

## **SUBMISSION TO THE COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING (THE FEES COMMISSION)**

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26 May 2016.

In this submission we argue in favour of a policy of *'fee-free higher education for all'*. In other words, we support a policy in which free tertiary education is provided to all those who are able to enter higher education institutions. We believe that free public higher education for all is possible, achievable and necessary.

We have examined the following documents:

- The *Constitution of the Republic of South Africa*<sup>1</sup>
- *The Higher Education Act of 1997*<sup>2</sup>
- Education White Paper 3: A Programme for Higher Education Transformation, 1997<sup>3</sup>
- The Report of the Ministerial Committee for the Review of the Funding of Universities, October 2013<sup>4</sup>
- The Report of the Ministerial Committee on the Review of the National Student Financial Aid Scheme, 2010<sup>5</sup>
- Green Paper for Post-School Education and Training, 2012<sup>6</sup>
- Report of the Working Group On Fee Free University Education For The Poor In South Africa, October 2012<sup>7</sup>
- Other relevant policies, reports and guidelines, and especially the 'CHE Booklet on Student Funding'<sup>8</sup> following its conference on the subject held in December 2015

### **The Legislation**

We have examined the relevant legislation and refer hereunder to the sections that are pertinent to our approach. Section 29 (1) (b) of the **South African Constitution** provides that everyone has the right -

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<sup>1</sup> The Constitution of the Republic of South Africa, 1996, Pretoria: Government Printers

<sup>2</sup> The Higher Education Act of 1997 (as amended), Pretoria: Government Printers

<sup>3</sup> Education White Paper 3, 15 August 1997, No. 18207, Pretoria: Government Gazette

<sup>4</sup><http://www.dhet.gov.za/SiteAssets/Latest%20News/Report%20of%20the%20Ministerial%20Committee%20of%20the%20Review%20of%20the%20Funding%20of%20Universities.pdf>,

<sup>5</sup><http://www.dhet.gov.za/Reports%20Doc%20Library/Report%20of%20the%20Ministerial%20Committee%20on%20the%20review%20of%20the%20National%20Student%20Financial%20Aid%20Scheme.pdf>

<sup>6</sup>[http://www.che.ac.za/sites/default/files/publications/DHET\\_green\\_paper\\_post\\_school\\_education\\_training.pdf](http://www.che.ac.za/sites/default/files/publications/DHET_green_paper_post_school_education_training.pdf)

<sup>7</sup><http://www.dhet.gov.za/SiteAssets/Fees%20Must%20Fall/287700266-Final-Draft-Report-of-the-Working-Group-on-Fee-Free.pdf>

<sup>8</sup> Kagisano Number 10 (2016), Student Funding, CHE, South Africa

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

In its Preamble the **Higher Education Act of 1997** speaks of the desirability, *inter alia*, of the need to

- Restructure and reform programmes and institutions to respond better to the human resource, economic and development needs of the Republic;
- Redress past discrimination and ensure representivity and equal access;
- Provide optimal opportunities for learning and the creation of knowledge;
- Promote the values which underlie an open and democratic society based on human dignity, equality and freedom;
- Respect freedom of religion, belief and opinion;
- Respect and encourage democracy, academic freedom, freedom of speech and expression, creativity, scholarship and research.

**Education White Paper 3** spells out several related purposes of Higher education. The White Paper explains that “In the context of present-day South Africa, [they] must contribute to and support the process of societal transformation outlined in the Reconstruction and Development Programme (RDP), with its compelling vision of people-driven development leading to the building of a better quality of life for all.”

The body of legislative interventions by the government and the relevant Ministry sets out in broad terms the aims, purposes and mandates of the higher education system and refers to the multiplicity of functions that must be assumed by it. In essence the higher education system is charged with the responsibility to meet the needs of society by being ‘progressively available and accessible’; to meet the diverse requirements of the ‘human resource, economic and development needs of the Republic,’ redress ‘past discrimination’ through ‘representivity and equal access,’ provide ‘optimal opportunities for learning and the creation of knowledge,’ promote ‘values which underlie an open and democratic society based on human dignity, equality and freedom,’ and which respected ‘democracy, academic freedom, freedom of speech and expression, creativity, scholarship and research’.

The defining White Paper 3 which sets out the purposes of higher education enunciates the critical role of higher education in society by reference to its ‘several related purposes’. These include development in support of a ‘better quality of life’ for the citizens of South Africa through meeting the ‘learning needs and aspirations’ of citizens, building intellectual capabilities, access to opportunities for individuals by improving their life chances and ‘achieving equity in the distribution of opportunity and achievement,’ while addressing ‘development needs’ and building competencies for the ‘growth and prosperity of a modern economy,’ as necessary to ‘contribute to the socialisation of enlightened, responsible and constructively critical citizens’.

#### **Other relevant documents**

In addition, the state established a number of working groups and task teams to examine the issue of higher education fees. Their reports have examined the question of availability of resources and their recommendations are pertinent to the work of this Commission. For instance, **the Report of the Ministerial Committee for the Review of the Funding of Universities, October 2013**, found that

‘although South Africa spends a considerable amount on education, its expenditure on higher education is much lower than desirable’. The Report reveals that in 2011, the state budget for universities as a percentage of gross domestic product (GDP) was 0.75% compared to 0.78% for Africa as a whole, and 1.21% for the Organisation for Economic Cooperation and Development (OECD) countries. By any of the comparisons referred to, South African higher education expenditure could be considerably higher in real terms. Importantly the report noted that

The average growth rates show that, in real terms, government funding per full-time equivalent (FTE) enrolled student fell by 1.1% annually between 2000 and 2010, while student tuition fees per FTE increased by 2.5% per year. Based on the differential increases in fee income and government grants, it can be concluded that the amount of government funding is not sufficient to meet the needs of the public university system.<sup>9</sup>

**The Report of the Ministerial Committee on the Review of the National Student Financial Aid Scheme, 2010** too showed that the growth of expenditure has not ‘kept pace with the ever-increasing demand. Even a five-fold increase in 10 years leaves NSFAS with a massive funding shortfall. It would probably need to triple its budget to meet even current demand’. Nor indeed does it provide for the ‘estimated 2.8 million (41,6 percent) young people between the ages of 18 and 24 who are not in employment, education or training (NEET)’. The percentage, moreover, rises to 50% for those in the age range between 23- and 24 - year-old. Even by its relatively modest estimates considerably more funding should have been allocated to meet national demand. Section 3.1.2 of the Report which refers to ‘Identifying the poor’ states as follows

In addition the Review Committee strongly recommends that all eligible students should be fully funded at the institution of their choice.

The recommendations of the Ministerial Review (2010), mindful of the many challenges identified<sup>10</sup> are summed up in the **Green Paper for Post-School Education and Training (2012)**, as follows: [Expand] access to the [NSFAS] fund; [change] the institutional allocation formula to one that is class-based and not race-based; [implement] an allocation formula that is student-centred rather than institution-centred; and [change] the composition of the institutional allocation to cover the full cost of study.

**The Report of the Working Group On Fee Free University Education for The Poor in South Africa, October 2012** marks a significant change in the thinking on this issue. Unfortunately and unconscionably, this report was only released for public scrutiny three years after its submission.

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<sup>9</sup> Report of the Ministerial Committee for the Review of the Funding of Universities, October 2013, p 19 – 20.

<sup>10</sup> The first of these challenges is the use of ‘race’ as a proxy for socio-economic need, which, in terms of the current formula, results in unequal institutional allocations, with historically advantaged institutions with affluent black students receiving the same allocation as historically disadvantaged institutions with many poor black students. Second, the NSFAS means test is not always used by universities, and those which do use it often exercise institutional discretion in how they apply it. The way the means test is currently structured also excludes upper working class and lower middle class families: the so-called ‘missing middle’, or children from families earning more than the current R122 000 per annum threshold. Third, the university practice of ‘top slicing’, where the means test results are disregarded and the available NSFAS funds are shared out and spread thinly, between all eligible students, has major negative consequences for students and institutions, in the form of both increased debt and limited academic success (page vii, Report of the Working Group On Fee Free University Education for The Poor in South Africa, October 2012).

The Working Group talks about 'Fees' to be considered 'free' are taken to include not only tuition fees but the full cost of study necessary for success at university, including: "registration and tuition fees; meals and accommodation; books and travel". The Report refers to the impact of poverty and unemployment especially amongst youth and its effects on both 'financial and epistemic access to university education'. It points to the need not only of student funding but also of the need to fund the appropriate staffing and other infrastructure for effective learning to take place.

To sum up, free university education for the poor has the potential to improve both access to and the quality of outcomes in higher education, but it will require a significant outlay by the state. It is thus important that further and wider discussion takes place around the assumptions, estimates and findings of this report.<sup>11</sup>

Its recommendations include making available free university education 'for the poor' using a combination of NSFAS and a "proportion of the Sector Education and Training Authorities (SETAs) funds set aside by both the private and the public sectors for skills development, ... (together with ) new sources of funding, not discounting the national budget, large financial institutions and international donors". Very importantly it recommends that the model it uses should be used to develop a costing model for "comprehensive student financial aid and academic support system which takes into account adequate housing, proper nutrition, cultural inclusion, and enhanced awareness through career and vocational guidance at school level".<sup>12</sup>

In recommendation ten it refers to the additional funds necessary to make learning a success through funding for those elements of the higher education system that are the necessary accoutrements of good quality education including appropriate class sizes and support for teaching staff.

## **Our argument**

Following from the legislation and reports above and a variety of other literature (including academic and other articles in the public media), our main arguments are that:

1. It is generally agreed that the higher education system in South Africa is chronically underfunded. Even the Minister of Higher Education has accepted the need to access additional resources for higher education.
2. Student funding is precarious because it is dependent on a variety of sources which are based on the contributions of parents, bank loans, the goodwill of business and charitable institutions, the contributions of universities who are themselves underfunded and other bursaries and scholarships from the public (outside education) and private sector. These sources of funding are precarious and unsustainable because they carry no legal obligation to fund students in the first place - not even in the case of parents, the majority of whom are most likely to be dependent on bank loans for such funding.
3. The production of knowledge is inseparable from and indispensable to the sustainability and development of all societies in a complex and challenging world. Such knowledge has been

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<sup>11</sup> Ibid, Pages xii-xiv.

<sup>12</sup> Ibid, recommendation nine of the Report

essential to the development of human beings, social systems and their relationship with the global environment since the dawn of human civilization. Without it human society as we know it today would not exist. The preservation, continuity and development of knowledge are inseparable from the survival of the species especially as part of the natural environment in which it exists.

4. Universities are now the key public institutions of knowledge development through their role in research, teaching and post graduate supervision. The production and dissemination of knowledge is inextricably linked to their mandate as institutions of social, economic, cultural and intellectual development for democratic societies and the global environment. The costs of education are not easily reconcilable with narrow economic goals alone or to the rates of return to individuals since the remit of education is simultaneously individual, social and global and has qualitative attributes which are not measurable in conventional ways. Higher education therefore is a public good. Knowledge systems in South Africa must examine and conceptualise their roles as part of the larger global systems of knowledge production for a humane social order globally. The provision of free education for all its citizens has inestimable value and limitless possibilities.
5. Universities are crucial to development in democratic societies where they are mandated to advance the system of knowledge that can be useful for the multiplicity of related roles for achieving the values and goals of a democratic society. Especially in societies that are in transition from a traumatic past – as in the case of South Africa - this role has to be discharged through a dedicated response. This mandate requires universities to respond to the many and pronounced challenges faced by the state and society in its transformation, including those emanating from a raft of social, economic political, environmental and other challenges amongst which are the intractable issues of inequality, poverty and unemployment. In other words, the challenges faced by universities are fundamental to the reconstruction of post-apartheid society. For that reason, universities should be funded as comprehensively as possible to discharge their important socio-economic, political and cultural mandates to the best of their capabilities.
6. Also critical to their mandate is the ability of students to enter into universities, to be able to study in an atmosphere of calmness, to apply themselves properly to the difficulty of the environments present and to succeed in the process of achieving their goals. Universities must simultaneously provide the enabling environment for students to do so through the necessary financial, infrastructural and intellectual resources necessary to discharge its mandates of teaching, research and community engagement. Few students who don't come from private or well-resourced urban schools make the grade for admission into university courses and even fewer for some highly prized courses. It is ultimately a proportionately small percentage of 'poor' students who gain entry to study at universities. Given the high correlation between push-out rates and costs, meaningful funding has to be provided to enable students to continue their studies. Such funding should cover not only tuition fees but the full cost of study necessary for

success at university, including: registration and tuition fees; meals and accommodation; books and travel.

7. Some of the factors limiting poor student success should be addressed by increasing the quantity and quality of contact time between lecturers and students. Lecturer-student ratios need to be adjusted so as to make it possible for lecturers to provide the necessary support especially to underprepared students and specifically in first-year classes. This in turn requires increased numbers of sufficiently qualified and appropriately remunerated staff (both academic and administrative). Renewed efforts must be made to provide, and properly fund academic and language support<sup>13</sup>. Official university output targets and indicators need to be cautiously managed, to ensure that too narrow a focus on outcomes does not negatively affect teaching quality. Wasteful expenditure including the perverse pursuit of rankings, unnecessary and glitzy public relations, exorbitant salaries paid to top managers and disproportionate security measures should be curtailed. Non-academic staff should be 'insourced' and paid a living wage.
8. The funding of education is not an end in itself but is essential for the achievement of the socio-political, cultural and transformative goals against the background of society characterised by the cleavages of racist oppression and exploitative social relations. Policies that are designed to provide for the full cost of study are essential to an overarching social objective in which the goals are to develop a democratic and socially just society.
9. Although individuals will not be equal when education is made free, the spirit of such a policy must also have as its priority the goal of ending the culture of individualism, corporatisation and unnecessary managerialism that is pervasive in the University system. This is important because of the role that higher education can play in a society with high levels of unemployment and chronic inequality where education has been about elite transition within the framework of an ethic defined by the present market-driven capitalist system. This has engendered both uncritical thinking and an isolation from the key issues facing the vast majority of society – in particular the black working classes and marginalised communities, ideas re-enforced by the very structure and form of learning, the alienating curriculum and pedagogies that characterise so much of university life. A properly funded university system is therefore necessary to engender and encourage cooperation, collegiality, collaboration and a new social compact based on a set of values in which knowledge is not commodified and is socially relevant.

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<sup>13</sup> See for example the extensive writings of the late Neville Alexander on the importance of language development and mother-tongue instruction in education institutions. Alexander, 2013, 'Language in the new South African university', *Thoughts on the New South Africa*, Sunnyside: Jacana.

## **We therefore submit that**

1. Free public higher education for all is possible, realistic and necessary.
2. The government needs to increase the funding by at least an aggregate amount equal to the ratio achieved in OECD countries to address the issue of the chronic underfunding of the higher education system. In 2011, South Africa's state budget for universities as a percentage of GDP was 0.75%, which is more or less in line with Africa as a whole (0.78%). When compared to OECD countries (1.21%) and the rest of the world (0.84%), South Africa lags behind in this regard<sup>14</sup>.
3. No student who meets the requirements for admission to a university course should be excluded for financial reasons. Students should be funded for the 'full cost of study' including registration and other fees, accommodation, costs of meals, accommodation, travel and books. In addition, universities should receive a subsidy per student from public funds which is sufficient for its recurrent operations – i.e. to ensure what has been called both 'financial and epistemic access to university education'.
4. A determined state should examine the structure of personal taxation which could be levied for the top 10% of income earners in the country. This income bracket together with those High Net Worth Individuals (HNWI) who have thus far evaded taxation could generate a substantial increase in available public revenue to fund higher education<sup>15</sup>. This approach which concentrates on the structural aspects of inequality and uses tax revenues for the purpose is preferable to the idea of a differentiated approach to the 'rich' and 'poor' and supports the idea that those identified with the top 'net-worth' pay for their children's education through taxation, and the distribution of public funds, rather than through an individually-

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<sup>14</sup> Report of the Ministerial Committee for the Review of the Funding of Universities, October 2013, pages 7-8.

<sup>15</sup> We do not here set out the more detailed and compelling arguments around approaches to taxation but would refer in this regard to the ideas set out by Dick Forslund and Jeff Rudin in the following articles: (M&G, Nov 27<sup>th</sup>, 2015, 'No Fees: Breathe fire into Ubuntu') and <http://www.dailymaverick.co.za/opinionista/2015-11-04-the-political-budget-crisis-and-alternatives-to-austerity-part-one/#.VOLhkjV96M8> and <http://www.dailymaverick.co.za/opinionista/2015-11-05-the-political-budget-crisis-and-alternatives-to-austerity-part-two/#.VOLkWzV96M> in which they state:

"To further increase revenue the Treasury could reintroduce the 45% tax bracket for incomes above R1 million. It would yield R5-6 billion (based on the 2014 Tax Statistics). An important point must however be made about our millionaires. In 2013, there were about 4,200 individuals registered for an income of R5 million or more. Their average income (3,337 tax forms assessed) was R9.5 million, and the tax they paid was R3.7 million per person. Cap Gemini's "New World Wealth" 2014 report estimates that there are about 48,800 High Net Worth Individuals (HNWI) in South Africa. A HNWI has an income of more than R7 million, or R70 million in accumulated wealth. If only 10,000 of these HNWIs paid income tax like the 3,337 income millionaires did in 2013, instead of hiding outside the tax system, this would yield additional R37 billion in tax revenue."

based 'wealthy user pays' model<sup>16</sup>. This is a more democratic model of public interest and public funding than individual philanthropy or subsidy which is not sustainable.

5. In order to place the right to free education 'for all' in its proper social context serious consideration might be given to the idea of responsible 'public service and citizen work' by the recipients of its benefits. This could, if applied consistently and especially across the present social divides, engender greater social consciousness about the important relationship between knowledge and society - especially its role in resolving, through engaged practices, the relationship between education and the intractable social and environmental issues facing all societies. Such a 'fellowship' would not only engender forms of social solidarity in those participating in such activities but develop a new consciousness beyond the narrow and largely self-interested limits imposed by the requirements of the formal job market.
6. The further implication of this approach is that all students are regarded as beneficiaries of public funding, and participants in a system prioritising the public good. As such, students should be expected to contribute to society when leaving university through community service and by working in public institutions after graduation. In effect equal participation in the benefits of public funding by virtue of citizenship would support the creation of socially cohesive attitudes amongst students. It can be argued that such an alternative approach to that seeking to differentiate between 'rich' and 'poor' students is necessary for more far reaching structural and systemic change.
7. Much more attention needs to be paid to the question of what amount of the national fiscus should be allocated to higher education from the government's overall budget. In other words, the government needs to seriously consider reprioritizing educational expenditure relative to other expenditure because of its critical role in underpinning social and economic development more generally and because of its role in advancing the democratic transformation of society.
8. Consideration must be given to the difference between a 'progressive realisation' of the goal of free education 'for all', relative to 'gradualist' approaches. In the first case, as we have seen from the number of legal cases on this issue, too much reliance is placed on the untrammelled judgements of political decision-makers alone. As opposed to this (in what might be called a more deliberate, even if

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<sup>16</sup> Contrary to the dominant view, user-pays mechanisms are consistent with market-led approaches to the commodification of education. They do not equalise the costs of education between rich and poor and are in fact punitive for the poor. The view that the rich can afford to pay fees obfuscates the larger issue of transforming social relations.

gradualist) approach a determination is made about the exact time frame for the achievement of fee-free education for all together with the relevant milestones to be achieved for that purpose. In other words, such an approach will ensure a set of binding covenants about the achievement of fee-free education ‘for all’, the effective mechanisms by which this would be achieved and the process for its monitoring. Here the approach adopted in Article 13 International Covenant on Economic, Social and Cultural Rights<sup>17</sup> is instructive. Article 13.2 recognises not only the availability of free education in the primary education and that:

Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education; (c) Higher education shall be made equally accessible *to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education.*<sup>18</sup>

Although the relevant section too refers to ‘progressive introduction’ it speaks of a free education that is ‘accessible to all’. In any event, as we have pointed out the idea of ‘progressive’ should be interpreted more meaningfully as we have suggested and not left to the caprice of individual policy decision-makers without reference to a wider social engagement.

9. Dedicated research must be undertaken about costs of quality public education and especially about opening up the fiscal debate to show what democratic choices could be made informing fiscal and other policy decisions about the provision of education and other public goods and the potential sources of such funding. In addition, a more detailed examination of the sources of income across the system and the major costs drivers of expenditure in the different types of institutions is also necessary as this together with some of the expenditure patterns also need to be part of the debate about the choices that need to be made. Very importantly, how institutional choices are made can also be the subject of research regarding such expenditure.
  
10. Given the context in which these issues have arisen and remembering that many students themselves had and continue to express the demand for ‘fee-free education for all’, they should be widely consulted before any final decision is made on this issue. Such consultation should be meaningful, open and frank and should be premised on seeking a long term and stable solution to this issue and to engender a long term commitment to stability in the higher education system. We believe that

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<sup>17</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27.

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

<sup>18</sup> Section 13.2.5 our italics

this is only possible through such a process of respectful and collegial consultation about the policy choices related to higher education as a public good. Especially important would be the avoidance of choices left to 'experts,' 'advisors' 'consultants' and the agents of institutions that represent a narrow fiscal driven approach to the provision of public goods like higher education.