Administration Act (2011) will enable NSFAS to secure data

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

that will enable the entity to contact debtors who are employed but who not informed NSFAS of their employment status.

These funding challenges are a critical part of our considerations of a proposed fee-free higher education for all, as they reflect the extent to which the state's investment is going to cover the cost of higher education as a commodity rather than a public good. South Africa is a developing state witnessing economic hardship from the recent global economic meltdown. It is against this background that the State and the entity would have to find reliable and committed sources of money that could sustainably assist with coverage of the real cost of higher education, which would increase dramatically if the state was to roll out fee free higher education unconditionally to all.

Therefore, this NSFAS position paper has taken all these various factors, merits, demerits, elements and dynamics in consideration while compiling our position. In arriving at our recommendations, we have considered our position as a country, in relation to existing global practices in the provision of Fee-Free, deferred tuition, or mixed model higher education funding models. We have also paid special attention to policy imperatives and social and economic considerations and the Constitution of the Republic of South Africa.

NSFAS needs to more firmly codify the non-negotiables for student funding decisions within the funding parameters in consultation with the Department of Higher Education and Training (DHET). There is a need to ensure that stronger compliance with the application of the NSFAS parameters in the full roll –out of the student centred model. NSFAS must ensure that its own internal policies, processes and systems are geared adequately to manage the complexities inherent in determining which students must be funded and how much funding they must get.

INTRODUCTION

NSFAS is a public entity of the Department of Higher Education and Training (DHET), established in 1999 through an Act of Parliament, Act No 56 of 1999, to provide for the granting of loans and bursaries to eligible students at public higher education institutions and for the administration of such loans and bursaries; to provide recovery of loans; to provide for the Provision of Special Funds for the Tertiary Education and Training Act, 1993 and to provide for matters connected therewith.

Since its establishment, NSFAS has become recognised as a reputable disbursing of student financial aid, and as a model of good practice on the African continent, despite chronic under-funding of its operations and the students it serves. Following a Ministerial Review in 2010, NSFAS' mission was re-crafted so to focus on its' transformation into an efficient and effective provider of financial aid, in a sustainable manner that promotes access to, and success in, higher education and further education and training, in pursuit of South Africa's national and human resources development goals.

The latter is not farfetched from the resolution of the governing political party, the African National Congress (ANC) in its 52nd National Conference that government must "progressively introducing free higher education for the poor until undergraduate level". In addressing the 16th National Congress of the South African Students Congress (SASCO), the Minister of Higher Education and Training, Dr. Blade Nzimande, stated that "in terms of the scope of the committee's work, I expect that the report would contain proposals which may significantly change the nature and functioning of the scheme. This should include a review of the means test, the repayment process and a more equitable formula for financial support of students...in the final analysis, the revamped NSFAS must give effect to government's commitment to progressively introduce free education for the poor up to undergraduate level".

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

While access to higher education by especially the African population group was neglected during apartheid, the democratic government regards equity of access as a critical goal of transformation as articulated in the Education White Paper 3 of 1997. In this light, a question that often arises is whether access to higher education is a right, a privilege, or a necessity in South Africa. The Green Paper for Post School Education and Training by the DHET openly states that “most institutions charge student fees. While they are essential to institutional survival in the current funding environment, many institutions fees have been increasing dramatically and are a major barrier to access”.

Given this, the role played by NSFAS in this post democratic dispensation has been critical as NSFAS has provided access to education for more than 1,5 million students from poor and working class families. However, NSFAS supports the view that “an important challenge that still remains is finding the resources to address those students who do not qualify for NSFAS loans because their families’ incomes exceed the threshold of R122 000 per annum but who do not earn to qualify for commercial loans”.

As of late, the funding of higher education in South Africa has been a subject of animated debate. This debate has ranged from the adequacy of government funding of higher education and the suitability of the funding framework, to protestations against frequent tuition fee increases. At present in the national discourse, the debate is primarily concerned with the provision of “free” higher education. Students argue, stemming from the proposed tuition fee increases for 2016, that “a university degree ... had become unattainably expensive”. And so began the growth of one of the most significant student campaigns in recent times – the #FeesMustFall campaign.

This campaign drew its strength largely from a highly socially mobilised generation of students, and touched the lives of all students – both those with means to finance their studies, those referred to as the “missing middle” and those without, who NSFAS is currently catering for. The latest figures supplied by the DHET provide evidence

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

that the shortfall in 2014 was 18.7%, and suggests further that of those who are supported, many may not be supported for the full costs of their study.

Even in universities generally considered to have lower fee structures, tuition fees still remain too high for many families, evidenced by the growing student fee debt at the universities. As such, NSFAS' impact has been "diluted" by the increase in fees, which has meant that despite increases in the funding, the number of actual beneficiaries has not significantly expanded over the years since 2012. The number of students funded in 2012 was 194 504, dropping to 186 150 students in 2014, despite a growth in the amount of funding directed to universities from R5.871bn to R 6.970bn in the same time.

It has been shown that in some instances, annual inflation for higher education fees (tuition and accommodation) in the past few years, was almost double the headline inflation, according to figures cited from StatsSA data (2015). It is therefore no surprise that the gap between those that can afford and those that cannot afford has narrowed, with increasingly more households unable to afford the cost of tertiary education.

This position paper is structured in four different 'chapters'; each dealing with an element of NSFAS' positioning on various issues that are related to the arguments for and against "free higher education". The first chapter will outline NSFAS' understanding of fee-free higher education within the South African higher education context, and will be contrasted with documented examples of this in practice in both developing and developed economies. The second chapter will detail various policy imperatives that are relevant to this discussion, and in particular, will focus on national policy objectives articulated as part of the NDP.

The final chapter will focus on looking at the financial considerations of such a policy decision, taking into account the questions of sustainability linked to recovery and the injection of new funding into the system. It also will provide some recommendations

that NSFAS is proposing in respect to strategies and mechanisms for extending funding to more students, through expanding the net of funding and adopting different funding buckets dependent on financial need.

DEFINING “FEE-FREE” HIGHER EDUCATION IN THE SOUTH AFRICAN CONTEXT

2.1 It is critical that the context for the positioning of fee-free higher education is established at the outset. There are four key concepts which need clarification in this next section: i) what programmes are included in the definition of higher education; ii) what are fees inclusive of; iii) what is the meaning of “free” as all education must be paid for by someone/some entity through some means; and iv) is this a targeted programme for the poor, the “missing middle” or universal access?

i. Funding for first opportunity access – defining ‘higher education’

2.2 Higher education is a component of the further education and training qualification band. Based on the 2012 report by the working group appointed by the DHET¹, the scope of this discussion is therefore limited to the following: *University education is understood to refer to undergraduate university education, including degrees (both 3 and 4-year), diplomas and certificates. Postgraduate education is therefore excluded.*

2.3 This mirrors the existing NSFAS parameters for funding, in which the NSFAS Act 56 of 1999 defines higher education as: *All learning programmes leading to qualifications higher than grade 12 or its equivalent in terms of the National Qualifications Framework as contemplated in the South African Qualifications Authority Act 58 of 1995.*

¹ Department of Higher Education and Training (2012). Report of the Working Group on Fee Free University Education for the poor in South Africa.

2.4 Given the limitation in funding, this parameter has been defined through the NSFAS rules and regulations by further excluding the funding of second qualifications (including B-Tech programmes that leads to professional qualification), limiting each student to first opportunity access funding. The exception to this has been where specific funders have allocated ring fenced funding to NSFAS for postgraduate study – each of these funds is governed by a separate agreement.

ii. Funding the “right” amount - ‘Tuition fee’ versus ‘the full cost of study’

2.5 In the 2012 report of the Working Group on Fee-Free University Education for the Poor in South Africa (DHET, 2012), the following key concept relevant to this discussion was proposed, namely that:

University fees need to include provision for not only tuition but the full cost of study necessary for success at university, including meals and accommodation, books and travel.

2.6 In the NSFAS Act, provision has been made for the following understanding of the costs of study:

Paragraph 1 (xiii):

‘loan’. means a loan granted to a person by the NSFAS in order to enable the person to defray the costs connected with his or her education at a designated higher education institution, and those connected with the board and lodging of that person for purposes of attending the institution.

2.7 Over time, NSFAS has expanded the scope of the full cost of study to include associated costs of study such as book allowances (or allowances for learning materials which may or may not include laptops), travel allowances (formally recognised when the Final Year funding was introduced), and in the case of

students with disabilities, allowances for assistive devices and/or human support.

- 2.8 It is apparent from the Universities South Africa Review of financial aid policies that there still remain different understandings amongst universities of what expenses are 'in' and which expenses are 'out' in the determination of this full cost of study, and in the determination of which expenses will be covered by the NSFAS loan or bursary.
- 2.9 Despite this, NSFAS has annually required the universities to provide an estimate of the full cost of study across the range of programmes offered and the various accommodation facilities. The full cost of study is then calculated done on the basis of projections for tuition, accommodation, books and/or meals. From this data, NSFAS then determines the maximum capped loan or bursary award as a weighted average of these, with some institutions full cost of study falling above the capped amount. However, from NSFAS' data, on average no more than six universities generally fall into this category, with the majority sitting under this capped value. This is not to say that there are no programmes within these universities which may fall higher than this maximum cap. Most Faculties of Medicine, Engineering and in some cases, Accounting often falls above this capped amount.
- 2.10 The NSFAS capped amount is also a calculation done on an average weighted full cost of study, race, and is communicated as part of the NSFAS funding parameters each year. A study commissioned by NSFAS (undertaken by researchers at the University of Stellenbosch) reported that the maximum amount a student could receive in 1999 was R13 300, increasing to R47 000 in 2010, and in this academic year, this has increased to R71 800. Since 2008, most universities' average full cost of study increased more rapidly than in the prior period. Although the NSFAS capped amount has generally increased at a higher rate than inflation, this was from an initial low base.

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

2.11 This has been tracked by NSFAS since 2003, and is shown in the table included in the Performance and Expenditure Review (PER) of NSFAS in 2015 (commissioned by National Treasury), and has been documented over the past four years by the Council on Higher Education (CHE) in their VitalStats publications.

	Average FCS for selected years				% average annual growth			
	2003	2008	2012	2015	2003-2008	2008-2012	2012-2015	2003-2015
Average CPI					4.5%	7.0%	5.8%	5.6%
UCT	37 925	47 564	82 428	113 602	5%	15%	11%	10%
UP	30 243	44 387	73 741	99 900	8%	14%	11%	10%
WITS	27 855	49 253	76 541	99 470	12%	12%	9%	11%
RHODES	27 900	43 710	74 700	94 900	9%	14%	8%	11%
UJ	32 600	35 815	67 335	88 749	2%	17%	10%	9%
SU	29 355	41 740	52 859	86 990	7%	6%	18%	9%
DUT	26 462	34 488	63 928	81 170	5%	17%	8%	10%
UKZN	27 945	36 286	57 770	79 491	5%	12%	11%	9%
NWU	30 005	31 394	56 011	76 870	1%	16%	11%	8%
MUT	18 770	28 051	49 846	75 480	8%	15%	15%	12%
UNIVEN	17 398	38 957	56 369	73 263	17%	10%	9%	13%
UFH	18 730	29 584	59 870	71 043	10%	19%	6%	12%
NMMU	32 602	35 550	49 128	71 010	2%	8%	13%	7%
SMU	33 480	no data	54 120	69 553	no data	no data	9%	6%
UL	40 722	39 196	54 120	69 553	-1%	8%	9%	5%
VUT	25 301	32 230	43 333	68 019	5%	8%	16%	9%
UFS	29 131	35 837	47 176	67 769	4%	7%	13%	7%
UWC	30 260	36 143	50 710	67 320	4%	9%	10%	7%
NSFAS Cap	20 000	38 000	56 400	67 200	14%	10%	6%	11%
CUT	24 000	30 558	46 469	61 381	5%	11%	10%	8%
TUT	27 746	27 996	43 114	58 352	0%	11%	11%	6%
WSU	23 475	25 983	43 669	55 718	2%	14%	8%	7%
UZULU	21 840	29 012	40 134	50 536	6%	8%	8%	7%
CPUT	22 860	34 002	37 197	48 831	8%	2%	9%	7%
UNISA	no data	no data	15 813	18 350	no data	no data	5%	no data

2.12 The intention of the PER was to examine the planning, implementation and financing of the Scheme as a whole, and the cohort analysis was one of many methodologies employed to understand this further. Its' primary purpose was not to undertake a full longitudinal analysis, but to highlight areas that need addressing. The PER cohort study recognised that NSFAS funds only a subset of the student population whose characteristics may differ from the aggregate student population. Most notably, differences such as economic background, parent education level, and schooling may have profound effects on downstream decisions such as choice of university, choice of qualification type and field of study. The analysis in the PER showed that in respect to the changing affordability of the average full cost of study in relation to a mid-point average household income by quintile, higher education has become less affordable to households in all five quintiles. The report notes that already in 2003, households in income quintiles 1, 2 and 3 could not reasonably afford the costs of a university education, and this has moved further out of their reach (see table 7, p 29).

2.13 It is also important to note that one of the most commonly cited reasons for increasing tuition fees has been the decline in state funding, with the balance between government funding, student fees and third stream revenue (research and development and other private grants) shifting dramatically from 2000 to 2013². In 2000, government funding represented 49% of the funding income in comparison to student fees of 23%; but in 2013, government funding contributed 40% with 33% derived from student fees, with the total value of income into higher education increasing from R32.51bn in 2000 to R53.3bn in 2013. It can also be argued that high tertiary inflation has resulted from the weakening of the currency, pushing up the costs of books and equipment, the

² Cloete, N. (2015). *The flawed ideology of free higher education*. In University World News. <http://www.universityworldnews.com/article.php?story=20151104111825416>

increasing cost of municipal services including electricity/water³, and the increasing cost of academic salaries in a bid to retain high performing academic staff⁴.

2.14 There are reports in the literature on the perverse relationship between the granting of financial aid and the increase in the tuition fees at universities⁵. While this report refers to the Pell Grant system in the United States, there is anecdotal evidence that this phenomenon has been observed in South African universities – for example, in the University of Fort Hare, the costs of a teaching degree (including accommodation and housing) have risen dramatically following the introduction of the full cost bursary of Funza Lushaka to the point where this programme is one of the most expensive in the country.

2.15 As a result of these increasing fees limiting access to university, a practice called top-slicing prevails in many different forms across the universities, according to Universities South Africa, and confirmed anecdotally by some financial aid offices. It is understood as a distributive mechanism in which the allocation made to an institution is spread across all qualifying students, with all students receiving less than the full recommended amount by the NSFAS means test. Eliminating the practice of top-slicing is critical to ensuring that all students receive the full award, aligned to the full cost of study at that institution and within the capped award size determined by NSFAS.

iii. Who pays what when – what does “free” higher education mean?

2.16 One of the most critical constructs in the discussion on free higher education costs (having now defined higher education and costs independently) is the

³ Makoni, M. (2014). *Higher education is not cheap*. In University World News, Global Edition, Issue 340.

⁴ Cloete, N. (2016). *Free higher education – another destructive South African policy*. Paper published by the Centre for Higher education Trust (CHET) January 2016.

⁵ Wexler, E. (2016). *Increased student aid, not faculty salaries, drives tuition up*.

<http://www.insidehighered.com/news/2016/02/09/study-increased-student-aid-not-faculty-salaries-drives-tuition>

meaning of 'free'. It is generally recognised that higher education cannot ever be free.⁶

2.17 All education must be paid for by someone/some entity through some means. In South Africa, as with many other developing and developed countries, higher education financing is facilitated through a cost-sharing policy – in which the costs for higher education are shared between the government (as a public good) and the student-to-be-graduate (as a private good) and private funding (serves both purposes).

2.18 The policy choice facing South Africa is therefore not so much a question of can higher education be 'free', but who pays, when do they pay and how much of the share of the costs can they pay? Arguments for cost-sharing of tuition costs have often cited the high private returns for higher education as sufficient motivation for a student contribution to their costs of study. In addition to this, it has been suggested that the social returns on education can be evidenced by the potential for economic growth, and measured in relation to the participation rate in higher education.

2.19 The type of tuition fee policies adopted by a country has an influence on the type of student financial assistance policies that are put into place - where the cost burden of the tuition fees is higher, the range of financial support instruments may need to be broader to accommodate for families whose household income cannot reasonably contribute to the cost of tuition. Student loans are widely recognised as a critical intermediary for countries in which higher education cost-sharing is the accepted policy, and particularly government issued student loans for students from poor households.

⁶ Cloete, N. (2016). *University Fees in South Africa: a story from evidence*. CHET, May 2016. Accompanied by a set of slides:

Cloete, N., Sheppard, C. & van Schalkwyk, F. (2016). *Fees and sustainable development – moving the higher education fees debate from ideology to evidence*. Presentation.

- 2.20 The argument against “free” higher education in which all the institutional⁷ costs of higher education are fully subsidised is that this will benefit those who can afford to pay (the “already privileged”) more than those who cannot afford to pay. As such, in order to achieve truly “free” higher education, the ‘who pays what share’ (government, student, parent, other funder, private investor), ‘who receives’ and the ‘when’ needs to be defined.
- 2.21 There are a variety of modes and mechanism that are in play already which address the “who receives” and “when”, but which could be adapted and new ones that could be adopted. For example, free-now-pay-later (deferred repayment through income contingent loans), free-now-work-later (grants in lieu of service to the country for a period of time), free-now-pay-directly-later (through a graduate tax – a “one-for-one” or “all-for-all” model) or free-now-work-longer through a later retirement age for funded graduates⁸ or other means as necessary. The common element across all of these is that the student who receives the direct benefit of the “free” higher education will pay for that higher education, whether directly through loan recoveries or indirectly through a tax contribution or services.
- 2.22 Timing may also be related to what type of loan or grant product is given at what point in the students’ course of study: in one of the loan programmes in Africa, students receive grants for the first year or two of their studies, and then switched to loans later in the course of study (referred to as back-loading).

⁷ Institutional costs are used here to refer to the costs of tuition, the costs of on-campus accommodation, but does not include the costs usually paid by the student/family for meals, travel, books etc

⁸ Barakat, B. (2011). *Time is money: could deferred graduate retirement finance higher education?* Working Paper of the Austrian Academy of Sciences and the Vienna Institute of Demography. By personal correspondence.

iv. Funding the “right” student – ‘who’ should receive

2.23 An important question at the heart of the debate on free higher education is “who should receive” free higher education and who should pay their portion. To a large extent, the current answer to this question lies in the NSFAS rules and regulations and business processes, and it may be this very core that needs further review and clarification in the “free” higher education question.

2.24 While NSFAS is in a process of transforming its business model from one which distributes funds via an allocations formula to the universities - who then make the student funding decision - to one in which NSFAS will directly determine which student is funded, there is clear indications in reports that point to wide-ranging institutional practices that may have served to deepen the gap between the adequacy of the supply of funding and the effective utilisation of this funding.

2.25 In identifying who the “right” students are to fund, “decision-making algorithms”¹³ which effectively identify processes to prioritise applicants, with the appropriate mix of academic excellence and financial need may need to be considered going forward in order to optimise the prioritisation of deserving students.

2.26 As such, the current NSFAS means test is central to identifying which students are the most financially deserving of those who apply for financial aid. It is widely recognised as a legitimate tool for subsidy targeting, enabling low-income or no-income families to access government support – in this case, for financial assistance for tuition and accommodation fees⁹.

⁹ Marcucci, P. & Johnstone, DB. (2010). *Targeting financial assistance to students in higher education: means testing with special emphasis on low- and middle-income countries*. Draft unpublished paper (monograph) prepared for the World Bank contract no 0007728373.

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

- 2.27 In its pure form, the NSFAS means test is intended to not only differentiate and rank students from most financially deserving to least financially needy, but also to determine the size of the award through a formula which takes into account the value of the expected family contribution (EFC).
- 2.28 To be clear, by no means does the existing means test exclude children from upper working class or lower middle class families – the so-called “missing middle” - as often reported. As such, some of the critiques have been based on a misunderstanding of the core principles of the means test. By virtue of the availability of funding, by default most of these children are not prioritised for funding and as a result, an institutional threshold has been adopted by some universities to limit the number of applicants from households that are better positioned to afford their university costs, and to mitigate the impact of creating “false expectations”.
- 2.29 The NSFAS Ministerial Review of 2010¹⁰ also identified the means-test as an area which needed review and revision, and proposed alternative proxies for identifying which students are the neediest, and deserve differentiated financial aid support. Most recently, the need to differentiate – and possibly differentially fund - students from low-income or no-income families from students in the “missing middle” has been recognised as an element for further review as NSFAS rolls-out the student centred model.
- 2.30 International research into best practices in means-testing for financial aid has revealed that while this remains an effective mechanism for differentiating between those who need and those who do not require support, there are inherent challenges.

¹⁰ Department of Higher Education and Training (2010). *Report of the Ministerial Committee on the Review of the National Student Financial Aid Scheme*. Pretoria: DHET.

- 2.31 Determining which indicators or inputs to use to assess the “ability to pay” for higher education, how to accurately distinguish between which students are dependent or independent of their families and, particularly in the South African context, defining adequately the calculation of the combined household income that will arguably be responsible for supporting the students cost of study are key elements of this challenge¹⁴. Addressing these questions more rigorously will serve effectively as the socio-economic status indicator for financial need. Administrative systems to support, verify and validate the means test outputs will contribute significantly to improving efficiencies.
- 2.32 The Ministerial Review of NSFAS suggested the use of alternative proxies for determining who is financially needy and who is not. Through the use of a proxy, students deemed to meet the proxy criterion would not need to be means-tested¹¹. In the student-centred model, the means-test calculation applies to all non-means test waived students who are applying. A means-test waived student is a learner whose last year of schooling (matric year) was at a quintile 1 to 3 school (fee-free schools), or who is the beneficiary of a SASSA grant. These applicants need to supply no family income or expenditure information, but are automatically assigned an EFC of 0.
- 2.33 For the 2017 academic year, NSFAS will be implementing the student-centred model in all universities and most TVET Colleges. By the 2018 academic year, students attending any of the public institutions who receive NSFAS funding for tuition fees will be required to apply and be funded through the student centred model. As such, the use of alternative proxies for means-testing needs to be considered in the light of their suitability, their validity as a measure of poverty, the rigorousness of the data available to support the use of this measure and the ease of use for NSFAS and for students.

¹¹ NSFAS has commissioned research into the adoption of alternate proxies for identifying those who are financially eligible, and the draft paper was issued in July, for discussion by the NSFAS executive. The research was undertaken by the Development Policy Research Unit (UCT).

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

2.34 Various reports that have been prepared in the intervening years since the Ministerial Review have suggested the use of income thresholds as a proxy for financial need. The Ministerial Review itself suggested three different financing models dependent on need:

- Full subsidisation for those defined as poor students and those from working class backgrounds;
- Income-contingent loans for children of public sector employees earning up to R300 000 per annum; and
- Income-contingent loans for students from lower middle-income families, earning up to and including R300 000.

2.35 In the Ministerial Review, the following indicators for financial support were identified:

Indicator	Type of financial support
<ul style="list-style-type: none"> • Students with household income below the lowest threshold of the SARS tax tables • Students who attended a quintile 1 school or received fee waivers at other public schools • Students from the poorest municipalities 	Full subsidisation
<ul style="list-style-type: none"> • Students who are dependents of public sector employees who belong to the GEPE, up to R300 000 	Income-contingent loans from the PIC, through NSFAS
<ul style="list-style-type: none"> • Students who come from households earning between R150 000 – R300 000 	Income contingent loans from government, through NSFAS

2.36 The DHET 2012 report on Fee Free Higher Education also recommended the use of the lowest threshold of the SARS tax tables as sufficient, given the difficulty in adequately defining and measuring poverty in South Africa. This report reflects on three different degrees of poverty from absolute, moderate

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

to relative poverty and provides characteristics of the households within each of these categories. This report further goes on to suggest that there are some indicators that are useful in characterising low income students, and listed three broad indicators as below:

- Those who are first generation university students whose parents are unemployed and do not have stable sources of income;
- Those who attended under-resourced, poorly performing schools generally in quintiles 1 to 3; and
- Those that come mainly from rural areas and from poor urban areas with limited access to basic facilities such as decent housing.

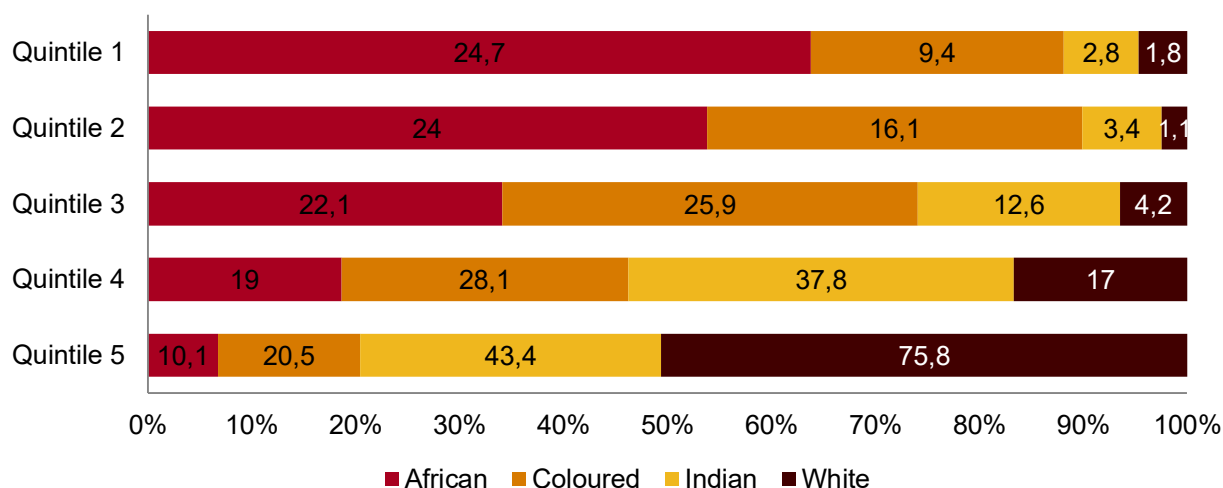
2.37 Using household income data from the Income and Expenditure Survey 2010/11 undertaken by Stats SA, the PER provided a snapshot of the income quintiles by race based on the entire population, applying this relatively to the 20-24-year-old cohort. The following table demonstrates that in the highest income quintile (quintile 5), 10.1% of the students are African and 75.8% are white, whereas in the lowest income quintile (quintile 1), 24.7% are African, 9.4% are coloured and 2.8% are Indian:

Quintile	African	Coloured	Indian/ Asian	White	Range ¹²
5	10.1%	20.5%	43.4%	75.8%	R57 100 per capita +++
4	19.0%	28.1%	37.8%	17.0%	R21 003 to R 57 099
3	22.1%	25.9%	12.6%	4.2%	R 9 887 to R 21 002
2	24.0%	16.1%	3.4%	1.1%	R 4 544 to R 9 886
1	24.7%	9.4%	2.8%	1.8%	Up to R4 543
Population	3 544 596	353 661	102 236	294 030	
20-24 years	82.5%	8.2%	2.4%	6.8%	
Total	43 333 709	4 771 548	1 341 877	4 554 820	
population	80.2%	8.8%	2.5%	8.4%	

¹² Statistics South Africa (2011). *Income and Expenditure of Households Survey 2010/11*. P0100. Accessed from www.statssa.gov.za

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

2.38 This means that the African population has a relatively higher proportion of people in the quintile 1 (24.7%), quintile 2 (24%) and quintile 3 (22.1%), whereas the white population has a higher proportion of people in quintile 5 (75.8%) and quintile 4 (17%). This is reflected below, with each of these percentages expressed proportionately within each quintile:



2.39 As such, while race is not an adequate proxy for financial need, using this information, there is some comfort that the skewed racial distribution of income aligns with the race distribution of the NSFAS funded students.

2.40 It has been reported that when allocating loans to students, universities do not generally appear to consider fully the academic potential of students to achieve, as a criterion, rather they focus almost exclusively on financial need once the students have met the entry requirements for the courses concerned. Different practices to filter or rank students on the basis of academic eligibility have been reported¹³, and need to be assessed against the understanding that students from poor households may not necessarily have the opportunity to receive the best academic results in high school, but have the potential to

¹³ Universities of South Africa (2015). *Student financial aid at South African universities: financial aid policies, structures and practices with regard to NSFAS funding – An analysis conducted by Universities South Africa*. Report submitted to the DHET (July 2015).

succeed in a level playing field. Improvement in the targeting of academic potential must be a focus going forward, by further refining the methodology for assessing the qualifying criteria for academic progression.

2.41 The most efficient use of NSFAS funds is to fund students that graduate within regulation time, although evidence from various cohort studies provides different and sometimes conflicting evidence on this indicator. However, as enrolment at the universities increases, the absolute number of students that require funding at university will increase. In response, NSFAS will need to carefully select students who are likely to graduate within regulation time especially with the rule of N+2 so as to limit the pressure for funding from continuing students who are not performing sufficiently well to complete their studies within the regulation time, or as close to regulation time as possible. This is likely to assist in serving two purposes: reducing the total cost of credit passed to the student at the end of his/her qualification and ensuring that students graduate and are able to access employment opportunities and so kick-start the recovery process and re-inject these funds back to fund more students.

v. Global practices in the provision of Fee-Free education, deferred tuition or mixed mode higher education financing models

2.42 There are a number of African countries that have a history of free higher education, although this has not remained in place for all of these countries¹⁴ - these include Kenya, Zambia, Mozambique, Nigeria, Burkina Faso and Egypt. For many of these countries, the move towards free higher education was advanced on the grounds that higher education would spur economic transformation; that higher education would grow “indigenous person power”¹⁵

¹⁴ Wangenge-Ouma, G. (2012). *Tuition fees and the challenge of making higher education a popular commodity in South Africa*. In Higher Education, OnlineFirst, April 28

¹⁵ Ibid

and that it would ensure equity in the access of the local citizenry, demonstrating the state's commitment to providing something that was desired by the citizens.

2.43 However, if the notion of free higher education follows from inequitable access and quality of education for poor students at lower levels of education, then this perpetuates the inequity in access to higher education. Wide scale access to quality systems of basic education combined with free higher education would serve to more effectively address inequality of access and improve success rates across and within the sector.

2.44 As such, it has been suggested that free higher education in countries where inequality is high benefits primarily the privileged¹⁶. Nicholas Barr has suggested that in countries where inequality is as high as in South Africa, the need is for a "good system (in which) university is free for students while they are studying but they then pay part of the cost of their higher education once they have graduated".¹⁷ This is notwithstanding views that loans for poor students in developing countries may not be viable given the low likelihood of repayment – this is not because of unwillingness to pay, but an inability to pay given high drop-out and high unemployment¹⁸

2.45 In more developed economies where tuition is free (e.g. Scandinavia), governments are able to generate much higher income through taxes and through trade, and can offset these costs effectively. Ultimately though for many countries, the public funding of higher education cannot keep up with growing demands on enrolment and therefore creates downward pressure on the quality of the higher education offered¹⁹.

¹⁶ Cloete, N. (2015). Amongst others.

¹⁷ <http://www.iol.co.za/news/a-structure-that-benefits-poor-students-1935983>

¹⁸ <http://www.iol.co.za/news/a-structure-that-benefits-poor-students-1935983>

¹⁹ Wangenge-Ouma, G. (2012) – referenced previously.

2.46 However, in countries that have the cost-sharing models in place, evidence shows that there is “discontent with high tuition fees in higher education and is not a uniquely South African problem”²⁰, with recent student protests across a wide range of developed countries (Australia, Brazil, Germany, Turkey, United Kingdom, Thailand, Poland, New Zealand, Finland, United States) and developing countries (Uganda²¹, Nigeria²², Chile²³, Brazil, Tunisia, amongst others).

vi. Global Best Practice in Financial Aid services for students

2.47 There is a wide diversity of research reports and papers that have addressed not only the issue of making the process of applying for student financial aid simpler and more efficient, but that have also looked at the issues related to targeting of financial aid to students from low-income households. Most of these deal with the financial eligibility criteria for the purpose of social targeting and not the academic criteria for selecting students.

2.48 Some of the key principles from these papers include the following points:

- For student loan programmes to be effective in putting money in the hands of financially needy students in a way that grows participation in higher education, they need to be needs-based and generally available;
- Loan programmes that are designed to build the financial independence of students (reduce the dependence of the student on their family for the cost of their higher education) need to provide for not only the costs of instruction but also costs of living independently. However, in these cases,

²⁰ Calitz and Fourie (2016) – referenced previously.

²¹ Mwiti, L. (2015). <http://mg.co.za/article/2015-03-16-so-you-think-your-african-university-fees-are-expensive-try-america>

²² <http://africademia.com/2016/04/11/nigeria-students-protest-school-fees-hike/>

²³ <http://learningenglish.voanews.com/a/students-march-cheaper-education/3042191.html>

“loan recovery must be maximised (such that) interest subsidies and defaults (must) be kept to a minimum”²⁴;

- Student loan and grant programmes can also have value when directing enrolment in particular institutions and/or fields of study (e.g. scarce skills) by making selective eligibility decisions and/or differentiated loan or bursary products;
- Repayment forgiveness – in NSFAS’ case, in the form of bursary conversions – is an attractive feature of loan programmes that is used to encourage academic progress, but is only effective when academic behaviour (such as high courses passed rates and/or completion within regulation time) is influenced by the offer of repayment forgiveness;
- Means-testing is a common feature of loan programmes which are targeted for particular types of students, from specific socio-economic groupings, and is used to determine the relative need of students in a continuum and the minimum loan needed to meet the students’ cost of higher education; and
- In some cases, where means testing on the basis of income is not possible, some loan programmes have used “categorical indicators” (ibid) to exclude or include certain families where income may be indicated as high (such as professional parents, car ownership, private fee-paying schooling) or low (farming or mining as an occupation, no electricity at home, parental educational attainment level).

POLICY IMPERATIVES AND SOCIAL AND ECONOMIC CONSIDERATIONS

3.1 The purpose of this section is to highlight the constitutional and legal framework that focuses on the role of the State in the provision of higher education in South Africa. This section will consider the current legal framework in order to assess the constitutionality of free higher education.

²⁴ Marcucci, P & Johnstone, DB (2009). *Student loans in Sub-Saharan Africa: building on successes and avoiding past mistakes*. Draft Paper by personal correspondence.

Particular attention is directed to the Constitution of South Africa, the Bill of Rights, the National Student Financial Aid Scheme Act 56 of 1999, the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1976 and the Dakar Declaration 2000. It concludes with the critical review as to whether the State has the constitutional mandate to provide “free” higher education in South Africa.

i. The Constitution and the Bill of Rights

3.2 Education rights are contained in Section 29 of the Constitution, section 29(1) which states that:

Everyone has the right - (a) to basic education, including adult basic education; and

(b) to further education, which the state, through reasonable measures, must make progressively available and accessible.

3.3 Section 29 (1) enshrines and protects the right to basic and further education for everyone. The section provides that the State has to make further education progressively available and accessible. Accessibility means that the State should move towards removing barriers - including discrimination - to further education and that where reasonably practicable, everyone is entitled to receive education in the language of his or her choice²⁵. Loosely translated, this means that basic education is a fundamental right, while further education (especially higher education and technical and vocational education and training) must be made progressively available and accessible²⁶.

²⁵ Berger, E. (2003), "The Right to Education under the South African Constitution". College of Law, Faculty Publications. Paper 26. <http://digitalcommons.unl.edu/lawfacpub/26>

²⁶ Liebenberg, S. and Pillay, K. 2000. *Socio-economic rights in South Africa: A Resource Book*. Bellville: Community Law Centre, University of the Western Cape.

ii. **Linking the Constitution and Bill of Rights to higher education policy**

3.4 In an attempt to translate Section 29 of the Constitution for implementation, *White Paper 3: A Programme for the Transformation of Higher Education* (DoE 1997), declared that fee-free higher education for students is not an affordable or sustainable option for South Africa²⁷.

3.5 The **White Paper 3: A Programme for the Transformation of Higher Education** defines "basic" education as "compulsory" schooling-pre-school through ninth grade, and "further" education as "post-compulsory" education – that is, tenth grade and beyond. Under the Constitution, basic education is a "strong positive right," a right that can be asserted regardless of the State's other budgetary imperatives²⁸. Unlike further education, which the State need only make "progressively available" "through reasonable measures"; the right to basic education appears absolute. While the State may decide how to structure its schools, Section 29(1) (a) gives constitutional support to an unhappy parent who might demand that the State immediately provide his/her child with better education through to the ninth grade. In contrast, Section 29(1) (b) does not provide an absolute right to further education, but a right to reasonable governmental measures that make it progressively available²⁹. Thus, a student in tenth grade or higher may be able to show that his/her school fails to meet the Constitutional obligation, however, in order to obtain a judicial remedy, he/she also will need to prove that the State has not made further education progressively available.

²⁷ DoE 1997: Section 4.7

²⁸ Mbazira, C., 2009. *Litigating Socio-economic rights in South Africa. A choice between corrective and distributive justice*. Pretoria: Pretoria University Law Press

²⁹ *ibid*

iii. Transforming higher education through the promulgation of the NSFAS Act 56 of 1999

3.6 Through the establishment of NSFAS with all its' conditions, the State therefore provided for the realisation of the right to further education, in a reasonable measure, by ensuring that the poor are *means tested* to determine if a person is indeed poor³⁰.

3.7 The Bill of Rights itself opens with the insistence that the "State must respect, protect, promote and fulfil the rights in the Bill of Rights," thus suggesting that the government must play an active role in continuing to improve availability of general human rights.

3.8 Additionally, Section 39 of the Constitution requires courts interpreting the Bill of Rights to "promote the values that underlie an open and democratic society based on human dignity, equality and freedom." Interpreting Section 29 to require the State merely to provide education, without any implicit quality standard, would thus pervert Section 39's interpretative instructions. Not only would such an interpretation render Section 29 virtually toothless, but also it would run counter to the democratic values the Constitution explicitly seeks to promote.³¹

3.9 As such, the question needs to be asked: "is free education a constitutional right?" Notably, Section 29 (1) (b) of the Constitution uses the phrase "progressively available", which has the same underlying principles and meaning attached to the phrase "progressive realization". This means the State has to move towards ensuring that further education is accessible to everyone within available resources³². To be "available" means the system

³⁰ Mbazira, C., 2009. *Litigating Socio-economic rights in South Africa. A choice between corrective and distributive justice*. Pretoria: Pretoria University Law Press

³¹ Ibid

³² Bilchitz, D. 2003. *Towards a reasonable approach to the minimum core: Laying the foundations for future socio-economic rights jurisprudence*. SAJHR 9(1): 22.

must grow to provide sufficient spaces for study. “Accessible” means it should be affordable: individuals should not be denied access on the basis of financial need. It should be noted that university education is expensive in terms of delivery, and that, in a developing economy and fundamentally unequal society, it is not only unaffordable but also not desirable.

- 3.10 The clause in the Constitution, relating to education, clearly places a long-term commitment on the State to make “progressively available and accessible” higher education, in so far as it is included in the broad definition of “further education”. It also means that the State cannot reverse decisions on assistance to ensure availability and access to higher education until the socio-economic conditions in the country are such that there is affordable access to higher education in one form or another³³.”
- 3.11 Importantly, the Constitution of 1996 and the 1997 Act and *White Paper* directed the State and institutions to realize profound and wide-ranging imperatives and goals in and through higher education. The Constitution committed the state and institutions to the assertion of the values of human dignity, the achievement of equality, and the advancement of non-sexism and non-racialism.³⁴
- 3.12 In the South African context, the State should continue to subsidise institutions of higher learning without compromising their independence; it should also provide funding to students to facilitate access to higher education. Evidently, “progressive realization” means that the State is obliged 'to move as expeditiously and effectively as possible towards' the provision of the right to education.

³³ A Policy Framework for Education and Training, Draft. ANC, 1994

³⁴ Gargarella, R. Domingo, P. and Roux, T. 2006. *Courts and Social Transformation in New Democracies: An Institutional Voice for the Poor*. Ashgate: Aldershot /Burlington.

3.13 Socio economic ills such as poverty, unemployment and inequality, are indicators that aspects of the South African legal system should be transformed so that they become more responsive to the concerns, needs and circumstances of those living in poverty. “Progressive realization” means that the State is obliged 'to move as expeditiously and effectively as possible towards' the provision of the right to education. Under no circumstances shall states have the right to defer indefinitely, efforts to ensure the full realization of the right. In order for reasonable review to be an effective tool in challenging poverty, it is vital that government's resource allocation decisions are not shielded from scrutiny.

3.14 The obligation of progressive availability requires effective use of available resources. This means whether the financial resources increase or decrease, the State still has to make it a reality. The State is expected to move and shift resources according to needs. This would require that State funds be directed at increasing access for excluded groups. Progressive implementation can be effected not only through increasing resources, but also by the development of societal resources necessary for the realisation of economic and social rights. This would mean that the State needs to train and maintain educators and build infrastructure.

3.15 Legal and developmental instruments recognise basic education as both a fundamental human right and a developmental priority. On the legal front, the Universal Declaration of Human Rights (UDHR) (1948), the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) (1969), the United Nation's (UN) Convention on the Elimination of Discrimination against Women (CEDAW) (1979), the United Nation's Convention on the Rights of the Child (UNCRC) (1989), the Convention of the Rights of Persons with Disabilities (CRPD) (2006), the African Charter on the Rights and Welfare of the Child (ACRWC) (1989), and the Constitution of the Republic of South Africa (1996) recognize the right to basic education. The

Constitution elevates the status and urgency of the right. It makes the right to basic education immediately realisable; it is not, as in the case of a number of other socio-economic rights, made subject to progressive realization within available resources³⁵.

3.16 South Africa's Constitution explicitly recognises the right to education, and yet many South African schools fall short of delivering on this Constitutional obligation. The non-performing schools - mostly in predominantly black areas - lack the resources to provide students with the education they need to participate effectively in a democratic economy.

3.17 According to various proponents of developmental states, the provision of education is central to a well-functioning democracy. This is well articulated by Berger³⁶ as he suggests that in order to render states as developmental, the “people’s minds must be improved to a certain degree”. According to the Freedom Charter³⁷, “the Doors of Learning and Culture Shall be Opened! Education shall be free, compulsory, universal and equal for all children; higher education and technical training shall be opened to all by means of State allowances and scholarships awarded on the basis of merit”. However, an important caveat is that “free” and “compulsory” specifically refers to basic education. Higher education and technical training, must “be opened to all” – that is, made accessible through financial support.

iv. Perspectives taken from global imperatives for social change

3.18 South Africa is signatory to the **1948 Universal Declaration of Human Rights**. Article 26(1) of that document states, ‘everyone has the right to

³⁵ *Governing Body of Juma Masjid Primary School and another v Essay N.O.*, 2011) (Section 27 and 2 Others v Minister of Education and Others, 2012).

³⁶ *Ibid*

³⁷ The Freedom Charter 1955. Historical Papers Research Archive, Johannesburg.

education' and 'higher education shall be equally accessible to all on the basis of merit'. This is supported further through the basic principles of the **1960 UNESCO Convention against Discrimination in Education**, ratified by South Africa in 2000, in which there is a commitment by the State to make 'higher education' equally accessible to all on the basis of individual capacity'³⁸.

3.19 Article 13(2)(c) of the 1976 **International Covenant on Economic, Social and Cultural Rights** (ICESCR) provides that further education should be made equally accessible to all, based on available capacity, and through every appropriate means. Even with this limitation, the State has an obligation to take reasonable measures to make the right to higher education progressively available and accessible to everyone.

3.20 The **Committee on Economic, Social and Cultural Rights**³⁹ has stated that 'reasonable measures' means that the State must demonstrate that the measures are "deliberate, concrete and targeted as clearly as possible" towards meeting its obligations⁴⁰. The State has to demonstrate that it has a plan in place for the implementation of further education and training and in higher learning institutions⁴¹.

3.21 The Committee interprets progressive realization to mean that the State is obliged 'to move as expeditiously and effectively as possible towards' the

³⁸ Speckman M & Mandew M 2014 *Perspectives on Student Affairs: A return to basics: Selected views on factors preventing access to higher education in South Africa*. African Minds

³⁹ The Committee on Economic, Social and Cultural Rights (CESCR) is the body of 18 independent experts that monitors implementation of the International Covenant on Economic, Social and Cultural Rights by its States parties. The Committee was established under ECOSOC Resolution 1985/17 of 28 May 1985 to carry out the monitoring functions assigned to the United Nations Economic and Social Council (ECOSOC) in Part IV of the Covenant, <http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx>

⁴⁰ *International Court of Justice Economic Social and Cultural Rights: A compilation of essential documents* (1997) 82.

⁴¹ Ronald C. Slye 2001, *International Law, Human Rights Beneficiaries, and South Africa: Some Thoughts on the Utility of International Human Rights Law*, 59, 61 (2001).

provision of the right to education. Under no circumstances shall states have the right to defer indefinitely efforts to ensure the full realization of the right. On the contrary, State Parties are obliged to begin immediately to take steps to fulfil their obligations under the Covenant.

3.22 In addition, South Africa is a signatory to the **Dakar Framework for Action of 2000** and to a number of other international agreements where there is a commitment to eradicating poverty. This can be through uplifting people through the provision of basic education that is compulsory for all children of school-going age, that is of good quality and in which financial capacity is not a barrier to access for any child. According to the Dakar agreement, this target should have been achieved by 2015. South Africa has made considerable progress in terms of increased access to basic education – the number of children attending Grade R has doubled from about 300 000 to more than 700 000 between 2003 and 2011; enrolments at universities have increased by 12% since 2009; while TVET enrolments have increased by 90%.⁴²

v. Education and inequality – the developmental state objective

3.23 South Africa has positioned itself as a developmental state. A considerable body of literature suggests that the developmental state is not only possible in, but indispensable to developing countries⁴³. There are certain qualities that need to be identified in order for a state to be considered as “developed”. A developmental state plays a fundamental role in ensuring that economic development and the use of resources of the country meets the needs of the people. It also tries to balance economic growth and social development⁴⁴.

⁴² <http://southafrica.info/about/government/stateofnation2014d.htm#.V2zYcfI96Uk>

⁴³ Leftwich, Adrian (2008). *Developmental States, Effective States and Poverty Reduction: the Primacy of Politics*. UNRISD Project on Poverty Reduction and Policy Regimes. Workshop Paper.

⁴⁴ *What is a developmental State?*

Accessed 20 June 2016 from <http://www.etu.org.za/toolbox/docs/govern/state.html>

3.24 South Africa has committed to building a developmental state that efficiently guides national economic development by mobilising the resources of society and directing them toward the realisation of common goals. In that, the government strives to place the needs of the poor and social issues such as health care, housing, education and a social safety net at the top of the national agenda. “For example, to the extent that government and universities have sought to pursue social equity and redress and quality in higher education simultaneously, difficult political and social dilemmas, choices and decisions have arisen, especially in the context of inadequate public finances and academic development initiatives to support underprepared students, who tend to be largely black African groups and or of working class or rural poor social origins⁴⁵.”

3.25 In pursuing the defined social purposes and goals, the 1997 White Paper 3 clearly and explicitly stated the principles and values that had to be embodied and also promoted by higher education. The challenges of transformation in higher education and training institutions in South Africa were listed as equity and redress, quality, development, democratisation, academic freedom, institutional autonomy, effectiveness and efficiency, and public accountability (DoE, 1997:1.18-1.25). The key levers for this transformation were to be national and institution-level planning, funding and quality assurance⁴⁶.

3.26 South Africa faces the ‘triple challenge’ of poverty, inequality and unemployment⁴⁷. It has one of the highest official unemployment rates in the world (25 percent) and is one of the most unequal countries, with a Gini coefficient of 0.69 (Department of Performance Management and Evaluation,

⁴⁵ Budat, S. (2009). *Higher Education change in post 1994 South Africa*. Department of Sociology: Wits University and the Herold Wolpe Memorial Trust

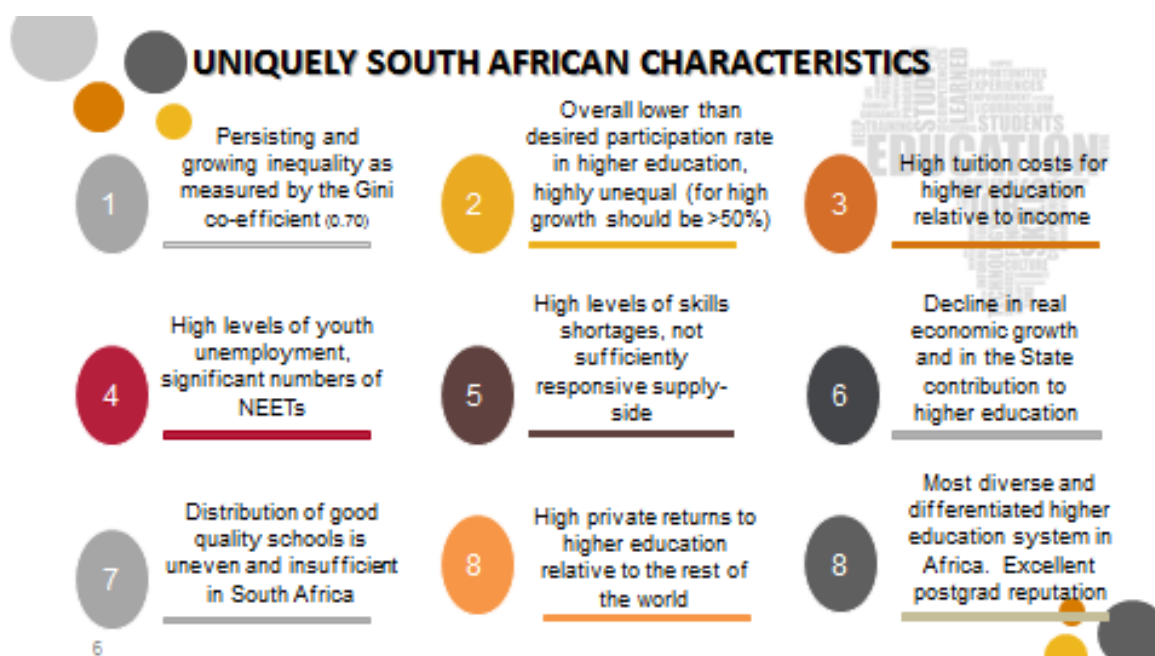
⁴⁶ Department of Education (1997). *Education White Paper 3: A Programme for the Transformation of Higher Education*. Pretoria, DoE

⁴⁷ Cole, M. (2015) *Is South Africa operating in a safe and just space?* OXFAM. Oxfam Press

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

2013). The hopes of 54 million people depend on South Africa's ability to address such injustices and end social deprivation.

3.27 The infographic that follows represents some of these key characteristics of the South African education landscape, which drive the need to build a transformed sector.



Source: <http://www.nsfas.org.za/content/index.html>

3.28 Education has long been recognised as providing a route out of poverty for individuals, and as a way of promoting equality in access to opportunities. The achievement of greater social justice is heavily dependent on equitable access to quality education, by all sections of the population. Just as importantly, widespread and good quality education and training will allow rapid economic, social and cultural development for society as a whole.

- 3.29 Without education, economic growth is not possible and society will not fulfil its potential with regard to economic, social and cultural development⁴⁸. “People born and living in poor rural areas have fewer opportunities than urban residents, and those in townships and informal settlements do not fare as well as their suburban counterparts. The main victims of the growth in unemployment are the youth, the particular focus of the DHET’s attention. Historical disadvantages need to be redressed if we are to move towards a more just and stable society⁴⁹”.
- 3.30 As such, “funders of students in higher education need to take a fresh look at funding and consider the individual student in terms of the financial needs of their family⁵⁰”. Funders may, firstly, need to look at individual students and their socioeconomic and academic needs, to develop a plan concerning their individual and family needs and to determine how they can be funded to ensure their academic success. Secondly, based on this assessment, funding may vary from student to student and may give rise to various categories of funding that are required by the student⁵¹.
- 3.31 It is not disputed that higher education must cultivate the knowledge, competencies and skills that enable graduates to contribute to economic development, since such development can facilitate initiatives geared towards greater social equality and social development. In terms of a higher education response to labour market needs, it is a simple matter to establish the knowledge, skills, competencies and attitudes that are required by the economy and society generally.

⁴⁸ Department of Education (1997) *Education White Paper 3: A Programme for the Transformation of Higher Education*. Pretoria, DoE

⁴⁹ Department of Higher Education and Training. 2012. *Green Paper for Post-School Education and Training*. Pretoria

⁵⁰ Machika B. 2014. *Poor students face massive financial stress*. <http://mg.co.za/article/2014-04-08-poor-students-face-massive-financial-stress>

⁵¹ Ibid

- 3.32 As the Green Paper for Post School Education and Training noted, one of the first challenges for the post-school system is to substantially expand access to education and training over the next twenty years. This is essential not only to take account of the needs of the youth who complete school but also for those who do not complete their schooling; it is equally important to cater for the needs of older people, including those who never attended school, who require education and training opportunities in order to live fuller and more productive lives as both workers and citizens⁵².
- 3.33 The demand for increased investment in student financial aid must therefore be seen against a backdrop of growing inequality in South Africa, chronically high unemployment and a shortage of skilled professionals and technicians. Decisions on where to invest funds from government, are often argued on the basis of where the greatest public/social benefit and individual benefits are gained, what their contribution is to reducing the extent of inequality amongst its citizens, and then specifically how to maximise the return on the investment by offering quality opportunities.
- 3.34 It is on the basis of such reasoning that it is fair to conclude that in low-income countries, education and particularly higher education, is the route out of poverty – not only because of its contribution to economic growth, but because of its value to the citizens. It has been suggested that “access to tertiary education is regarded by the ‘haves’ as a means to maintaining privilege, and by the ‘have-nots’ as a means of getting out of poverty”⁵³. Inequality in income is therefore a direct consequence of insufficient public investment in higher education provision. This is not only as a future consequence of inadequate provisioning, but as tuition costs increase in the present without adequate state

⁵² Ibid

⁵³ Cloete, N. (2016). *Education and Social Progress: individual returns, inequality and development*. Draft working paper for the International Panel on Social Progress

support, so the number of students from poor households will struggle to access higher education, perpetuating the income inequality.

RECOMMENDATIONS TOWARDS FUNDING A FEE-FREE HIGHER EDUCATION SYSTEM

4.1 The South African higher education is facing severe financial problems, as was dramatically evidenced in the #FeesMustFall student protests at the end of 2015, and the continuing unrest that has plagued several universities. The pressure of years of underfunding of higher education in a context of exponential enrolment growth led to most institutions passing an increasing burden of costs onto students through high annual fee increases.

4.2 It has been argued in this position paper that the more unequal a country is, the more likely it is that the only students to benefit from “fee-free” higher education are students from families who can afford to pay. However, it has also been recently argued that “what is needed is a good system of student loans, so as to not deter people from poor backgrounds from going to university”⁵⁴.

i. Recommendation 1: Sustainability through loan recoveries

4.3 The NSFAS Act mandates the recovery of loans issued to students, so that these funds can be recycled back into student awards in the following academic year.

4.4 But what does “sustainability” mean in a state-funded student assistance programme? Increasing pressure for growing the number of enrolled students, and therefore the number of students accessing financial assistance, presents

⁵⁴ Nicholas Barr, as quoted by Andile Makholwa, 26 October 2015: *A structure that benefits poor students*. Independent Online. <http://www.iol.co.za/news/a-structure-that-benefits-poor-students-1935983>

a challenge to the sustainability of the current higher education financing model, and to the extent to which recovery of loans effectively can contribute to this. This is especially so if the percentages increase in the funding allocated for financial assistance grows at a smaller rate than both the number of eligible and qualifying students and the cost of tuition at the public universities.

- 4.5 In a World Bank paper⁵⁵, it is noted that cost recovery remains the most significant challenge for student loan programmes to be sustainable and effective. This is because these programmes tend to offer interest rates that are too low, grace periods and repayments periods that are too generous to the debtors, and origination processes which do not sufficiently educate potential borrowers on their repayment obligations.
- 4.6 In NSFAS' case, the interest rate is set at 80% of the repo rate, annually adjusted; interest is not accrued while the student is still studying and for up to 12 months post exit; the application of the in-duplum rule limits the amount of interest that can be accrued over the full life of the loan; and interest is only charged on the nett capital loan (after credit balances and post-conversion) – as the cost of credit is reduced by a conversion factor based on the academic performance of the student (nett capital loan is the principal loan amount recognised). Recoveries are further undermined by the drop-out rate and by the longer-than-minimum time to complete the undergraduate degrees or diploma programmes.
- 4.7 NSFAS has been confronted with host of impediments that have further affected the recovery rates. Internally, the NSFAS operational structure has not been optimised for debt collection, largely due to the low administration budget. Externally, there are legislative impediments which have seen the repealing of section 23 H of the NSFAS Act, SARS not collecting debt on

⁵⁵ World Bank (2010). *Financing higher education in Africa*. From the Directions in Development: Human Development series 54441. World Bank: Washington DC. ISBN-13: 978-0-8213-8334-6

behalf of NSFAS and importantly, the NCA does not cater for the developmental space that NSFAS operates in. Despite the amendment of the Tax Administration Act to enable NSFAS to obtain complete data on the employment, address, e-mail and phone/contact details of the debtor, given the limits of the current operational budget, it remains unfeasible to use this data at the present time.

4.8 For student loan programmes to be financially sustainable, the view has been expressed that they must work towards meeting the following criteria: i) they must offer a high rate of recovery; ii) they should be able to tap into the private capital market; and iii) they should be able to demonstrate a reduced risk of default by repayers⁵⁶. Based on the current analysis, NSFAS is not in a position to become financially sustainable. Like NSFAS, most loan schemes operating across the globe benefit from sizeable government grants, and also apply significant subsidies to the student borrowers, reducing the effective repayment ratio.⁵⁷ Ultimately, these two factors have a significant impact on the ability of a loan scheme to become fully financially sustainable.

4.9 Given the nature of the model as it is currently conceptualised, NSFAS will continue to be dependent heavily on government grants to remain viable and to expand the number of students funded. However, growth in the loan recoveries could provide upwards of 35% of the required funding, given the growth in the number of loans being issued – as determined against the current parameters guiding the number of loans or bursaries that can be provided.

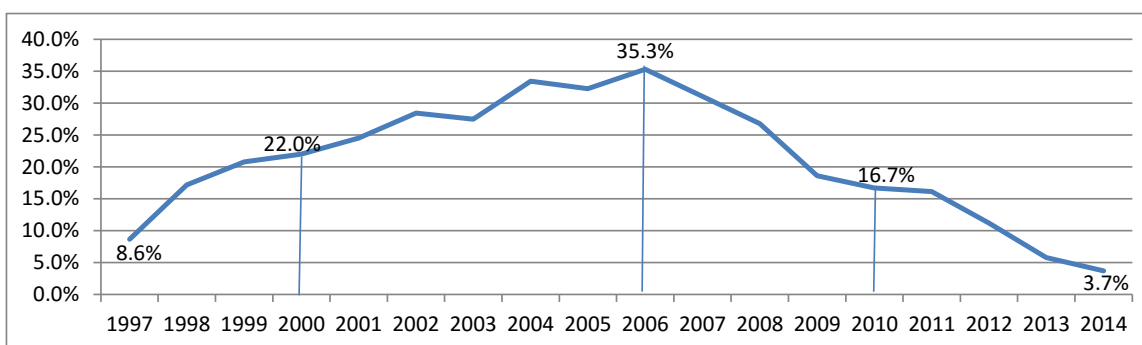
⁵⁶ Johnstone, D.B. & Marcucci, P. (2007). *Financially sustainable student loan programs: the management of risk in the quest for private capital*. Prepared as an Issue Brief for the Global Centre on Private Financing of Higher Education at the Institute for Higher Education Policy, Washington, DC. Made available through personal communication with the author.

⁵⁷ Shen, H. & Ziderman, A. (2008). *Student loans repayment and recovery: international comparisons*. IZA Discussion Paper no 3588.

Accessed 16-Mar-2016 at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1158984

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

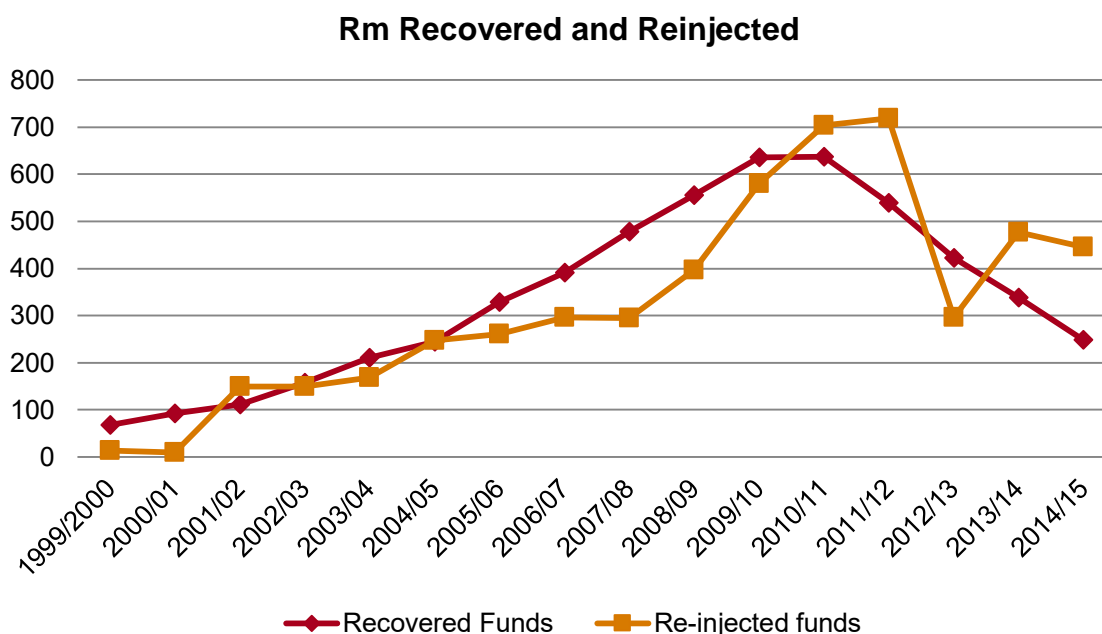
4.10 The chart that follows plots the value of the loan recoveries as a percentage of loan disbursements. It shows that between 1997 and 2006, the funds recovered made a significant contribution to the funds disbursed to students, as high as 35% in 2006¹². Effectively, this translates to approximately 44 000 new loans that were issued out of recoveries in 2006, versus 7500 students in 2014. Based on estimates based on a growth trajectory up to and including the 2008/09 financial year, NSFAS would have recovered R1,7bn in 2014, effectively funding 51 000 students.



4.11 From reaching a high of R636m in 2008, the value recovered by NSFAS per year dropped to R248m in 2014. There were a number of factors – well documented – that have attributed to this drop in recoveries⁵⁸, but in essence NSFAS faces the growing problem of non-repayment amongst debtors, the poor quality of the NSFAS debt with approximately half the debtors being those who have dropped out and the inefficiencies in tracking and following debtors has led to the prescription of some debts. An analysis of the NSFAS Annual Reports from 2011 to 2015 shows that the percentage of NSFAS debtors paying has dropped from 35% to 12%, resulting in a 61% drop in loan recoveries in this time ^{ibid}. Clearly this impacts on the number of students who cannot be funded due to the drop in loan recoveries.

⁵⁸ Cornerstone Economic Research (2015). *Performance and Expenditure Review of the National Student Financial Aid Scheme*. Research undertaken on behalf of the National Treasury.

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education



4.12 Over the years from 1999 to 2015, R5.4bn has been recovered by NSFAS⁵⁹, which - against the total R50.5bn (a higher portion which is 50% is related to students) in the same period - represents a recovery rate of approximately 10,9% on the full grant amount allocated by the DHET (for both loans and bursaries). However, this recovery rate has been calculated on the basis of the full value of funding granted to NSFAS, and so does not reflect the recovery against only the original principal or the nett loan amounts awarded or against the amount of loans awarded and due for repayment.

4.13 International research by IZA⁶⁰ has shown that by factor of being a government loan scheme, a “sizeable proportion of the total loans paid out by the loans body will not be received back in repayment” (p 3). This is not only on account of the interest subsidization discussed earlier, but also the repayment default

⁵⁹ Department of Higher Education and Training (2015). *Annexure 3: Are we making progress with systemic structural transformation of resourcing, access, success, staffing and researching in higher education – what do the data say?* Paper prepared for the 2nd national Higher Education Transformation Summit

⁶⁰ Shen, H. & Ziderman, A. (2008). *Student loans repayment and recovery: international comparisons*. IZA Discussion Paper no 3588.

Accessed 16-Mar-2016 at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1158984

rates are normally high. This is referred to as the “hidden grant” portion of the loan and represents a significant contribution towards making the loan “free”.

4.14 Relating this to NSFAS, this “hidden grant” would include the following:

- the loan-to-bursary grant conversion which effectively reduces the cost of capital, and the treatment of credit balances as first repayments against the original capital amount (nett principal loan amount);
- the discounted interest rate (80% of the repurchase rate from the central bank), which is a below-market interest rate. In most loan programmes, this is usually the biggest factor in the ‘hidden grant’. In NSFAS’ financial reporting, this is reflected as a social benefit component of the loan and adjusted for after the fair value recognition;
- the interest break while the student is still studying and the 12-month post-exit grace period;
- repayments and the interest rate not linked to inflation (which would reduce the future value of the loan to be repaid); and
- longer amortization periods – linked to income thresholds and gross income, and not based on loan value – the longer the length of the loan repayment and the grace periods, the greater the ‘hidden grant’ component.

4.15 At a macro-level, the recovery of loans is impacted by the individual hidden grants and the administrative efficiency with which the loan programme is able to recover the loans – in terms of both the actual cost of recovery and the cost of the extent of repayment default. Repayment default must include payments in arrears and the non-payment by debtors. For NSFAS, student default is currently measured in respect to the number of NSFAS loans held by debtors who are no longer studying, but which are not being paid. Since 2011, the number of debtors has increased from 776 239 to 851 116 (2014), but the number paying has dropped from 275 429 to 100 419 in the same time. This represents a drop from 35% to 12%.

4.16 The research by IZA presents comparative data on various recovery ratios for 44 different countries, grouped regionally. Of these programmes, over 26 schemes had repayment ratios greater than 61%, with the remainder below 60%. The average recovery ratio (including default) in these 26 programmes was 49,15%, in most cases falling short of the repayment ratio. In two of the highly subsidized schemes in Africa, high rates of repayment default have reduced the effective recovery ratio to 5,59% (Kenya) and 10,96% (Ghana). Commonly held views would suggest that repayment default is the most significant factor for low loans recovery, but the evidence suggests that built-in subsidies affecting the 'hidden grant' ratio for most of the 26 schemes was more important.

4.17 Some different mechanisms employed by these countries that impact on the hidden grant ratio include the following:

- 20 of the 44 loan programmes do not levy interest while still studying;
- Some have no interest while studying, but then high interest after studying (prime plus) which encourages repayment (e.g. Canada);
- A short repayment horizon is employed in Namibia results in a lower hidden grant ratio (number of years funded = number of years to repay); and (amongst others)
- Set minimum monthly repayment for all students, but generous grace periods and long amortization periods encourages faster repayment (Germany) reducing the effective hidden grant.

4.18 A number of the papers reviewed suggested different approaches to the mechanisms for recovery, including the following: graduate tax, deferred graduate retirement⁶¹, collection through internal tax collection agencies (e.g.

⁶¹ Barakat, B. (2011). *Time is money: could deferred graduate retirement finance higher education?* Paper written for the Vienna Institute of Demography. By personal correspondence with the author. Available at http://www.oeaw.ac.at/vid/download/WP2011_05.pdf.

SARS), employer settlements on behalf of employees as a part of the cost-to-company, payroll deductions where low earners make low or no repayments and repayments track earnings, loan forgiveness if not paid within a pre-determined time (e.g. 20 or 30 years), partial loan forgiveness if employer by the public sector, etc.

ii. Recommendation 2: Different financing models and scenarios for higher education

4.19 According to the DHET Working group for fee-free education⁶², In order to construct the model, a number of issues needed to be addressed. These issues include:

- The components and costing of the full cost of study at all universities, taking account of both residential and distance institutions (specifically, UNISA)
- The definition of 'poor' in household income terms;
- Expected household contributions as a function of household income for non-poor students;
- The parameters of the loan scheme – the income thresholds at which debtors start to repay their loans and at what proportion of their income; the grace period; differential interest rates (this would need further research) dependent on the student-debtor lifecycle stage; should repayments cease after a pre-determined period of time after the student leaves the university;
- The lending cap – whether an annual cap or a per-qualification cap, i.e., the point beyond which no further advances to non-poor students should be made, because such additional lending would be reckless.

⁶² Report of the Working Group On Fee Free University Education for the Poor in South Africa (2012). DHET. Pretoria.

Since, in the case of poor students, further advances are made in the form of grants, how should this cap be set⁶³

4.20 The cost of delivering university education in South Africa amounts to close to R50 billion annually. South Africa subscribes to a funding framework in which costs are shared among the beneficiaries of university education (mainly government and students)⁶⁴. A first assumption is that a national-level decision will be taken to provide free (full cost of study) undergraduate university education for the poor. For the purposes of the model, the full cost of study is taken to include registration and tuition fees, meals and accommodation, books, and travel. The full cost of non-UNISA study is calculated at R52 356, and the full cost of UNISA study (which excludes meals and 40 accommodation costs) at R16 743, per annum in 2012 prices. The average cost at non-UNISA universities will be lower than the estimate cited, since some students will live at home and not need a loan for accommodation and meals.

4.21 Cost estimates range between R2.6 billion and R4.2 billion, depending on the methodology used. One fairly objective estimate of the cost is based on the weights from the consumer price index, where the cost of education accounts for 2.95% of consumer spending (basic and secondary education account for 1.72% and tertiary education accounts for 1.23%). GDP is now forecast at R4.35 trillion, which corresponds to R2.7 trillion in consumer spending. Applying the 1.23% weight to consumer spending gives an estimate of the cost of tertiary education. Between 2009 and 2015, tertiary institutional fees escalated at around 4% to 5% above the rate of inflation. The cost of university fees (excluding bursaries) would be close to R40 billion per annum. Given that

⁶³ Department of Higher Education and Training (2012). *Report of the working group on fee free university education for the poor in South Africa*. Pretoria: DHET

⁶⁴ PWC. *Funding of public higher education institutions in South Africa*. Accessed on 23 June 2016 from <http://www.pwc.co.za/en/higher-education/Funding-public-higher-education-institutions-SA.html>

the student protests were sparked by a 10% increase, that implies R4 billion is needed.

4.22 If that is the minimal cost, the budgetary impact will not be that much. If government funds this without using the contingency reserve (only R2.5 billion has been set aside for the 2016 contingency reserve on the budget), the knock-on effect on the budget deficit would not be more than 0.1% of GDP (R4 billion from R4.35 trillion GDP, which is 0.092% of GDP)⁶⁵. If the government's spending is to be increased from 0.75% to 2% - 2.5% of the overall GDP this reduce the costs on students to fund their own education⁶⁶.

4.23 The National Development Plan (NDP) five (5) indicates that there should be increase in the enrolment levels per annum from 950 000 in 2010 to 1.6 million by 2030. It should be indicated that there are ways to minimise the costs of providing higher education; an increased enrolment will require increased funding.

4.24 Estimates by the South African Institute of Race Relations ^{ibid}, calculated at R120 000 per student, for the current 800 000 students at university, have determined that the cost of higher education – if funded only through taxpayer contributions – would need an additional R71bn per year. In the report, the view is expressed that this could be sourced by using the 1% contribution of employers to the Sector Education and Training Authorities, by reducing the cost of state employment by 5%, and by cutting the spending of state departments such as defence and the military spend. Should this funding be a mix of grant and loan, the burden on the taxpayer would be lessened as

⁶⁵ Koch, S. & Mabugu, R. (2015). *How South Africa could fund steeper higher education costs*. <http://theconversation.com/how-south-africa-could-fund-steeper-higher-education-costs-50539>

⁶⁶ Phungo, R. (2016). *University fees: Free higher education is possible in South Africa*. <http://www.dailymaverick.co.za/article/2015-10-21-university-fees-free-higher-education-is-possible-in-South-Africa/#.V2FhflT96Uk>. Accessed on 15 June 2016, 16:07.

recoveries kicked in – on the assumption that the efficiencies in the current collection process are further enhanced and developed.

4.25 As a first priority, funding for free university education for the poor should be obtained, at least in part, from the funds of the Sector Education and Training Authorities (SETAs) and the National Skills Fund (NSF). A proportion of the SETA funds which are available for skills development (for example, a proportion of what remains of the 1% of employers' wage bills after SARS' collection fee and SETA administrative fees have been removed) should be earmarked to provide for sustainable NSFAS-administered income-contingent loans to poor students in identified scarce-skills sectors. piecemeal

4.26 Such SETA funds should include those levied from both private sector companies and government and public service departments at both national and provincial levels. In some cases, these SETA funds are utilised for bursaries, short course that focuses on skills programmes and internships, and notwithstanding the fact that numerous private sector companies and public service departments provides support to poor students in these ways⁶⁷.

4.27 It is crucial to make sure that these funds and support, in conjunction with funds dedicated for corporate social responsibility, are organized and managed under a single, NSFAS umbrella, rather than being used, as it is often the case at the moment, in the uncoordinated ways⁶⁸.

4.28 NSFAS needs to consider and develop mechanisms for extending funding to more students, through different packages of support, at different points of the student lifecycle, and for students with differing levels of family financial support. Using alternative proxies for identifying financially eligible students,

⁶⁷ Cloete, N. South Africa: *Radical new plan for higher education*. University World News: 200, 4 December 2011.

⁶⁸ Ibid

NSFAS could adopt various buckets of funding packages that could be offered to students who qualified financially, dependent on their relative weighting.

iii. Recommendation 3: Policy considerations for review

- 4.29 NSFAS needs to more firmly codify the non-negotiables for student funding decisions together with DHET within the funding parameters. While many of the concerns raised in the reports in respect to the non-compliant application of the NSFAS parameters will be addressed in the student centred model, NSFAS must still ensure that its own internal policies, processes and systems are geared adequately to manage the complexities inherent in determining which students must be funded and how much funding they must get.
- 4.30 A firmer set of rules on how to weight the financial and the academic criteria may need to be considered in the student centred model. By stricter application of the rules regarding the length of financial support offered to students, and by more closely aligning the academic pass criteria to the maximum period of funding (N+2), this wastage from students who do not ultimately complete can be minimised.
- 4.31 The NSFAS means test itself is under review in this year, with a view to not only updating the parameters of the expected family contribution (EFC) value, but to also ensure that the principles and assumptions used to determine how NSFAS assesses the ability of the family to support a students' full cost of study hold true. The need to adopt other measures as proxies (for example, the school quintiles) for poverty in the absence of good, verifiable data may need to also be considered as part of this review.
- 4.32 There is not enough evidence in the reports and papers on this matter to demonstrate that the academic eligibility criteria for students is rigorously enough applied, nor is it of itself necessarily sufficiently rigorous to ensure that

students who are supported by NSFAS funding will in fact succeed and complete their qualifications. A more intuitive look at student success at university level (as the TVET parameters are much clearer on this), and indicators of the potential for students to complete their qualifications in regulation time (or as close to this as possible) is needed. This may require increasing the courses passed rate threshold, building in a weighting system for the actual average percentage attained for all courses for which examinations were written (and/or funded), or applying priority ranking to students on track to graduate within regulation time, then those on track to graduate within N+1, and finally those on track to graduate within N+2. Policy dialogue on this with Universities South Africa and the sector more broadly will need to be considered in the process of reviewing this.

- 4.33 The National Student Financial Aid Scheme (NSFAS) is in urgent need of large capital injections so that indigent students can be fully supported to access universities, can succeed, and make their contribution to economic and social development. The NSFAS would need to also be effectively and efficiently administered at both national and institutional levels.

CONCLUSION

Despite the calls for free higher education or a “fee” free higher education for the poor, NSFAS as a state loans and bursary scheme has made great strides in dispensing of the state’s obligations to accessing of higher education within the realizable progressive means in line with the rights to education. Furthermore, NSFAS has contributed immensely towards making higher education more affordable to the poor and the working class with its products of loan conversions and the administration of the DHET TVET Bursary Scheme.



Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

Therefore, what seems to be inhibiting progress in the country are still the deep rooted legacies of colonialism and apartheid's inequality, poverty and unemployment that the country inherited. Thus the ultimate goal of free higher education is far greater than the zero percent fee demand alluded by the **#FeesMustFall** student protests.

In all of the above, it should be noted that according to the White Paper for Post School Education and Training, it expects there will be 1.6 million university students in 2030, up from 931 186 in 2011. This means that there is an anticipated average annual growth rate in student enrolments of 3.05%.

A fundamental and practical solution is to continue to strengthen NSFAS systems, policies and governance, in line with the NSFAS Ministerial Review Recommendations, and to channel all existing forms (both private sector and government) of student funding under its direct control.

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

FULL REFERENCE LIST

A Policy Framework for Education and Training, Draft. ANC. (1994).

Barakat, B. (2011). Time is money: could deferred graduate retirement finance higher education? Paper written for the Vienna Institute of Demography. By personal correspondence with the author.

Berger, Eric, (2003). "The right to education under the South African Constitution" College of Law, Faculty Publications. Paper 26. <http://digitalcommons.unl.edu/lawfacpub/26>

Bhorat, H. & Van der Westhuizen, C. (2012). Poverty, inequality and the nature of economic growth in South Africa. DPRU Working Paper 12/151. Development Policy Research Unit.

Bilchitz, D. (2003). 'Towards a reasonable approach to the minimum core: Laying the foundations for future socio-economic rights jurisprudence'. SAJHR 9(1): 22

Bunting, I., & Cloete, N. (2008). Governing access to higher education in South Africa. Unpublished paper

Cloete, N. (2011). South Africa: Radical New Plan for Higher Education. University World News: 200.

Cloete, N. (2016). Education and Social Progress: Individual returns, inequality and development. Draft working paper for the International Panel on Social Progress.

De Villiers, P. (2012). The National Student Financial Aid Scheme: Important gains, significant challenges. In Hofmeyr, J (Ed) Transformation Audit (2012). The Youth Divided: Unlocking the Potential of Young South Africans. Wynberg: Institute for Justice and Reconciliation. Pp. 56–62

De Villiers, P. (2012). Opinion: Removing the financial obstacles for access to tertiary education - The National Student Financial Aid Scheme: Important gains, significant challenges. In Hofmeyr, J (2012). 2012 Transformation Audit: The Youth Dividend. Institute for Justice and Reconciliation.

Department of Higher Education and Training (2010). Report of the Ministerial Committee on the Review of the National Student Financial Aid Scheme. Pretoria: DHET.

Department of Education (1997). Education White Paper 3: A Programme for the Transformation of Higher Education. Pretoria.

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

Department of Higher Education and Training. (2012). Green Paper for Post-School Education and Training. Pretoria

Financing of Higher Education at the Institute for Higher Education Policy, Washington, DC. Made available through personal communication with the author.

Gargarella, R. Domingo, P. and Roux, T. (2006). Courts and Social Transformation in New Democracies: An Institutional Voice for the Poor. Ashgate: Aldershot /Burlington.

Governing Body of Juma Masjid Primary School and another v Essay N.O., (2011) (Section 27 and 2 Others v Minister of Education and Others.

International Court of Justice Economic Social and Cultural Rights: A compilation of essential documents (1997). ICJESC. Geneva.

Johnstone, D.B. & Marcucci, P. (2007). Financially sustainable student loan programs: the management of risk in the quest for private capital. Prepared as an Issue Brief for the Global Centre on Private

Marcucci, P & Johnstone, DB. (2009). Student loans in Sub-Saharan Africa: building on successes and avoiding past mistakes. Draft Paper by personal correspondence.

Machika B. (2014). Poor students face massive financial stress. <http://mg.co.za/article/2014-04-08-poor-students-face-massive-financial-stress>

Mbazira, C., 2009. Litigating Socio-economic rights in South Africa. A choice between corrective and distributive justice. Pretoria: Pretoria University Law Press

Montenegro, C.E. & Patrinos, H.A. (2014). Comparable estimates of returns to schooling around the world. Policy Research Working Paper: World Bank Education Global Practice Group.

Pillay, P. (2003). Review of the National Student Financial Aid Scheme: Report to the Department of Education. NSFAS internal document.

Ronald C. Slye (2001). International Law, Human Rights Beneficiaries, and South Africa: Some Thoughts on the Utility of International Human Rights Law. Chile

Submission to the Commission of Inquiry into Higher Education and Training: A NSFAS Position Paper on Fee-Free Higher Education

Report of the Working Group on Free University Education for the Poor in South Africa. 2012. DHET. Pretoria.

Shen, H. & Ziderman, A. (2008). Student loans repayment and recovery: international comparisons. IZA Discussion Paper no 3588.

Accessed 16-Mar-2016 at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1158984

Speckman, M & Mandew, M. (2014). Perspectives on Student Affairs: A return to basics: Selected views on factors preventing access to higher education in South Africa. African Minds

Statistics South Africa (2011). Income and Expenditure of Households Survey 2010/11. P0100. Accessed from www.statssa.gov.za

The Freedom Charter (1955). Historical Papers Research Archive, Johannesburg

Universities of South Africa (2015). Student financial aid at South African universities: financial aid policies, structures and practices with regard to NSFAS funding – An analysis conducted by Universities South Africa. Report submitted to the DHET (July 2015).

World Bank (2010). Financing higher education in Africa. From the Directions in Development: Human Development series 54441. World Bank: Washington DC. ISBN-13: 978-0-8213-8334-6

Own contribution by author to Cloete, N. (2016) paper.

<http://www.nsfas.org.za/content/index.html>