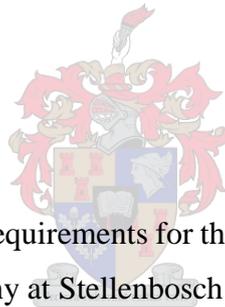


# UBUNTU ETHICS AND THE NATIONAL STUDENT FINANCIAL AID SCHEME

By  
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Supervisor: Prof. J.P. Smit

April 2019

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## Abstract

In this thesis, I develop an Ubuntu-inspired critique of the National Student Financial Aid Scheme (NSFAS). In my analysis, I show that NSFAS has not achieved its goal of ensuring equal access to higher education across income groups in South Africa. Furthermore, NSFAS's inability to meet societal expectations has contributed to the volatile environment at tertiary institutions across South Africa as well as political disenchantment more generally. The wave of student protests, which erupted across various higher education institutions between 2015 and 2017, are indicative of the social unrest which NSFAS has exacerbated as a result of its inability to promote the values of social harmony and solidarity.

This thesis is split into four chapters.

In the first chapter, I trace the historical development of the South African Higher Education and Training (HET) sector. I use a three-pronged approach in this analysis: I investigate the policy and actions of the South African government, both prior to and after the 1994 democratic elections, as well as the HET statutory base employed. I argue that such an overview shows a series of imperfect responses to the difficult situation that exists in the HET sector. More specifically, these difficulties include a slow rate of transformation, growing exclusivity and increased racism.

In the second chapter, I elaborate on the theoretical basis of this thesis. The chapter aims to familiarise the reader with the theoretical points of departure that will underpin my critique of NSFAS. Specifically, I explore the uniquely African ethical theory known as Ubuntu and examine what it implies for how firms, and entities which operate in a similar manner to firms (such as NSFAS), ought to approach their business activity. I will argue that, in line with Ubuntu, these entities have a duty to promote social harmony and solidarity.

In the third chapter, I assess whether NSFAS's current approach is appropriate to fulfil its mandated purpose. Specifically, the provision of financial assistance (loans or bursaries) to eligible students at public higher education institutions and colleges. First, I will analyse whether NSFAS's mandated purpose is morally justified, and, second, I will assess the moral basis of NSFAS's operational model. While the former analysis returns a positive result, NSFAS's operational model is a serious cause for concern.

In the fourth chapter, I provide some concluding remarks. Specifically, I argue that NSFAS is in a position to promote harmony and solidarity by making tertiary education accessible to eligible students, namely students whose families cannot afford the costs associated with tertiary studies. This financial aid has the potential to facilitate equal access to opportunity in education for those students directly assisted by the scheme and also indirectly affects the lives of student's families. Despite this position, NSFAS has not been able to meet its potential and has made the situation of a vulnerable group worse. Finally, I make some tentative suggestions as to how NSFAS's mandate could be better achieved.

## Opsomming

In hierdie tesis ontwikkel ek 'n Ubuntu-gebaseerde evaluasie van die Nasionale Studente Finansiële Hulp Skema. In my analise het ek gevind dat, in plaas daarvan dat NSFAS mense bymerkaarbring deur die inkomstegaping tussen groepe te verbeter en 'n proses te fasiliteer wat die toegang tot geleenthede gelykmaak, NSFAS hulle meer verwydered as ooit gelaat het. NSFAS se onvermoë om die samelewing se verwagtinge te bevredig het bygedra tot 'n ploffbare situasie by hoër opvoedkundige instellings regoor Suid-Afrika en het ook die algehele vlak van politiese ontugtering, insake die Suid-Afrikaanse regering se vermoë om die landsburgers te dien, vererger. In lig hiervan argumenteer ek dat NSFAS se foute gesien kan word as een van die primêre drywers van breër sosio-ekonomiese probleme binne die sektor van hoër onderwys. Die studenteproteste tussen 2015 en 2017 maak dit duidelik hoeveel sosiale onrus en hoeveel oortredings insake sosiale harmonie en solidariteit NSFAS veroorsaak het.

Die tesis bestaan uit vier hoofstukke.

In die eerste hoofstuk verduidelik ek die historiese ontwikkeling van die Suid-Afrikaanse sektor vir hoër onderwys. In my analise gebruik ek 'n drieledige benadering en kyk na die amptelike beleid, die optrede van die regerende party sowel as die relevante regsbasis aan beide kante van die demokratiese verkeisings in 1994. In hierdie oorsig word dit duidelik dat ons histories te doen het met 'n gebrekkige respons tot 'n moeilike probleem.

In die tweede hoofstuk verduidelik ek die teoretiese basis van die tesis. Die hoofstuk bestaan uit drie afdelings. Elk van hierdie afdelings het ten doel om die leser meer vertrouwd te maak met die teoretiese vetrekpunt gebruik in die beoordeling en bespreking van NSFAS. Ek ondersoek Ubuntu as 'n unieke Afrika-etiek en ondersoek wat dit impliseer insake hoe firmas hulle besigheid behoort te bedryf.

In die derde hoofstuk kyk ek of NSFAS in sy huidige (2018) vorm wel in staat is om sy mandaat te vervul. Meer spesifiek, kyk ek na (a) of NSFAS se mandaat moreel regverdigbaar is, en, (b) die detail insake NSFAS se operasionele model. Ek argumenteer dat, alhoewel die eerste vraag positief beantwoord moet word, daar ernstige probleme is met NSFAS se operasionele model.

In die vierde hoofstuk bied ek my konklusies aan. Ek argumenteer dat NSFAS in 'n posisie is om harmonie en solidariteit te bevorder, nie net deur die ekonomiese bevordering van die belange van studente nie, maar ook die belange van hul families en die ekonomie as geheel. Insteede hiervan het NSFAS die omstandighede van reeds kwesbare groepe vererger. Ek argumenteer verder dat NSFAS se foute kan gesien word as 'n primêre drywer van wyer sosio-ekonomiese probleme binne die tersiêre onderwys-sektor.

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## **Abbreviations**

ANC - African National Congress

AG - Auditor General of South Africa

AR - Annual Report

ASGISA - Accelerated and Shared Growth Initiative for South Africa

bn - billion

CHE - Council for Higher Education

CSR - Corporate Social Responsibility

DHET - Department of Higher Education and Training

DBE - Department of Basic Education

FMPPI - Framework for Managing Programme Performance Information

FMF - Fees Must Fall

FSB - Financial Services Board

GARP - Global Association of Risk Professionals

GEAR - Growth, Employment and Redistribution

GNP - Gross National Product

GRAP - Generally Recognized Accounting Principles

HBI - Historically Black Institution

HDI - Historically Disadvantaged Institution

HE - Higher Education

HET - Higher Education and Training

HR - Human Resources

HESTR - Higher Education Social Transformation Report

HWI - Historically White Institution

IMF - Integrity Management Framework

IFRIS 9 - Financial Instruments

IT - Information Technology

IAS39 - International Accounting Standard 39

IPS - Investment Policy Statement

mill - Million

NCA - National Credit Agency

NDP - National Development Plan

NP - National Party

NPC - National Planning Commission

NRF - National Research Foundation

NSDS 3 - National Skills Development Strategy

NSFAS - National Student Financial Aid Scheme

NQF - National Qualifications Framework

RDP - Reconstruction and Development Programme

PFMA - Public Finance Management Act

RMF - Rhodes Must Fall

SA - South Africa

SARS - South African Revenue Service

SMF - Stellies Must Fall

TR - Treasury Regulations

TVET - Technical and Vocational Education and Training

TVETC - Technical and Vocational Education and Training Colleges

2008 Report - Higher Education Social Transformation Report

2009 Review - NSFAS Ministerial Review

SCER - Strategic Communications and External Relations

SCOPA - Standing Committee on Public Accounts

## PCHET - Parliamentary Committee on Higher Education and Training

## Introduction

Post-apartheid South Africa is generally portrayed as a racially diverse, developing nation that is committed to social redress and socio-economic growth. This is reflected in the fact that former presidents have been lauded internationally for their reconciliatory efforts.

Access to education is a right enshrined in the South African constitution and is often said to have a key role in rebuilding the South African economy and society. In spite of this, it is a topic which remains steeped in controversy. Most recently, there is a great deal of debate explosive debate surrounding the possibility of state-funded tertiary education for every eligible South African. However, a viable solution which would ensure better access to higher education for South Africans, regardless of their financial constraints, has not been found.

The National Student Financial Aid Scheme (NSFAS) was set up to solve this problem and bring to life the state's long-standing commitment to education. NSFAS also operates under the overarching objectives adopted in the states national development plan(s) and as a form of socio-economic redress (NPC, 2015: 14-15). However, despite the fact that NSFAS has operated for almost two decades and 23 years of democracy, the HET sector remains beset by the challenges which were largely inherited from the apartheid era. These challenges are evident in the low participation and high drop-out rates of persons of colour (NSFAS, 2016: 2-5). Nevertheless, NSFAS and (then minister of HET) Dr Nzimande have argued that the current form of the scheme is best equipped to address these problems and that it is the only logical and viable option currently available to the South African government.

The concept of 'free higher education for all' funded by the South African government was ruled as financially impossible as a result of the Republics limited available funds. For the purposes of this thesis, the author will assume that this assertion is factually correct. NSFAS was ultimately instructed to find its own, alternative, means of funding, under the guidance of Minister Nzimande. However, as a result of NSFAS's systemic issues, a radical overhaul of the scheme is urgently required (NSFAS, 2016: 14-18).

This thesis will focus on the issue of administration within the Higher Education sector, specifically the National Student Financial Aid Scheme. Several noteworthy challenges have been acknowledged and spelt out by NSFAS in their annual reports. These issues include:

1. NSFAS's systemic non-compliance problems;
2. Ensuring that staff possess the required skill levels and expertise necessary to fulfil NSFAS's vision and mission;
3. The problem of financial sustainability and the scheme's inability to meet student demands due to a funding shortfall. The primary reasons for this shortfall are attributed to the rapidly rising cost of

tertiary education (which includes tuition fees, living expenses and accommodation), insufficient support by the private sector and deep-rooted issues with the schemes loan recovery capacity;

4. Structural issues which manifest in inadequate infrastructure and result in problems managing the sheer volume of eligible applicants and a shortage of technologically competent human capital and;
5. 'Glitches', primarily technical in nature, which are related to the learning curve experienced by staff and stakeholders as they become more familiar with the model. Most of these issues were either not addressed at all by officials or they formed part of those goals which were only partially achieved.

The above-mentioned administrative issues may be broadly categorised as problems of accountability, competence in terms of necessary skills and qualifications, transparency, integrity and ethics.<sup>1</sup> These problems indicate deeper, more systemic problems within NSFAS leadership. These problems also filter through to NSFAS's staff and, in turn, influence new leadership figures via the transfer of underlying assumptions, operating practices, organisational culture, perceptions of expectations and responsibilities and structurally determined codes and norms. The result is that NSFAS's institutional functioning has become problematic in itself.

These issues cannot be completely addressed in everyday practices, nor can new principles or values simply be realised via the implementation of new reward, incentive or encouragement structures.

In this thesis, I develop an Ubuntu-inspired critique of the National Student Financial Aid Scheme. The thesis is split into four chapters.

In the first chapter, I trace the historical development of the South African Higher Education and Training (HET) sector. I argue that such an overview shows a series of imperfect responses to the difficult situation that exists in the HET sector.

In the second chapter, I elaborate on the theoretical basis of this thesis. The chapter aims to familiarise the reader with the theoretical points of departure that will underpin my critique of NSFAS.

In the third chapter, I assess whether NSFAS's current approach, as of 2018, is appropriate to fulfil its mandated purpose. First, I will analyse whether NSFAS's mandated purpose is morally justified, and, second, I will assess the moral basis of NSFAS's operational model.

In the fourth chapter, I provide some concluding remarks. Specifically, I argue that NSFAS is in a position to promote harmony and solidarity by making tertiary education accessible to eligible students, namely students whose families cannot afford the costs associated with tertiary studies. This financial aid has the potential to facilitate equal access to opportunity in education for those students directly assisted by the

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<sup>1</sup> The reasons why the identified administrative issues can be translated into problems of accountability, competence, transparency, integrity and ethics are clarified in chapters 3 and 4.

scheme and also indirectly affects the lives of student's families. Despite its problems, I will argue that NSFAS could, with a few alterations, deliver on its dual goals of socio-economic redress and economic development.

While NSFAS has certainly provided financial assistance to many students, the scheme's many problems have meant that it has also played a role in the downfall or academic failure of many of its student beneficiaries. The scheme's operational and service delivery issues prevent it from functioning as it should have resulting in funding delays of up to, and in excess of, 3 months. These financial delays make it near impossible for many NSFAS beneficiaries to fully engage in their studies. Moreover, those beneficiaries who are unable to recover from this delayed start, and who consequently are unsuccessful in their studies, are forced to repay the funds borrowed with immediate effect. This is a financial strain which most cannot bear. NSFAS has not been able to meet its potential and has made the situation of an already vulnerable group worse.

Furthermore, I argue that NSFAS's failures may be viewed as a key driver of the student, indeed public, unrest that is currently playing out in the tertiary education sector.

# Chapter 1: Surveying the South African Higher Education Landscape

## 1. Introduction

In this chapter, I discuss the historical development of the South African Higher Education and Training (HET) sector. I argue that such an overview shows a series of imperfect responses to the difficult situation that exists in the HET sector.

The current state of the HET sector is the result of various factors and the action, or, in some cases, the inaction, of various parties in response to these factors. Some of these factors were, arguably, more influential than others, however, to point to one moment as the ‘original sin’, or main factor, is both an arbitrary and tedious task. The flawed current state of the HET sector dates back to South Africa’s chequered past and has been driven by a number of interrelated parties and events, such as the South African government; the Department of Higher Education and Training (DHET); previous National Student Financial Aid Scheme (NSFAS) beneficiaries; NSFAS; South African society, and the 2017 ‘Free Education’ statement issued by President Zuma. Additionally, it is important to consider the state of higher education against the backdrop of the anti-apartheid struggle and the Republic’s roots in this struggle.

The following chapter is split into six sections (excluding the introduction). In the first, I briefly clarify the parameters of the term ‘Higher Education and Training’, which I employ throughout this thesis.

In the second section, I provide an overview of most of the major events which have taken place in the South African HET sector, from 1950 to 2018.

In the third section, I review the state of the HET sector under the infamous apartheid government.

In the fourth section, I inspect the archival development of the South African HET sector in the period immediately following the 1994 democratic elections.

In the fifth section, I succinctly investigate the recent developments in the South African HET sector as well as the response of the public to these developments.

In the sixth section, I briefly explain and discuss what state owned-entities (SOEs) are and why NSFAS forms part of this category of institutions. The chapter culminates with a brief recapitulation and some concluding remarks.

## 2. What is Higher Education?

This section provides clarity on the definition of the term ‘Higher Education’, as it is used in this thesis. The purpose of this is to limit confusion and misinterpretation by providing a basic explanation of what the term Higher Education refers to.

Traditionally the term ‘Higher Education’ has been associated with any form of post-school formal education undertaken at an institution of learning that typically culminates with the awarding of a degree, certificate or diploma. In light of the above, it should be clear that the scope of the term ‘Higher Education’ is not limited to universities, Technikon’s or colleges. Rather, ‘Higher Education and Training’ encompasses a diverse range of professional schools and skills training centres which offer specialization in fields such as theology, visual arts, dance, aviation, music and art (Nolen et al., 2018; Encyclopedia Britannica, 2018).

The International Bank of Reconstruction and Development (IBRD) notes the following with regard to HET: “Higher education, also known as tertiary education in some countries, refers to all post-secondary education, including both public and private universities, colleges, technical training institutes, and vocational schools” (IBRD, 2017).

The current South African government seems to follow the IBRD in their definition of Higher Education as “...all learning programmes leading to a qualification that meets the requirements of the HEQF (Higher Education Qualifications Framework).” (Government Gazette, 1997: 5 - 6). In addition, the South African government defines a higher education institution (HEI) as, “an institution which provides studies on a full-time, part-time or distance basis and fulfils the necessary requirements to be registered as a private HEI or the necessary requirements to be declared a public HEI” (Government Gazette, 1997: 5-6).

In light of the above, the definition of higher education and/or tertiary education employed in this thesis will be based on the IBRD definition, unless stated otherwise. More detail in terms of the qualifications offered at HEIs and the statutory requirements for HEIs will be provided in the third chapter.

## 3. Pre - 1994: The States Cultivation of the Races

In this section, I consider the Higher Education landscape under the apartheid regime. I discuss some of the educational policies employed during this era as well as the overall state of the higher education environment.

Prior to the ANC’s monumental victory in the first democratic elections in 1994, the South African HET sector was divided into two distinct yet connected parts; a twin sector model so to speak. The ‘primary’

HET sector was reserved for white citizens and another distinct HET sector, the Department of Bantu education, was established for persons of colour.<sup>2</sup> This division went beyond racial segregation to the extent that students were not only placed in different institutions on the basis of race, but the quality of education at these institutions differed. Specifically, people of colour received a sub-par education at the institutions reserved for non-white people. Under the apartheid government, the HET sector was characterized by racial segregation, indoctrination, disparities in the quality of education available, inequality and it was driven by the dream of ‘European domination’ (CHE, 2004: 8-10; Van der Berg, 2005: 2 - 4).

The State Department of Bantu Education was a product of the 1951 Eislen Commission. This Commission was formally tasked with investigating how to cultivate a particular type of individual through higher education. Specifically, the aim was to cultivate individuals who would possess an innate sense of inferiority and subordination to the white race and who would be destined for a life of servitude to the ‘superior’ race. Furthermore, these individuals were to be characterized by a deep-rooted sense of identity which was to be tied to their race and culture. This was to ensure the cultivation of individuals who strongly identified with their race and the separatist racial policies of the apartheid government (CHE, 2004: 11-12).

In addition, tertiary education institutions were redefined according to racial demographics.<sup>3</sup> The Bantu Education Department, on the advice of the Eislen commission, determined that persons of colour would not be allowed to attend ‘white institutions’ (CHE, 2004: 10-14; Extension of University Education Act, 1951). The ‘natives’ were thus limited to qualitatively inferior ‘black tertiary education institutions’. If special permission was acquired to enrol at a ‘white’ institution, black students were subjected to racial discrimination in almost all facets of university life (CHE, 2004: 10-14; Extension of University Education Act, 1951).

The National Party’s (NP) higher education legislation formed the statutory basis for tertiary institutions’ racial segregation practices. Ironically, the Bantu Education Department was established as a response to the demands of ‘persons of colour’ for access to higher education.<sup>4</sup> The National Party’s response to said demands came in the form of ‘bush colleges’ which were added to the six ‘native’ institutions already in existence. The curricula at historically black institutions were ideologically entrenched in the Christian National Education program (CHE, 2004: 10-16). In addition, all senior faculty positions were occupied by

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<sup>2</sup> The term ‘persons of colour’ referred to various groups which were traditionally split into three broad groups: Black, Coloured and Indian. The term ‘European’ referred to the white citizens who were considered to be racially superior to their racially diverse counterparts in all aspects of life by the apartheid regime (CHE, 2004: 15 - 20).

<sup>3</sup> There was a total of six historically black, disadvantaged, institutions in the pre-1994 era, namely: Medunsa University; the University of Durban – Westville; the University of the North; the University of the Western Cape; Vista University and the University of Zululand. There were 10 historically white institutions” The University of the Orange Free State; the University of Cape Town; the University of Natal; Rhodes University; the University of the Witwatersrand; Potchefstroom University; the University of Pretoria; the Rand Afrikaans University; the University of Port Elizabeth and Stellenbosch University (Bunting, 2006: 5 - 10).

<sup>4</sup> These demands were frequently ignored or undermined as increased numbers of persons of colour in tertiary education was a threat that the state aimed to bypass or divert (CHE, 2004: 8 - 10).

high-ranking civil servants from the Department of Bantu Affairs and other staff members were drafted from Afrikaans Universities or were graduates thereof. Furthermore, there were limited positions available for black academics, mainly junior-lecturing positions, and these academics were subject to tedious screenings and a plethora of largely trivial tests (Bunting, 2006: 10-12).

The harsh 'Bantu education' system coupled with the state-wide rise of the Black Consciousness Movement provided the sparks that ignited the youth-led protests in Soweto between the 16th and 18th June 1976. This event has been immortalised in South African history as an instance where the youth challenged the oppressive minority rule that was built upon inequitable practices and a wayward ideology (Bunting, 2006: 36-38). The student contribution to the 'fight for freedom' is evident in their boycotting of tertiary education institutions and various campaigns to keep schools closed which, effectively, meant that students often led the charge on the ground and were involved in daily confrontations with police.

The apartheid regime and its iniquitous ideology were institutionalised through the legislation enacted during apartheid as well as the culture surrounding the state's interactions with persons of colour. This discriminatory regime left a plethora of deep-rooted cultural, psychological, physical and economic scars, many of which are still visible over two decades later.

#### 4. Post - 1994: The Birth of a Rainbow Nation

In this section, I will analyse the development of the South African HET sector post-1994. I will primarily consider the policies drafted, and laws passed, which have had a direct bearing on the HET sector in general. This section deals directly with the question of why higher education is important for South Africa and why state-funded tertiary education should be facilitated.

The 1994 democratic elections,<sup>5</sup> marked more than the liberation movement's triumph over the oppressive apartheid government in that it also came to symbolise hope for many South Africans. It ushered in a new government, a new ruling party, the African National Congress (ANC), and a new 'National Plan'. The National Plan cemented the ANC's commitment to transformation. Moreover, education was described as central to the ANC's envisaged transformation plan (CHE, 2004: 28- 31). The 1994 elections facilitated a number of changes in South African society, however, these changes were largely limited to the legal and political spheres (CHE, 2004: 28 - 31).<sup>6</sup> The ANC government wasted little time in establishing, drafting and legitimising plans and procedures to develop and rebuild the newly democratic nation. The ANC's

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<sup>5</sup> The process to end apartheid is often described as a transition characterized by trans-placement. Trans-placement occurs when the ruling party and primary opposition party facilitate a meeting to progress from an impasse or to avert a crisis.

<sup>6</sup> Outside of the political and legislative arenas, the changes facilitated by the democratic elections were relatively minor or took extremely long to be felt at the micro level. As a result, various forms of racial and cultural discrimination persist in contemporary SA (CHE, 2004: 28 - 29).

response to the dire state of the South African economy was the institution of the Reconstruction and Development Program (RDP)<sup>7</sup> (CHE, 2004: 28 - 31).

The policy espoused within the RDP, Growth, Employment and Redistribution Plan (GEAR) and the Educational White Paper series captured the ANC's belief that the best path forward encompassed both state redress and national development. The RDP was characterized by an infrastructure-based socialist approach to national development and this became a source of much internal and external debate (Bunting, 2006: 31 - 35).<sup>8</sup> The growing deficit on the state's balance of trade account, which was compounded by the struggling SA Rand, caused the ANC to reformulate its macro-economic policy. The reworked policy was more in line with the principles and advice espoused by the Bretton Woods sisters.<sup>9</sup> As a result, the RDP was dropped and the Growth, Employment and Redistribution plan (GEAR) was adopted in its stead (Department of Finance, 1997: 1 - 3). GEAR was designed to establish a flexible labour market, in terms of transferability, which would, theoretically, increase productivity while keeping wages relatively stable (Department of Finance, 1997: 1 - 4).

GEAR came to an end in 2005, amid heated debate as to its value and effectiveness, and was followed by the Accelerated and Shared Growth Initiative for South Africa (ASGISA). However, this was short-lived and was prematurely retired along with Thabo Mbeki's presidency. ASGISA was subsequently replaced by President Zuma's New Growth Path (NGP) and the current National Development Plan - 2030 (South African History Online, 2014).

The insight underpinning the above-mentioned national development policies may be summarized as:

“[the South African government's acknowledgment of] the crucial role of education in addressing various issues plaguing the nation, specifically, its capacity to facilitate national development and state redress; educational attainment as a means of assisting citizens to escape the clutches of poverty, inequality, and; education's potential to drive the nation to first-world status” (Government Gazette (NDP), 2012: 296 - 297).

This approach was aimed at social justice and national development. Furthermore, GEAR and RDP were primarily driven by the need to replenish the South African governments finances. South Africa's financial

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<sup>7</sup> The document promoted an active governmental role in the form of an industrial strategy serving the needs of the future, while addressing the legacy of apartheid. Moreover, it envisaged the restructuring of the financial sector, thereby directly supplementing the need for infrastructural development; taking a more aggressive stance towards, acquisition, FDI; the facilitation of 'inflationary financing' serving the needs of the people; a more involved role for trade unions and supporting SME's via the redistribution of large monopolies (HESTR, 2004: 31 - 32).

<sup>8</sup> There was a great deal of internal debate around the perception that growth was portrayed as more integral than redistribution, a key facet of the liberation movement. At the core, the issue stemmed from the government's constrained scope for intervention and spending. This constrained scope was primarily due to international pressure and the governments need to appease the international community (Bunting, 2006: 31 - 35).

<sup>9</sup> 'The Bretton Woods sisters' is the collective name given to the World Bank Group, The International Bank of Reconstruction and Development (IBRD), and the International Monetary Fund (IMF).

resources were depleted in the 1970's – 1990's on account of international boycotts and the plundering of the state's reserves by the previous National Party (NP) government's inward-looking, i.e. isolationist, monetary response (HESTR, 2004: 31- 37).<sup>10</sup>

The aforementioned Educational White Paper (WP) series consists of nine papers directed at the restructuring and universalisation of the South African Basic and Higher education sectors. The most important of the nine White Papers for this thesis is the 1997 *White Paper 3: A Programme for Higher Education Transformation*. White Paper 3 (WP3) was primarily established as a plan to improve the quality of life of all South African citizens. Furthermore, it was a means of addressing the oppressive and discriminatory nature of the higher education policies employed by the apartheid government. WP3 proposed a blueprint for the facilitation of a single-coordinated system in higher education. It was depicted as a system which would provide universal specifications, including reworked models for governance, planning and funding protocols for higher education (Government Gazette, 1997: 9 -14). WP3 thus acknowledged education as a crucial vehicle for driving the ANC's transformation and development objectives.

The Higher Education Act 101 of 1997<sup>11</sup> was established in conjunction with WP3. It provided the relevant statutory detail for the establishment and functioning of the Council on Higher Education (CHE). Moreover, the Higher Education Act (HEA) provided, and now regulates, the funding and operational specifications of public HEIs. In addition, the HEA serves to regulate the admissions policies of public HEIs, provides for the facilitation of an independent assessor as well as the registration of private HEIs (Government Gazette b, 1997: 1-5).

The difficulties associated with access to higher education and the exclusionary nature of higher education, largely a result of the high costs associated with higher education, were acknowledged as early as 1991. The Minister of Education at the time, Mr S Bengu,<sup>12</sup> sought to mitigate these exclusionary trends by introducing the Tertiary Education Fund for South Africa (Tefsa). Tefsa was initially established in 1991 as a non-profit organization that would provide support, in the form of loans, to students in the higher education system (CHE, 2004: 24). Tefsa was succeeded by the National Student Financial Aid Scheme (NSFAS), which was established with the NSFAS Act 56 of 1999. NSFAS was tasked with providing aid

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<sup>10</sup> In the early 1970s, the apartheid government was subjected to immense pressure from the international community. One example of this was international boycotts which saw South Africa operate as an isolationist state for a number of years. This isolationist or inward-looking economic model and the siphoning of funds from policies and departments to fill the funding gaps caused by this model (CHE, 2004: 31 - 37).

<sup>11</sup> The Higher Education Act has been amended 9 times since its inception in 1997.

<sup>12</sup> Mr Sibusiso Bengu served as the South African Minister of Education, the inaugural appointee within democratic South Africa, from 1994 up until 1999. Mr Bengu was followed by K Asmal & N Pandoor. With President Zuma's 2009 electoral victory, the Department of Education was divided into The Department of Higher Education & Training, headed by Minister Bonginkosi Nzimande, and the Department of Basic Education, run By Angie Motshekga (SA History, 2014).

to previously disadvantaged individuals (PDIs) who are eligible for tertiary education but unable to bear the cost of tuition. This formed part of the state's social redress and economic development initiatives.

NSFAS was positioned as the answer to the financial barriers associated with tertiary education. NSFAS was thus established as a means of opening the financial doors of learning for persons historically impeded on the basis of race (Government Gazette, 1999: 2 - 4). NSFAS was portrayed by the ANC as a symbol of their nationally binding commitment to the eradication of poverty, mitigation of inequality, promotion of national development as well as affordable and sustainable socio-economic redress (Government Gazette, 2012: 9 - 12). The task of making tertiary education available to previously disadvantaged groups is vested in the Department of Higher Education and Training (Government Gazette, 1999: 2 - 4).

The year 2008 was a watershed year on both the economic and political fronts, both domestically and internationally. Internationally, 2008 saw the global economic crisis and, locally, the questionable ousting of President Mbeki. These events marked the onset of global contractionary fiscal and/or monetary policies. Moreover, the significant foreign direct investment (FDI) losses incurred by South Africa as a result of this crisis forced the South African Reserve Bank (SARB) to implement a similar decrease in state spending (Zini, 2008). In addition, the (2008) *Ministerial Report on the Status of Transformation*, commissioned by Ms Naledi Pando (the Minister of Education at the time), became publicly available. The report highlighted the persistence of various discriminatory practices, particularly in terms of language and culture, in the South African education sector (Ministerial Review, 2008: 35-38).

The 2009 general elections resulted in the election of President Zuma and the subsequent appointment of the current Ministers of Education; Ms Angie Motshekga (DBE) and Mr Bonginkosi Nzimande (HET).<sup>13</sup> The incoming ministers seemed to display a renewed vigour in terms of promoting the key role of education in building the South Africa of the future. For instance, one of Minister Nzimande's first acts in office was the commissioning of a Ministerial Review of NSFAS in order to assess the scheme's "contribution to achieving the access goals in the policy framework" (DHET, 2009: viii).

The 2009 Review found the scheme to be plagued by deep-rooted structural, governance, competence, systemic, resource and compliance-related issues (DHET, 2009: Viii-X). The Review Committee identified the scheme's primary obstacle as a comprehensive lack of funding or, in other words, "chronic under-funding". Moreover, NSFAS was found to be unable to meet the aggressive year-on-year growth of demand and this resulted in an array of "secondary" issues, such as the scheme's systemic non-compliance issues (DHET, 2009: X - Xii). The Review found that the pool of funds at the scheme's disposal, indeed the overall

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<sup>13</sup> This split served to significantly deflate the HET 2009/2010 budget, which was set at R17.5 billion, however, audited state figures show that R28.5 billion was spent on higher education alone that year (Makou & Wilkinson, 2017). NSFAS recorded figures of R3.1 and R3.6 Billion, for 2009 and 2010 respectively, as the DHET's contribution to the scheme (NSFAS AR, 2014/2015: 8).

budget for HET in 2009, was insufficient to provide for roughly 2.8 million students in need of funding. Other major problems uncovered by the Review included a lag in resource pay-outs to institutions as well as an absence of infrastructure. These issues were compounded by top-down decreasing year-on-year budget allocations (DHET, 2009: Xi - Xii).

In 2010, and again in 2015, the South African government established a Higher Education Summit. Both summits were crucial for the development of the HET sector and, as such, will be discussed in the next sub-section.

#### 4.1 The Higher Education Summits

This sub-section briefly considers the two Higher Education summits held in 2010 and 2015. These summits were set up as a means of ascertaining the state of higher education in South Africa. The Summits were used as a platform for identifying issues within the sector and as a forum for aligning the expectations of the primary actors within the HET sector. These Summits are discussed because they provide an idea of the progress made by the ANC and the obstacles that were identified.

The 2010 inaugural Higher Education and Training Summit noted the many positive changes facilitated in the years post-liberation. Despite this, transformation remained an area of concern, albeit to varying degrees, across the 23 HEIs in South Africa. Furthermore, the inconsistent implementation of transformation policies and short-sighted institutional mergers and reforms have served to exacerbate racial and cultural barriers. Moreover, exclusivity and instances of racism have become the norm in several South Africa's HEIs, thereby preserving deep-rooted apartheid practices (DHET, 2010: 35-50).

The 2015 Higher Education Summit was tasked with addressing the increasingly turbulent nature of the South African HET sector. A key source of this turbulence, as well as one of the primary topics discussed at the Summit, was the waves of student, worker and parent protests which swept across South Africa in 2015.<sup>14</sup> These protests are collectively known as the #FeesMustFall (FMF) movement.

The FMF movement was driven by large disparities in student funding and the slow progress of visible transformation within the HET sector, and indeed throughout South African society. FMF served as a key outlet for the severe social unrest in the HET sector (DHET, 2015: 1 - 2). The second Summit focused on the critical issues of student funding for those eligible yet unable to enrol in HEIs on account of financial constraints as well as housing and travel problems experienced by students (DHET, 2015: 1 - 2).

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<sup>14</sup> There has been a long history of student protest at HEIs throughout South Africa, although there was not a great deal of media for these protests prior to FMF. These protests were focused on issues such as a lack of financial aid, rapidly rising tuition fees, the lack of transformation within the HE sector and a shortage of accommodation for those unable to afford travel costs (Cape Argus, 2012; Joseph, 2009).

Other challenges identified at the second Summit were similar to those identified by the first, most notably: persistent issues of racism and cultural exclusion<sup>15</sup>; the growing ‘missing middle’<sup>16</sup>; high, and increasing, dropout rates; the low numbers of those entering the tertiary education sector, in comparison to the number of matriculants; the rapidly rising cost of tuition and the rising cost of associated study expenses (DHET, 2015: 6 - 12). The Second Summit culminated in a joint agreement between representatives from the tertiary education sector and Minister Nzimande; there would be a price ceiling of 6% on tuition increases for 2016 and HE campuses which had been forced to shut down activities as a result of protests would be immediately reopened.

The fervently supported mass student and worker protests, which operated under the banners of #FeesMustFall and #OutsourcingMustFall, primarily targeted HEIs. These HEIs were perceived to be the source of their discontent and were understood as the primary force impeding both access to, and success in, the South African HET sector. The state, the DHET and the ruling party’s political incumbents were criticised for their inefficiency; however, significantly less student anger was directed towards them. In 2016, protest action associated with the FMF movement reignited amid reports that tuition fees were set to increase in 2017.

The most recent events pertaining to the HET sector are three-fold and will be examined in the next section. The first event this thesis will consider is the Heher Commission; a national inquiry into the feasibility of fee-free tertiary education and training. The second event examined is the replacement of the Minister of the Department of Higher Education and Training.<sup>17</sup> The final event considered is the statement issued by President Zuma on free (state-funded) education.

## 4.2 The Heher Commission and Free Education Announcement

This sub-section briefly considers three key events which have the potential to disrupt and/or aid the development of the HE sector. The events considered in this section are: (i) the release of the Heher commission; (ii) the replacement of the Minister of Education, and; (iii) the ‘free’ education statement released by President Zuma.

The student lead FMF movement ultimately resulted in the National Commission of Inquiry into the Feasibility of making Higher Education and Training Fee-free in South Africa. This commission was

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<sup>15</sup> Student unrest pertaining to these issues was visible in the #OpenStellenbosch & #RhodesMustFall protests, both of which featured as prequels to the mass FMF movement and addressed deep-rooted racial discrimination that many non-white students found themselves subject to (KPMG, 2016: 5 - 10).

<sup>16</sup> The missing middle refers to those students, i.e. family income, whose annual income falls just outside NSFAS’s criteria. Specifically, this refers to those who earn above the R120 000 a year threshold (NSFAS, 2015: 13-14).

<sup>17</sup> In 2017, the then incumbent Minister of HET, Dr B Nzimande, was replaced by Mrs H Mkhize and, in 2018, Hlengiwe Mkhize was replaced by Ms Naledi Pandor (DHET, 2018).

established to determine the feasibility of state-funded (fee-free) tertiary education for all eligible students (DHET, 2017: 20; The Presidency, 2017). The commission was established on 14 January 2016 and is commonly referred to as the Heher commission after its chairman, the Honourable Justice Jonathan Arthur Heher (DHET, 2017: 20; The Presidency, 2017). The Commission report was released to the public in November 2017, before the president had reached an official decision (VOCFM, 2017). The Commission found that ‘free education for all citizens’ would be a financial strain that the South African treasury would not be able to overcome.<sup>18</sup> Free tertiary education was characterised as financially unviable on account of the Republics current limited fiscal space (DHET, 2017: 540 - 550).

In addition, the report outlined a number of recommendations and possible alternatives available to the South African ruling party that could improve the critical state of the HE sector. One of the Commission’s recommendations was the replacement of NSFAS loans with an income-contingent loan (ICL) system (DHET, 2017: 1 - 10 and 540 - 550).<sup>19</sup>

On the 16th of December, President Zuma released a statement at the 54th annual ANC Conference stating that, from 2018, higher education would be, essentially, free. According to this statement, tuition fees would be fully subsidized by the state for first-year students from households with a combined family income below R350 000 (The Presidency, 2017). This statement proposed free education in the form of non-repayable grants instead of loans. These grants would remain managed and issued by NSFAS, thereby ensuring that NSFAS retained its status as the primary provider of funding for tertiary education. The above statement by President Zuma incorporated some of the Heher report’s recommendations but differed on several critical points (The Presidency, 2017).

One of the more pressing questions, which was posed by South African media reporting agencies, is where the funding required to subsidize tuition and associated study costs for all eligible first years will come from (VOCFM, 2017; Gumede, 2018; Masweneng, 2017 and; Quintal, 2017). Moreover, neither the President nor the newly appointed Minister of the DHET, Dr Hlengiwe Mkhize, were able to provide clarity on how exactly the new system would work. In addition, the Minister of Finance, Mr Malusi Gigaba, was, at the time, unable to address the details pertaining to the funding and sustainability of the newly proposed system. Furthermore, the limited time-frame for the relevant stakeholders to prepare for the new model cast doubt on the government’s ability to achieve the objective set out in the President’s statement (Gumede, 2018; The Presidency, 2017).

Prior to the President’s statement, a cabinet reshuffle, which took place in mid-October 2017, resulted in the incumbent Minister of the DHET, Dr Bonginkosi Nzimande, being replaced. He was replaced by the

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<sup>18</sup> The Commission considered the South African education sector in its totality, where the basic and higher education sectors form two halves of a single coin.

<sup>19</sup> This ICL system is discussed in Section 6, chapter 3.

recently appointed Minister of the Department of Home Affairs, Dr Hlengiwe Mkhize. The pressure to remove Minister Nzimande had reached breaking point amid the wave of student-led protests, which highlighted his inability to facilitate transformation within the HET sector and his failure to address the problems within NSFAS (Mahlase and Areff, 2017).

Although the removal of Dr Nzimande may have been warranted, the appointment of Dr Hlengiwe Mkhize also entailed several problems, particularly with regards to her lack of experience and questions pertaining to her competency and qualifications (Mahlase and Areff, 2017). On the 26 of February 2018, Dr Hlengiwe Mkhize was replaced by a previous Minister of Education, Ms Naledi Pandor (DHET, 2018).

The new Minister finds herself facing a volatile operating environment within a deeply troubled and crucial department.

## 5. #FeesMustFall

This sub-section will examine #FeesMustFall (FMF), #OutsourcingMustFall and other protests connected to higher education. This section briefly analyses the response of the public, particularly the youth, to their dissatisfaction with the HET sector.

Public dissatisfaction with the rising costs associated with higher education is not only a South African issue. In the last decade, students in a number of states around the world have voiced their displeasure with this seemingly global trend. Students in countries such as Germany, the Netherlands, Austria, Turkey, Poland and New Zealand have protested high tuition fees in the last decade. These protests seemed to assist in persuading most of the aforementioned states to significantly reduce tuition costs (Goswami, 2012; Cai and Kivistö, 2011: 55 - 78; Calitz and Fourie, 2016: 2; Chapman and Sinning, 2011).

In South Africa, displeasure with the high cost of tertiary education is not a new phenomenon. Most recently, the FMF movement has added to the long history of South African student protests.

The FMF movement began as a Student Representative Council (SRC) initiative and many scholars have credited the SRC at the University of the Witwatersrand (Wits) with starting the movement. The initially small campaign rapidly spread and became a nation-wide student-led movement, which many students and parents held dear (South African History Online, 2016). The 2015 FMF protests can be broadly characterised as a movement of students and workers which drew public attention in 2015.<sup>20</sup> The FMF

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<sup>20</sup> Workers, mainly those responsible for the provision of basic services, joined the movement under the banner of #OutsourcingMustFall in order to protest unfair treatment, particularly the fact that more than 600 workers were let go at the University of Witwatersrand (Wits) (South African History Online, 2016).

movement began primarily as a response to the announcement by Dr Nzimande on the proposed fees increases for higher education institutions (HEIs).<sup>21</sup>

This movement used a slightly tweaked democratic model in that it employed a consensus-based decision-making model. The movement made use of various social media websites, such as Facebook and Twitter, as the primary means of discussion and coordination (South African History Online, 2016). Furthermore, the movement is not a single dynamic unit as it is comprised of a number of smaller campaigns, all of which promote vaguely similar objectives and demands, at different tertiary institutions around South Africa (South African History Online, 2016).

Different authors have identified different issues as primary for the FMF movement. Specifically, some of the more common issues mentioned are:

- The fact that CPI - headline - inflation as of October 2015 was 5.5%, and 6% in 2016 (KPMG, 2016: 4 - 5; Calitz and Fourie, 2016: 2 - 5).
- The rapidly rising tertiary education fees, which were already between R30 000 and R50 000 for the 2015 academic year. The high cost of tertiary education resulted in many South African citizens not being able to afford a university degree (KPMG, 2016: 4 - 5; Calitz and Fourie, 2016: 2 - 5).<sup>22</sup>
- The rising levels of student debt which were a result of the fact that students had to take out loans to keep up with the high cost of tertiary education (South African History Online, 2015; KPMG, 2016: 4 - 5).
- The need for increased state subsidies and greater state spending on education (KPMG, 2016: 4 - 5; Calitz and Fourie, 2016: 2 - 5);<sup>23</sup>
- The issue of the ‘missing middle’; a term which refers to students who find the cost of higher education too great a financial burden to bear but, due to their parents’ or guardians’ income level, fall outside the NSFAS funding zone (South African History Online, 2015; KPMG, 2016: 4 - 5; Calitz and Fourie, 2016: 2 - 5) and;<sup>24</sup>

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<sup>21</sup> The movement was a response to the exclusive nature of higher education that was a result of the rapidly rising financial cost of tertiary education.

<sup>22</sup> This figure does not include the cost of accommodation, textbooks, transport, sustenance and other related materials required for tertiary studies. Moreover, StatsSA posits that the annual rate of fee increases for tertiary education from 2008 - 2015 was 8.8%, well above the CPI inflation rate which averaged 6.2% for the same period (StatsSA, 2016).

<sup>23</sup> The South African government’s ‘transformation of higher education’ campaign was an attempt to incentivise HEIs to accept more previously disadvantaged students. In addition, this campaign was also an attempt to facilitate a process of congruence between the historically disadvantaged and advantaged institutions. In light of this campaign, tertiary institutions receive state subsidies for every previously disadvantaged individual enrolled, and, historically disadvantaged institutions are given subsidies so as to bring them closer, in terms of quality of education received, to their privileged counterparts (CHE, 2004: 190 - 193).

<sup>24</sup> NSFAS funding was only available for those students whose household income was below R120 000 per annum. The term ‘missing middle’ refers to those families with an annual income ranging from R121 000 - R400 000 (NSFAS AR, 2014/2015: 13).

- The inability of the current South African government, specifically the Higher Education Department, to facilitate the goals of national economic development and state redress and satisfy the principles of equality and equal access (StatsSA, 2016).

Despite steady year on year increases in the financial costs associated with higher education in South Africa, Dr Nzimande announced that fee increases at universities and TVETCs would be capped at a maximum increase of 10.5%<sup>25</sup> for the 2016 academic year (KPMG, 2016: 4 - 5). This decision ignited an already heated debate pertaining to the exorbitant costs associated with higher education. Although the protests at HEI campuses around the nation only captured news headlines in 2015, it must be noted that there had been numerous protests at various South African HEIs since the early 2000s. The points of concern in these earlier protests were similar to those raised by FMF, however, many of these protests did not receive similar media coverage<sup>26</sup> (South African History Online, 2015).

The months preceding Dr Nzimande's October 2015 proposed fee announcement were marred by violent clashes between protesting students and private security personnel.<sup>27</sup> These clashes culminated in the 'shutdown' of several HEIs across the country.<sup>28</sup> Legal action, in the form of interdicts and criminal charges, was taken against protesting students. At the Cape Peninsula University of Technology (CPUT) protests started before the start of the 2015 academic year and centred on the issue of increased registration fees. In 2015, registration fees increased by an average of R1400 (South African History Online, 2015).<sup>29</sup>

One problem which stems from these increases is the continued distinction between the 'haves' and the 'have-nots' in South African society. As a result of the country's apartheid history, these divisions tend to run along racial lines. This is because access to higher education, and the advantages that higher education confers, is rapidly becoming too costly for the majority of South Africans.<sup>30</sup>

The week of increased protests, which followed the announcement of 10.5% fee increases, prompted the SA government to hold an emergency meeting. This meeting was labelled as crucial and was attended by

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<sup>25</sup> This 10.5% was initially reduced to 6%. Despite this, protesting continued, with students becoming more spirited each day. This culminated in an emergency meeting between the President, Minister of Higher Education and various tertiary institutions' vice-chancellors (KPMG, 2016: 4 - 5; South African History Online, 2016).

<sup>26</sup> Student protests at predominantly historically disadvantaged institutions, specifically: Cape Peninsula University of Technology (CPUT) in 2012; Tshwane University of Technology (TUT) in 2012; University of Limpopo in 2009, 2011 and 2012; Walter Sisulu University of Technology; University of the Witwatersrand (Wits) in 2004; Mangosuthu University of Technology in 2009; Vaal University of Technology (VUT) in 2014; False Bay College and the College of Cape Town in 2012 (South African History Online, 2015).

<sup>27</sup> HEIs were forced to enlist the services of private security firms as state intervention was not forthcoming.

<sup>28</sup> Three campuses, namely Tshwane University of Technology, the University of the Western Cape (UWC) and the University of Witwatersrand (Wits) (South African History Online, 2016).

<sup>29</sup> At HEIs, fees vary according to the level of study - bachelors, maters, diploma and doctorate - and according to chosen field or course.

<sup>30</sup> StatsSA contends that, in 2016, the average South African citizen's salary was R100 246 whereas the average salary for black households was R69 094 (BusinessTech, 2017). In addition, the difficulty associated with securing loans for those in poverty was not accounted for.

President Zuma, Higher Education Minister Mr Nzimande, university vice-chancellors and student leaders. It took place on Friday 23 October 2015.

The attendees of this emergency meeting discussed an array of issues, most notably: the proposed 2016 higher education fee increases; the possibility of free education and questions about how the dire situation in higher education had previously gone unnoticed (South African History Online, 2016; Calitz and Fourie, 2016: 2 - 3). The meeting resulted in the President announcing a 0% tuition fee increase for the 2016 academic year and the facilitation of a National Inquiry into the possibility of free education (South African History Online, 2016; Calitz and Fourie, 2016: 2).

Dr Nzimande, in response to questions about the dire situation in higher education, contended that the DHET had recognized that NSFAS's faltering ability to fund qualifying students could lead to widespread student unrest in 2016 (South African History Online, 2016; Calitz and Fourie, 2016: 2).<sup>31</sup> The onset of student protest action was thus not a surprise to the Minister nor the DHET, rather they weren't prepared for the early onset of student protests. However, this explanation is difficult to believe if one considers that a 2009 ministerial review considering NSFAS's functioning and funding model found a number of irregularities (DHET, 2009: Viii-Xii). The Ministerial review warns of the potential for civic unrest as a result of NSFAS's inability to fulfil its mandate to fund students who qualify for tertiary education but are unable to afford it (DHET, 2009: Viii-Xii).

Protests largely continued throughout 2016. Unfortunately, the effectiveness of the movement was blunted by increased vandalism and property damages which resulted in court interdicts as well as a number of arrests. In 2017, the movement stagnated and although some continued the 'fight' for free education, there was much less mass action.

In light of the above, it should be clear that the bulk of the movement's might was directed at various HEIs across the country in the form of disruptions, sit-ins, protests and, in some cases, vandalism and violence. The ruling party, the Minister of Higher Education and NSFAS bore much less of the student's wrath. The failure to heed the warnings of ministerial review committee in 2009, lackadaisical mediation as well as the delayed response to student protests call into question the leadership and ability of both the DHET and the executive body of NSFAS.

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<sup>31</sup> These comments were made at the second Higher Education Summit, on the 15-17 October 2015. In addition, the attitude of the Ministers who gathered in Parliament to address the increasingly volatile state of higher education did not match the vigour or the urgency that characterised the student protests. The attitude in parliament during both the HETS and the emergency meeting was appropriately characterized as nonchalant and lack-lustre (Davis, 2015).

## 6. NSFAS-SOE

In this section, I briefly explain and discuss what state owned-entities (SOEs) are and why NSFAS forms part of this category of institutions.

The OECD (2018: 15) notes the following with regard to SOEs:

“Under the SOE Guidelines, the general public is the ultimate owner of state-owned enterprises. Therefore, those government agencies who exercise the ownership rights over SOEs are ultimately responsible to the interests of the public. In fulfilling this responsibility, the state as owner owes duties toward the public that are not unlike the fiduciary duties of a board toward the shareholders. In this sense, therefore, high standards of transparency and accountability are needed to allow the public to assure itself that the state exercises its powers in accordance with the public’s best interest. Mechanisms for ensuring transparency and accountability of the state’s exercise of ownership rights include: developing a clear rationale for state enterprise ownership, a co-ordinated and effective state enterprise ownership function, and regular and publicly disclosed aggregate reporting on the SOE sector.”

A state-owned entity (SOE) may be understood as an independent or semi-independent business organisation or institution which is either partially or fully operated or owned by a particular government or state. SOEs are legal business entities which governments establish to engage in specific commercial and/or non-commercial activities (Mtshali, 2016: 14 – 20; Ritchken, 2014: 1 - 6; Ovens, 2013: 3 – 4). In addition, SOEs tend to receive the majority, if not all, of their funding from the government.

Furthermore, despite their independence, SOEs typically derive their function(s) and operational guidelines from specific legislature. SOEs act as an organ of the state and their functions are typically tied to the provision of essential public goods and/or services at an affordable cost (PWC, 2015: 4-5; Ovens, 2013: 3 – 4; Kenton, 2018). The goods and services provided are typically those which the private sector cannot supply at a reasonable cost to a given country’s entire population. Specifically, there are certain groups/people which the private sector is not able to reach due to factors such as their geographical location, excessive costs or high demand (PWC, 2015: 4-5; Ovens, 2013: 3 – 4; Kenton, 2018).

In South Africa, these goods and services include but are not limited to:

- basic healthcare in the form of clinics or public hospitals;
- security services such as the South African Police Service (SAPS) and the South African military;
- the building and maintenance of public transport and infrastructure, such as national roads and air travel;

- education, both basic and tertiary; the generation, transmission and distribution of power (Eskom), and;
- the provision of development support in terms of unemployment benefits (the Unemployment Insurance Fund) or social grants (the South African Social Security Agency) and financial support for eligible and needy students (the National Student Financial Aid Scheme and the National Resource Fund) (Government of South Africa, 2018; Ovens, 2013: 4 – 6).

In South Africa, the transformation of state assets or agencies into state-owned entities is not a new initiative. The apartheid government began establishing SOEs in the early 1900s in order to create a more diverse industrial economy and as a potential source of alternate state income. As international trade boycotts and embargos steadily increased in the 1960s and 1970s, SOEs became a crucial source of income for the South African government (Mtshali, 2016: 14 – 20; Ritchken, 2014: 1 - 6; Ovens, 2013: 3 – 4).

Following the 1994 elections, the new government began selling shares in SOEs as a means of achieving redress and to increase their fiscal resources. However, this strategy was soon adapted so that it would allow for the restructuring and rebuilding of the South African economy. Specifically, the ANC started to introduce the private sector at certain points in the SOE supply chain. With this emphasis on privatization, the ANC attempted to create more efficient and effective SOEs (Mtshali, 2016: 25 – 29; Ritchken, 2014: 1–6).

Considering the above, it is clear that SOEs are key tools which the South African government can utilize to address issues such as social redress and urban and national development.

In this thesis, I assume that NSFAS is a fully state-owned entity.

## 7. Concluding Remarks

In this chapter, I provided an exposition on the development of the South African HET sector. To recapitulate, the chapter was comprised of five sections (excluding the introduction) which were directed at making the reader more familiar with the South African HET environment. In my analysis, I employed a three-pronged approach in that I investigated the policy and actions of the South African government, both prior to and after the 1994 democratic elections, as well as the HET statutory base employed.

In the first section, I elaborated on the concept of the term Higher Education and Training as it would be understood in this analysis. In the second section, I considered the education system under the apartheid regime, starting with the Eislen Commission in 1951. I also considered the policy employed by the state and the laws drafted during this time as these are indicators of the ruling party's stance on higher education. I argue that education, including higher education, under the apartheid government was divided in terms of

race, with quality and access heavily weighted in favour of those classified as ‘white’. Furthermore, the apartheid government aimed to use the provision of higher education for persons of colour as a means of cultivating an easily controllable, cheap labour force. This analysis largely served to detail the state of the education sector which was inherited by the democratic government after 1994.

In the third section, I reviewed some of the more important statutory and policy changes made by the new ruling party, the ANC. The ANC aimed to pursue the dual goals of national development and socioeconomic redress and education was identified as one of the key facilitators of this pursuit. In addition, the section provides an overview of the various events which have impacted the growth and/or functioning of the HET sector.

In the fourth section, I examined the response of civic society to the current state of the HET environment. The FMF campaign was an outlet for the anger of the South African youth regarding the inability of the SA government to make higher education more accessible to previously disadvantaged groups. Moreover, higher education was depicted as becoming an increasingly exclusive good, with the less well-off being unable to bear the financial strain attached to tertiary education or forced to attend institutions of lesser quality.

In the fifth section, I briefly considered what state owned-entities (SOEs) are and why NSFAS ought to be thought of as one such institution.

It should be clear that the HET sector has a complex history and several issues to which no amicable, sustainable or feasible solution has been found. The South African HET sector is plagued by issues regarding radically unequal access, a severe shortage of funds and a radically disparate quality of education available at the various HEIs in South Africa. This thesis will draw on the above empirical base as well as the theoretical base of Ubuntu and some business ethics frameworks in order to provide an evaluative discussion on NSFAS.

## Chapter 2: Theoretical points of departure

### 1. Introduction

In this chapter, I discuss the theoretical basis for this thesis. The moral reasoning employed throughout this thesis is primarily based on Ubuntu ethics. The interpretation of Ubuntu employed in this chapter, and throughout this thesis, is based primarily based on the work of Thad Metz, a prominent Ubuntu scholar.

I assert that the theory of Ubuntu may be used as an alternative to traditional Western moral theories. Specifically, I will look at the alternative view it provides of **corporate social responsibility**. In other words, I appeal to the doctrine of Ubuntu to facilitate an alternative understanding of the following concepts: ethics; organizational culture; transparency, and duty.

In broad terms, an Ubuntu ethic focuses on the relationships which exist between people living in communities. It especially considers the interconnected nature of human beings. This contrasts with the focus on the individual that is typical of Western moral doctrines.

In the following chapter, I explore the uniquely African ethical theory known as Ubuntu. In the forthcoming discussion of Ubuntu, I unpack the doctrine in four related phases.

Firstly, I will provide a concise explication of Metz's view of Ubuntu ethics and the key ideas Metz addresses in his construal of Ubuntu. Secondly, I also review the ethical arguments at the heart of Freeman and Evan's (1988) interpretation of stakeholder theory, as an alternative to Ubuntu.

Thirdly, I elucidate what the doctrine of Ubuntu implies for firms via an appeal to various contemporary business ethics papers.<sup>32</sup> This explanation serves as a guide for business firms' transformation to an Ubuntu inspired ethic. Thirdly, I discuss some of the most common criticisms that scholars' level against Ubuntu. These criticisms primarily pertain to the applicability and usefulness of Ubuntu for firms, particularly in terms of business ethics.

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<sup>32</sup> For example; The King IV Report on Corporate Governance (2016), Woermann and Engelbrecht's *The Ubuntu Challenge to Business: From Stakeholders to Relation-holders* (2017), Dobie and Plant's *Ethics Handbook* (2014), Schnackenberg and Tomlinson's *Organizational Transparency: A new Perspective on Managing Trust in Organization-Stakeholder Relationships* (2014), Mayer et al's *Theory of Trust* (1995), Paine et al's *Up to Code: Does Your Company's Conduct Meet World-Class Standards?* (2005), Brinkmann and Sims' *Enron Ethics* (2003) and Trevino and Weaver's *Business ethics: One Field or Two?* (1994).

## 2. Ubuntu

In this section I examine the African ethical theory known as Ubuntu, as conceptualised by Metz. The purpose of this section is to explain and apply the theory of Ubuntu instead of attempting to establish my own unique theory.

### 2.1 Introduction

Ubuntu is commonly identified and embodied by the maxims (aphorisms):

“I am because you are, and, you are because I am”,

“A person is a person through others”, and

“I am because we are” (Woermann and Engelbrecht, 2017: 1 and 4 - 5; Metz, 2007: 323 - 324, and; Gade, 2012: 485 - 487).

A number of African scholars suggest that Ubuntu and its initial tenets pre-date European colonialism, although there is some controversy on this matter. Some scholars ascribe the Ubuntu doctrine to 17th century indigenous Southern African<sup>33</sup> communities, specifically the ‘Bantu-communities’ (Mangena, 2016: 66 - 67; Gade, 2012: 485 - 487, and; Murove, 2014: 36 - 37). At the core, an Ubuntu ethic focuses on the relationships between people and how these relationships should be conducted.

The diverse nature of Ubuntu, specifically its variety of contributors, has produced a variety of different conceptualisations, beliefs, values and implications. The theory’s plethora of contributors and dynamic development has been the source of much controversy. Ubuntu is considered to have had a dynamic development in that there has not been a single, stable, construal of Ubuntu. This stems from the fact that the current conception of Ubuntu was cultivated over more than two-hundred years and, as such, no individual academic may claim it as their own (Woermann and Engelbrecht, 2017: 4-5; Metz, 2007: 323 - 324, and; Murove, 2014: 36 - 37). The contemporary understanding of Ubuntu only took shape in the latter half of the 20th century and the beginning of the 21<sup>st</sup> century.

The Ubuntu doctrine is commonly interpreted as an inherently value-laden construct. This value-laden interpretation stems from the fact that the extant Ubuntu literature focuses on concepts such as personhood, selfhood and humanness (Gade, 2012: 487 - 488). Ubuntu is value-laden in the sense that one can be more

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<sup>33</sup> Southern here denotes the Southernmost half of the African continent, and not the country South Africa.

or less of a person, in proportion to the amount of Ubuntu they possess. Under Ubuntu, an agent's ultimate goal is becoming a complete person or true self (Gade, 2012: 487 - 488).

Moreover, Ubuntu is characterised by an emphasis on the interconnected nature of human beings. This focus on the relational nature of human beings is a key area of theoretical contrast between Ubuntu and the traditional 'Western' focus on individualism.<sup>34</sup>

In addition to the above, at various times different Ubuntu theorists have identified the following aspects as characteristic of Ubuntu:

1. An Ubuntu ethic is inherently communitarian. Ubuntu focuses on communal relationships, particularly the nature of people's relationships with other entities in the community and the interconnected nature of human beings. An Ubuntu ethic is premised on the idea that the only way for a person to develop their humanness is to relate to others in a positive way. This presumes that an agent's personhood is a function of their ability to interact with others (Metz, 2012: 541 - 545; Murove, 2014: 36 - 39; Gade, 2012: 487-489; Lutz, 2009: 314 - 318, and; Mangena, 2016);
2. Ubuntu attributes a great deal of importance to solidarity, whereby people come to the aid of those in need within their community (Metz and Gaie, 2010: 274 - 276; Metz, 2007: 321 - 329; Metz, 2012: 541 - 545; Murove, 2014: 36 - 39, and; Gade, 2012: 487-489);
3. Most scholars agree that ancestors and the spirit-realm are important aspects of Ubuntu (Metz, 2007: 321 - 329; Metz, 2012: 541 - 545; Murove, 2014: 36 - 39; Gade, 2012: 487 - 489; Lutz, 2009: 314 - 318, and; Mangena, 2016);
4. Ubuntu places great importance on social harmony in that social harmony serves as a goal and a point of departure for conduct. In this view, humans are construed as communal creatures. This presumes that our natural or proper way of being (existence) is to seek out a community and live in harmony with other community members (Metz, 2007: 321 - 329; Metz and Gaie, 2010: 274 - 276; Murove, 2014: 36 - 39; Gade, 2012: 487 - 489, and; Lutz, 2009: 314 - 318), and;
5. An Ubuntu ethic incorporates an intricate and expanded decision-making model in that it claims that we are morally obliged to consider the interests of other community members and the effects of our actions on other community members. This is typically achieved by extending the scope of consideration beyond the immediate family so that more people are considered than would typically

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<sup>34</sup> The phrase 'traditional Western focus on individualism', as employed here, merely refers to the trend in most Western ethical systems which places the 'self' (individual) at the centre of both moral justification and moral motivation. The issue in question stems from the precedence attached to the rational and autonomous person. This focus on the 'self' (individual) is evident in Kant's Deontology, Bentham & Mill's Utilitarian ideology, Rawls Social contract theory, libertarian stakeholder theory and shareholder theory, among others.

be the case in the Western worldview (Metz, 2007: 321 - 329; Metz, 2012: 541 - 545; Murove, 2014: 36 - 39; Gade, 2012: 487 - 489; Lutz, 2009: 314 - 318, and; Mangena, 2016).

In the next section, I engage in a discussion of the work of the Ubuntu scholar Metz.

## 2.2 Metz

In this section, I work through a very basic version of Metz's theory. This section begins with a brief introduction to his work on Ubuntu, as well as some noteworthy points pertaining to his construal of Ubuntu. In the rest of this section, I consider Metz's work in terms of some key elements in his construal of Ubuntu.

### 2.2.1 Preliminary Matters

Metz (2007) depicts Ubuntu as a world view tied to the people of Sub-Saharan Africa. The term 'Ubuntu' is difficult to translate into English. This difficulty is primarily the result of its multiple interpretations and variance in meaning (Metz, 2007: 322 - 326). Metz portrays Ubuntu as roughly denoting humanness and encompassing both descriptive and prescriptive elements (Metz, 2007: 322 - 326). It is descriptive in that it claims that one's identity as a human being depends on the community, both causally and metaphysically. It is prescriptive (normative) in the sense that it dictates that one should morally support the community in particular ways (Metz, 2007: 322 - 326).

For Metz, Ubuntu is a comprehensive worldview, a description of a way of life and an other-regarding ethic. It is interested in the nature of extrinsic or relational properties. As indicated above, Ubuntu presumes that our natural state, i.e. self-definition, is characterised by being in relation with others (Metz, 2014: 2 - 4). An Ubuntu ethic may roughly be understood as an ethical theory in which all people possess an innate moral worth in virtue of the fact that they are human-beings (Metz, 2007: 329). This moral worth translates into the understanding that, as human beings, we have a duty to come together, to do what we can to help others in need and to contribute to the community, irrespective of our differences.

Furthermore, when we help and care for others, we also develop our own humanness, i.e. we fulfil our potential in a manner which transcends physical and mental gains (Metz, 2007: 321 - 329; Metz, 2012: 541 - 545; Murove, 2014: 36 - 39; Gade, 2012: 487 - 489, and; Lutz, 2009: 314 - 318). From an Ubuntu perspective, we owe to it to each other, indeed to all living organisms, to foster a world free of prejudice and tied to sustainability, where all living things matter.

An Ubuntu ethic further facilitates the establishment of a society where caring for others and understanding that we share this world with all living things is privileged over material gain (Metz, 2007: 321 - 329; Metz,

2012: 541 - 545; Murove, 2014: 36 - 39; Gade, 2012: 487 - 489; Lutz, 2009: 314 - 318, and; Mangena, 2016). An Ubuntu ethic presumes that as we develop our humaneness, we acknowledge that, as humans, we must come together so as to create a better future for all.

In addition, Metz and Gaie (2010: 274-276) argue that the distinguishing features of an archetypical African ethic, such as Ubuntu, stems from:

1. the idea that the only way for you to develop your humanness is to relate to others in a positive way, i.e. your humanness depends on how you relate to others. This presumes that an agent's personhood is a function of their ability to interact with others and;
2. a very strong focus on social harmony, in the sense that it serves as a goal for, and a premise of, conduct. From this perspective, humans are construed as strictly communal creatures.

The above ideas manifest in the conviction that one is morally obliged to be concerned for the good of others. Moreover, there is an obligation to conceive of oneself as bound up with others, i.e. in terms of a 'we' (Metz and Gaie, 2010: 274 - 278). Furthermore, Ubuntu implies that familial relations should incorporate the entire community (Metz, 2007: 337 - 340; Metz and Gaie, 2010: 276 and 281 - 284, and; Metz, 2016: 177 - 184).

In the next section, I will consider what Metz aims to achieve with his construal of Ubuntu and the aspects of the various other conceptions of Ubuntu found in the literature that he considers inessential.

### 2.2.2 The Nature of his Project and Non-crucial Components

Metz does not think that Ubuntu is intrinsically tied to the supernatural or religion. Most writers disagree with his position and argue that Ubuntu is intrinsically super-naturalist (Metz, 2007: 321 - 323 and 329 - 341; Metz, 2012: 534 - 535 and; Gade, 2012: 487 - 494). In denying the supernatural aspect of Ubuntu, Metz is explicitly claiming that Ubuntu doesn't depend on any conception of god or gods.

Metz insists that he is not doing anthropology, as he is not trying to describe any particular people's view. Rather, he attempts to unify the typical principles of Ubuntu into one coherent whole by drawing on a variety of Ubuntu scholars (Metz, 2007: 321 - 324; Metz, 2012: 534 - 535). Metz's efforts culminate with a conduct-guiding principle of Ubuntu that bears similarities to Kant's Categorical Imperative. He insists that this principle can provide a solid basis for establishing a publicly justifiable rationale for making a particular decision (Metz, 2007: 321 - 324; Metz, 2012: 534 - 535).

Furthermore, Metz does not claim that the principle of Ubuntu that he establishes is irrefutably true or more justified than other accounts (Metz, 2007: 322 - 324 and 338 - 341). Instead, he argues that there is a strong

epistemic reason to buy into his construal of Ubuntu if one buy's into certain moral intuitions that are common to Sub-Saharan Africa (Metz, 2007: 322 - 324 and 338 - 341).<sup>35</sup>

In the next section, I will explain Metz's formulation of Ubuntu.

### 2.2.3 The Establishment of a Basic Principle of Ubuntu

As noted above, Metz seeks a theory of morals, as well as a fundamental principle, which rationally reconstructs those values typically associated with an Ubuntu ethic (Metz, 2007: 321 - 323).<sup>36</sup> Metz attempts to establish Ubuntu as a fundamental and general principle which is able to prescribe 'right action' and is epistemically justifiable in terms of a particular set of African convictions.<sup>37</sup>

Metz seeks a principle which, in future work, could theoretically be contrasted with 'Western moral theories' (Metz, 2007: 321 - 323). Moreover, Metz's project is primarily an epistemic undertaking and is similar in structure to Kant's Deontological Imperative. This is because both culminate in a general principle or maxim (Metz, 2007: 322 - 323 and 329 - 339).

In constructing the above-mentioned general principle, Metz reviews six varying portrayals of *Ubuntu* that he draws from the literature on African ethics. Metz posits that the assessment of these six theoretical constructions is contingent on the particular interpretation's ability to account for two sets of moral judgments, or acts. Metz identifies twelve 'acts', i.e. moral judgments which he compares against those six interpretations of Ubuntu (Metz, 2007: 321 - 323). These twelve acts are listed below:

First, Metz considers those acts perceived to be immoral to a similar degree by Westerners and Africans. Metz (2007: 324) suggests that the immoral nature of these acts is self-explanatory:

- 1) "To kill people for money";
- 2) "To rape someone, engage in sexual acts with another without their consent";
- 3) "To deceive people for personal gain, or when **not** done in self- or other defence";
- 4) "To steal, take from rightful owner, unnecessary goods";
- 5) "To violate trust for marginal personal gain, i.e. break a promise". and;

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<sup>35</sup> These moral intuitions are explored in the following section, i.e. section 2.2.4.

<sup>36</sup> Values such as (i) the communitarian aspect, (ii) the extension of familial relations, (iii) sharing a quality of life and (iv) caring for others way of life.

<sup>37</sup> The convictions referred to here are the six immoral acts deemed immoral by African people.

6) “To discriminate on a racial basis in the allocation of opportunities”.

Second, Metz (2007: 324-328) considers those acts typically deemed immoral in an African<sup>38</sup> context but are not seen as immoral in the Western<sup>39</sup> context:

- 1) “To make policy decisions in the face of dissent, as opposed to seeking consensus”;
- 2) “To make retribution a fundamental and central aim of criminal justice, as opposed to seeking reconciliation”;
- 3) “To create wealth largely on a competitive basis, as opposed to a cooperative one”;
- 4) “To distribute wealth largely on the basis of individual rights, as opposed to need”;
- 5) “To ignore others and violate communal norms, as opposed to acknowledging others, upholding tradition and partaking in rituals”. and;
- 6) “To fail to marry and procreate, as opposed to creating a family”.

Metz posits that the appropriate interpretation of Ubuntu would have to address and align with all twelve acts listed above. Metz uses these twelve acts as a 'litmus test' to identify which interpretation of Ubuntu (which are referred to as U1, U2, U3, etc.) offers the most promise for his endeavour (Metz, 2007: 328). The second set of acts also are an important litmus test for determining the “Africanness” of the principle being tested.

He considers the following six interpretations of Ubuntu:

“U1: An action is right [and] just insofar as it respects a person’s dignity; an act is wrong to the extent that it degrades humanity (Metz, 2007: 328);”

“U2: An action is right [and] just insofar as it promotes the well-being of others; an act is wrong to the extent that it fails to enhance the welfare of one’s fellows (Metz, 2007: 330);”

“U3: An action is right [and] just insofar as it promotes the well-being of others without violating their rights; an act is wrong to the extent that it either violates rights or fails to enhance the welfare of one’s fellows without violating rights (Metz, 2007: 330);”

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<sup>38</sup> Metz suggests that these six acts (moral judgments) align with values more commonly held by Africans. Moreover, he asserts that these are values are visible from Ghana to South Africa and have persisted for a long period of time (Metz, 2007: 324).

<sup>39</sup> The term 'Western' refers to the values, customs, tendencies, beliefs or acts more common to people in Europe, North America or Australasia (Metz, 2007: 324).

“U4<sup>40</sup>: An action is right [and] just insofar as it positively relates to others and thereby realizes oneself; an act is wrong to the extent that it does not perfect one’s valuable nature as a social being (Metz, 2007: 331);”

“U5: An action is right [and] just insofar as it is in solidarity with groups whose survival is threatened; an act is wrong to the extent that it fails to support a vulnerable community (Metz, 2007: 333);”

[Original] “U6: An action is right [and] just in so far as it produces harmony and reduces discord; an act is wrong to the extent that it fails to develop community (Metz, 2007: 334).”

Discussing Metz objections and deliberation of all the above interpretations is not necessary for this argument, what is important is why he endorses U6. Metz finds fault with the first four interpretations primarily as a result of their inherently individualistic nature.

Interpretation U6 can be characterised as the harmony interpretation. Metz posits that this is the best interpretation of Ubuntu as it best accounts for all twelve acts listed above (Metz, 2007: 334 - 335). Metz acknowledges that it is derived from Desmond Tutu’s portrayal of Ubuntu.

Moreover, he asserts that U6 portrays particular relationships as key constituents of “the good a moral agent ought to promote” (Metz, 2007: 334 - 335). From this perspective, communal relationships are perceived as objectively desirable interactions that should serve as a guide for social norms and the demands of the community (public). In other words, the demands of the public should be aligned with the establishment of positive communal relationships (Metz, 2007: 334 - 335).

Metz concedes that, as it stands, the harmony interpretation lacks precision and, as such, refines the principle via a consideration of what exactly harmony or togetherness entails (Metz, 2007: 334 - 335). In his revision of the harmony interpretation, Metz appeals to two recurring themes within a quintessential African consideration of community, namely ‘identity’ and ‘solidarity’ (Metz, 2007: 334 - 335 and; Metz, 2012: 537 - 539). I agree with Metz choice of the harmony interpretation as it seems to offer the most promising base for the establishment of a general principle of Ubuntu. In addition, interpretation U4 and U5 do provide plausible alternatives to interpretation U6. However, the harmony interpretation seems to be more aligned with Metz’s overall project as it construes particular relationships as key aspects of the good a moral agent should promote. Furthermore, the harmony interpretation does not appeal to self-realization as a key source of moral motivation, as U4 does, and boasts a broader scope than U5. For the purposes of this thesis, I will essentially be looking at the harmony interpretation.

In the next section, I consider the exact nature of the above-mentioned revision, as well as its implications for the harmony interpretation.

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<sup>40</sup> Metz (2007:331) claims that, “[U4] is probably the dominant interpretation of African ethics in the literature.”

## 2.2.4 Identity and Solidarity

As noted above, Metz aims to revise interpretation U6 by fleshing out an African understanding of the term's 'identity' and 'solidarity'. He considers what exactly identity and solidarity entail by appealing to three ways they have been, or could be, understood. Metz interrogates understandings of identity and solidarity as (1) shared identity, captured in harmony and togetherness, (2) good-will or solidarity, and (3) a combination of shared identity and good-will (Metz, 2007: 337 - 339).

Most Ubuntu scholars depict 'shared identity' as implying a more embedded and interrelated (communal) sense of 'self'. On this view, this aspect of Ubuntu focuses on our interdependent existence. This presumes that we perceive ourselves in terms of a 'we' (Metz, 2012: 537 - 538). The greater this common sense of 'self', the more people think of themselves as members of the same group. This further presumes that as people identify themselves as part of the same group, they also tend to increase the number of ends that they share (Metz, 2012: 537 - 538). As the ends people share grow in priority, the more they are willing to sacrifice personally to realize these ends.

Shared identity<sup>41</sup> is further characterised by the following conditions: (i) an individual conceives of themselves as part of a group, a first person plural, a 'we'; (ii) the group you perceive yourself to be a member of, in turn, considers you to be a member of it, as a part of their 'we'; (iii) an identity is shared when people possess common ends but the motives or reasons underpinning these ends may vary; (iv) people within a group coordinate their actions so as to realize their common ends, even if they do not employ the same means or effort (Metz, 2007: 335 - 336, and; Metz, 2012: 545 - 546). The opposite of shared identity is embodied by acts such as defining oneself in opposition to others, acts of division and ill-will or the adoption of ends that conflict with those of others (Metz, 2007: 335 - 336 and; Metz, 2012: 545 - 546).

Good-will<sup>42</sup>, or solidarity, has typically been described as a type of caring or supportive relationship whereby people engage in mutual aid and act in a manner 'reasonably' expected to benefit others (Metz, 2012: 537 - 538). From this perspective, good-will is characterised by certain causal relations. More specifically, causal relations in so far as (one):

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<sup>41</sup> Instances of shared identity are visible in families; clubs; schools; firms; nations; genders and humanity (Metz, 2007: 335).

<sup>42</sup> Instances of good-will are visible in acts such as nursing, teaching or charity work. One can also get a better picture of good-will by contrasting it with its opposite, ill-will and outright sadism (Metz, 2007: 336 - 337).

“(i) wishes another person well (conation), (ii) believe(s) that another person is worthy of help (cognition<sup>43</sup>), (iii) aim(s) to help another (intention), (iv) acts so as to help another person (volition), (v) acts for the others sake (motivation) and, (vi) feels ‘good’ in the moment that another person has benefited and ‘bad’ upon learning that they have been harmed (affection)” (Metz, 2007: 336).

The exhibition of solidarity further requires that one’s attitudes be, “positively oriented toward others” (Metz, 2012: 538 - 539). In other words, it requires that people utilize their emotions or motives (attitudes) in a positive, other-regarding manner, i.e. helping people for their sake and empathizing and sympathizing with them (Metz, 2012: 538 - 539). This view further presumes that as people’s solidarity or good-will rises, so too does their desire to see others flourish. This further facilitates an individual’s belief that others are worthy of aid and raises the priority people attach to helping others (Metz, 2007: 336 - 337 and; Metz, 2012: 538 - 546).

The term’s ‘good-will’ (solidarity) and ‘shared identity’ are typically construed as logically distinct forms of relations. However, despite this traditional distinction, Metz insists that solidarity and identity may, or rather ought to, be realized simultaneously<sup>44</sup> (Metz, 2012: 538 - 539 and 545 - 548). From this perspective, identification with others is cashed out in terms of sharing a way of life with them and caring about their quality of life is interpreted as indicative of solidarity (Metz, 2012: 546 - 548).

Metz argues that the combination of goodwill and shared identity is the most attractive conception of communal relationships (Metz, 2012: 538 - 540). He further posits that, in ‘Western’ terms, the above combination may be understood in terms of a broad sense of friendship or love (friendly or communal relationships) (Metz, 2012: 538 - 540).

He construes loving relationships as a *prima facie* attractive moral value. He insists that it is the good which best accounts for his two sets (acts 1 - 12) of relatively uncontroversial intuitions (Metz, 2007: 337 - 339). As such, Metz (2007: 338) adapts and revises Ubuntu principle U6, i.e. in terms of a combination of shared identity and good-will:

[Final] U6: “An action is right and just in so far as it promotes shared identity among people grounded on good-will; an act is wrong to the extent that it fails to do so and tends to encourage the opposites of division and ill-will.”

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<sup>43</sup> The use of the term 'cognition' here is rather problematic. The issue stems from the stipulation that to receive good-will, one has to be seen as worthy of that good-will. This, to me, seems to be in opposition to the spirit of Ubuntu, as we are worthy *a priori* in virtue of being part of the human race (Metz, 2007: 336 - 337).

<sup>44</sup> Good-will without shared identity is, however, privileged as possessing more moral value. If one is faced with either the promotion of relationships of solidarity or identity, Metz identifies the former as the better option (Metz, 2012: 546 - 548).

The above view ultimately entails an ethical approach where certain manners of treating people are considered inherently wrong to some degree, regardless of their outcomes (Metz, 2007; Metz, 2012 and; Metz, 2014). From this perspective, one is implored to develop Ubuntu by prizing or honouring friendly relationships (*via* solidarity and identity) with others. This view assumes that people possess dignity as a result of their inherent capacity to engage in such relationships (Metz, 2007: 337 - 339).

This view further presumes that one attains Ubuntu as one honours communal relationships, and that actions are wrong to the extent that they are unfriendly to others, fail to respect other's friendship or respect other's capacity for friendship (Metz, 2012: 538 - 540).

Metz acknowledges that there may be times when questionable or discordant acts committed in the present result in greater harmony in the long-run. He notes that, on the face of it, principle U6' seems to support such actions because of its goal-based nature. Metz attempts to remedy this issue by attaching a deontological restriction. Specifically, he restricts the promotion of shared identity and solidarity so that it cannot occur *via* unfriendly means, i.e. by undermining individual rights or *via* a 'substantial degree' of their opposites (ill-will and division) (Metz, 2007: 338 - 339). Considering this deontological stipulation, honouring communal relations may be understood as a manner of being as friendly as possible and doing what one can to foster friendliness in others, without employing unfriendly means (Metz, 2012: 538 - 540).

From this perspective, community and harmony are characterized by the combination of solidarity and identity. In a community, every member is expected to consider themselves as an integral, however replaceable, part of the whole. Members of the community are considered integral because every member is able to positively, and/or negatively, affect other community members, and the community as a whole, albeit to varying degrees. Members of the community are considered replaceable as they are not more important than the community and should not pursue personal gains or goals at the expense of other community members or the community itself. Community members are morally implored to play a role in realizing the 'good' of the community (Metz, 2012: 547 - 548). Harmony in such a community is facilitated *via* close and sympathetic social relations between community members (Metz, 2012: 547 - 548).<sup>45</sup>

### 2.2.5 The Extended Family and its Implications

As mentioned in the previous section, the combination of solidarity and identity with others is similar to the English concepts of friendliness or love. In this explication, Metz employs an analogy of the ideal African society, which is characterized by an extended definition of an agent's family (Metz, 2007: 337 -

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<sup>45</sup> Social relations such as sharing a common way of life *via* the pursuit of the common good.

340).<sup>46</sup> Metz claims that this extended familial view as a key component of people's (moral) motivation to exercise Ubuntu in their interactions with others (Metz and Gaie, 2010: 276 - 277).

Metz construes human beings as morally valuable, regardless of the positive or negative consequences and obligations that this may bring, i.e. the possible financial, logistic or procedural corporate implications. The issue here is how one should treat others in everyday life and in the execution of their profession. For example, if a firm takes up an Ubuntu ethic, a culture where employees feel implored, indeed obliged, to expunge extra effort and go the extra mile may develop.<sup>47</sup>

In this extended familial view, our actual family relations are ranked above potential or possible relationships, i.e. our family relations are prioritized above relationships which we could have in future, as well as those one neither is nor would be a member of (Metz and Gaie, 2010: 276 - 277).

Metz is weary of the potential danger associated with the nepotism objection, which is also called the blood relative bias. More specifically, this blood relative bias creates room for some potentially problematic scenarios, in short, the problem of nepotism (Metz and Gaie, 2010: 276 - 281).<sup>48</sup> Metz and Gaie respond to the nepotism objection with the following impartial and partial elements which serve to mitigate this potential danger.

In terms of the impartial element, Ubuntu (as defined by Metz) construes all human beings as possessing a moral status and considers everyone, in principle, to be potential members of an ideal, extended, family that is premised on loving, friendly relationships (Metz and Gaie, 2010: 276 and 281 - 284).

In terms of the partial element, Ubuntu is not purely impartial for three reasons. Firstly, Metz attributes a greater moral weight to persons related in some way to the agent in question, namely actual blood relatives. Moreover, those communal relationships of which the agent is actively a part of are deemed to possess greater moral significance than other relationships. The fact that people are related to a given agent in a communal way can provide the grounds to resolve conflicts of interest.

Secondly, the existing configurations of relationships in which an agent is embedded as well as the historical legacy of apartheid in South Africa are described as carrying great moral significance. Moreover,

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<sup>46</sup> Metz (2007: 337-340) depicts the ideal family as loving, possessing a common sense of self and acting for one another's sake. From this perspective, harmony is understood as love.

<sup>47</sup> This pertains to employees' drive to see their prescribed tasks executed in an ethical and legal manner (Metz & Gaie, 2010: 276 - 277).

<sup>48</sup> Furthermore, this can lead to problematic situations. For example, the promotion of a family member over a more qualified person could prove detrimental to all those affected or dependent on the job in question.

the mere fact of the existence of particular traditions carries some moral weight which must be balanced against other welfare-oriented concerns.

Thirdly, according to the Ubuntu ethic, it is our duty to aid others, especially the least well off and the most talented community members, and this assistance does not bring about any correlative rights. (Metz and Gaie, 2010: 281 - 284; Metz, 2016: 183 - 184).<sup>49</sup>

The partial element attempts to blunt our favouring of relatives by forcing us to consider how their demands align with the needs of the least well-off and the history of South Africa. Specifically, one must consider the way the prioritizing of a family member could negatively or positively affect the least well-off members of the community, given the history of the community. If there is a position at a company and one must decide between a relative and another person who is better equipped to fulfil the position offered, all of these considerations will have to be weighed up. On the one hand, one must consider the needs of the other individual and how these needs align with the history of the community and the individual's quality of life. On the other hand, one must consider the potential effect on the other community members, i.e. those who are negatively or positively affected by the position in question and how their needs tie in with the history of the community and their quality of life.

The impartial element further combats nepotism by extending the scope of familial relations to encompass the entire community. This familial extension presumes that if one's family is extended in this manner our motivation to prioritize or, in this instance, employ one family member over another will be based on their meeting the necessary requirements.

The above suggests that the relationships we establish have a bearing on our moral considerations. Metz's partial element presumes that, in ranking the strength of our relational obligations (in the event of a moral/obligational dilemma), we must consider the nature of the relevant relationships that we are involved in.

The nature of a relationship is premised on three aspects, specifically:

1. Intimacy: this pertains to that which is shared or the existence and extent of a communal relation between the parties in question (Metz and Gaie, 2010: 283 - 284; Metz, 2016: 177 - 184);
2. Historical connections: the historical factors at play within the relationship in question (Metz and Gaie, 2010: 283 - 284; Metz, 2016: 177 - 184), and;

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<sup>49</sup> The prioritization of the least well off serves to create a sense of shared identity with those at the bottom who feel like they are not part of the community, i.e. those community members who experience the worst living standards. Specifically, this focus on the least well-off means that those who need aid most are addressed first. The reason for the prioritisation of the most talented is not as clear and is not something Metz explicitly addresses. The argument could be made that the most talented members have the potential to boost the community in that they could use their talents to facilitate a greater sense of identity and solidarity. The 1995 Springbok team provides a prime example of sports star's ability to facilitate an enhanced sense of shared identity and togetherness across the entire country.

3. The obligation to aid others or care for their quality of life: this presumes that we prioritize those less well-off members of the community and the most promising (those possessing talent and/or natural ability) members of the community (Metz and Gaie, 2010: 283 - 284; Metz, 2016: 177 - 184).

In addition to the above, Metz notes that both the type, or essence, of these relationships and the underlying interests at play influence our duty to meet the relevant obligations in a particular situation. He further suggests that relationships may include interests that range from trivial to urgent. In assessing the appropriate course of action in general, and especially when obligations clash, one should also consider the way these actions affect the parties involved. Specifically, one should consider the aggravating aspects, such as the relevant party's living circumstances, financial situation and support systems in terms of the reason behind each obligation and the source of the clash of interests (Metz, 2016: 177 - 184).

Furthermore, Metz acknowledges that through the act of exhibiting solidarity, one may be expected to sacrifice some trivial to moderate interests so as to pursue the more urgent interests of the relevant relationship. He further warns that, although the honouring of our capacity to commune entails giving all our extant relationships their due, it also entails protecting said capacity (Metz and Gaie, 2010: 283 - 284; Metz, 2016: 181 - 187).

Metz claims that an agent's moral motivation stems from both other-regarding and self-regarding elements. Moral motivation may be understood as that which moves one to do the right thing. He argues that human emotions play a constitutive role in the establishment of an agent's moral motivation (Metz and Gaie, 2010: 283 - 285).

The above-mentioned self-regarding element stems from Metz's contention that people are driven by a ceaseless quest to become a better person (more specifically, a real self or better human being). At its core, this infinite endeavour may be understood as a quest to become the best possible version of ourselves while simultaneously fulfilling our duty to cultivate the good of the community (Metz and Gaie, 2010: 284 - 285). An agent's duty is defined by her wish to be a better, or more complete, person.

A second source of moral motivation, namely other-regarding motivation, is derived from the prescription to prize communal relations. This other-regarding motivation is depicted as driven by a conception of dignity, whereby we are morally bound to act out of sympathy and to honour friendly or loving relationships (Metz and Gaie, 2010: 284 - 285).

In the next section, I consider a key component found in most, if not all, moral doctrines; namely the grounding justification of human rights.

## 2.2.6 Communitarianism and Human Rights

Accounting for human rights<sup>50</sup> has typically been a persistent problem in most accounts of Ubuntu. This long-standing challenge is primarily a product of Ubuntu's communitarian roots (Metz, 2012: 541 - 545). The need for human rights is something that cannot be easily undermined. As such, the accommodation of human rights in an Ubuntu ethic forms a key aspect of Metz's discussion. He ultimately grounds human rights *via* the establishment of his own interpretation of human dignity, which is enriched by Ubuntu (Metz, 2012: 541 - 545).

Metz acknowledges that most Ubuntu scholars tend to promote, or appeal to, two primary conceptions of human dignity (Metz, 2012: 543). He dismisses both positions claiming that neither are able to effectively account for, or ground, human rights (Metz, 2012: 544 - 547).

In the first view, dignity is construed as a function of the extent of Ubuntu a given agent possesses.

Metz (2012:543) explains that the core premise of this view is "...the more one lives a genuinely human – and hence communal – way of life, the more one has a dignified existence. Traditionally speaking, it would be elders, and especially ancestors, who have the greatest dignity, so conceived."

From this perspective, dignity is a fluctuating characteristic of human beings. He claims that this view fails to account for human rights. Metz (2012:543) offers the following explanation for its inadequacy:

“[i]f a merely decent person, let alone a scoundrel, has a right to life to no less a degree than a Nelson Mandela or Mother Teresa (at least in their stereotypical construal's), then we need a conception of dignity that does not vary according to degrees of moral merit.”

Metz concedes that the other prominent account of dignity found within extant Ubuntu literature does present a more invariant conception. In this account, dignity is premised on an agent's humanity, i.e. “what makes people deserving of equal respect is the fact of human life” (Metz, 2012: 543).

In closing, he suggests that this view fails to provide an attractive account of human dignity and offers several arguments in support of this claim (Metz, 2012: 543 - 544).<sup>51</sup>

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<sup>50</sup> Metz (2012:541) defines human rights as, “... a moral right against others, that is, a natural duty that ought to be taken into account by morally responsible decision makers, regardless of whether they recognise that they ought to.”

<sup>51</sup> Metz posits that the second conception of dignity found in extant Ubuntu literature is typically formulated with a spiritual undertone. Specifically, Metz (2012: 543-544) states;

In light of the above unsatisfactory conceptions, Metz insists that a ‘new’ conception of dignity is required. For Metz the justification of human rights is hinged on his construal of human dignity, more particularly, his particular combination of shared identity and solidarity. Metz’s unique conception of dignity is premised on an agent’s capacity for community, which is characterized by a simultaneous:

1. Identification with other people. This presumes that people see themselves as a ‘we’ or part of the same group, sharing a way of life (Metz, 2012: 544 - 545), and;
2. Exhibiting solidarity with them. This refers to caring about others’ quality of life *via* engaging in friendly and loving relationships with other people (Metz, 2012: 544 - 545).

As noted earlier, in acting rightly and espousing Ubuntu, one ought to prize and honour relationships with others. Specifically, Metz argues that an agent is implored, indeed obligated, to develop their Ubuntu by honouring friendly relationships (identity and solidarity) with others who are construed as having dignity in virtue of their inherent ability to engage in such relationships (Metz, 2012: 544 - 547).

From this perspective, dignity is premised on an agent’s capacity to interact in community with others, who in turn can be a part of a community. An individual has dignity in so far as they possess a communal nature, which Metz describes as our inherent capacity for friendliness and our capacity to relate to others in a communal way (Metz, 2012: 544 - 547). Metz describes a person’s capacity for friendliness as the ability to share a way of life and care for others’ quality of life. Moreover, the focus here is on one’s capacity for solidarity and shared identity, not how any particular individual exhibits this capacity (Metz, 2012: 544 - 546).

In addition, Metz notes that some people may exercise their capacity for friendly relations to a greater degree than others. Other people may possess a greater ability to enter a community than others. Metz

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“[t]he traditional thought is that every human being has a spiritual self or invisible ‘life force’ that has been bestowed by God, that can outlive the death of her body, and that makes her more special than anything else in the mineral, vegetable or animal kingdoms.”

Furthermore, Metz (2012: 544) offers the following explanation for his claims:

“First, grounding dignity in human life qua spiritual does a poor job of accounting for human rights that do not concern ‘life and death matters’, for example, to democratic participation in government or to freedom of movement. Second, a more secular understanding of human dignity is more apt for modern, and often multicultural, societies than is a highly contested, particular form of supernaturalism. Third, I seek an interpretation of human dignity that coheres particularly well with the moral theory articulated above, which makes no fundamental reference to God, a soul or similarly supra-physical beings or forces.”

This view of dignity makes it difficult to account for human rights not directly tied to motives such as freedom of movement or democratic participation in government (Metz, 2012: 544 - 547).

asserts that the differential use of this capacity, and varying degrees of capacity, do, in fact, align with his conception of equal dignity and respect (Metz, 2012: 544 - 547).

Moreover, one implication of this focus on capacity is that certain entities, such as new-born babies and foetuses, may vary in their moral status. This emphasis on capacity also lends credence to the view that those not directly part of a community require moral consideration, *a priori*. More specifically, Metz asserts that the greater an entities capacity for, “friendly or loving relationships with normal humans, the greater its moral status (Metz, 2012a: 394).”

Metz posits that, as humans, we have full moral status in virtue of our inherent ability to be both a subject and object in friendly relationships (Metz, 2012a: 394). He construes being a subject in a relationship as the act of exhibiting solidarity and identifying with others. He defines being and object in a relationship as the ability to be part of another person’s solidarity and to be identified with (Metz, 2012a: 394). In this view, an entity that is only able to satisfy the latter may be understood as bearing a partial moral status, i.e. a foetus or animals (Metz, 2012a: 394).

Metz further acknowledges that some of us may lack dignity or be excluded from the community at some point. He warns that this, however, does not equate to being viewed as undeserving of moral consideration (Metz, 2012: 544 - 547).

In light of the above, one attains Ubuntu, or becomes a moral person, as one honours communal relationships. Actions are wrong to the extent that they are unfriendly or fail to respect friendship or one’s capacity for it (Metz, 2012: 542 - 546).

Metz describes human rights violations as a degradation of the aforementioned capacity, often in the form of unfriendly behaviour that is not a proportionate counteractive response to unfriendly behaviour (Metz, 2012: 542 - 546).<sup>52</sup> Specifically, human rights violations are depicted as indicative of a severe disrespect for other people’s capacity for communal relationships, *qua* identity and solidarity. Disrespect is described as a significant degree of anti-social behaviour, such as division and ill-will (Metz, 2012: 545 - 547).

Furthermore, Metz contends that there are times when a human rights violation is necessary (justifiable) and other instances where relevant right(s) should be upheld in opposition to identity and solidarity.<sup>53</sup> The

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<sup>52</sup> Unfortunately, Metz does not tackle the issue of how to calculate this proportionate response (Metz, 2012: 544 - 546).

<sup>53</sup> For example; imagine the existence of a community which shares an adverse view to homosexuality. This view may be a source of shared identity and foster relations premised on solidarity between most community members. However, homosexual community members cannot be subjected to discriminatory treatment or have their rights violated as a result of a sexual preference over which they have no control. In this situation, and others like it, individual rights should be upheld over identity and solidarity.

key 'justifying' aspect in the above-mentioned violation is premised on the purpose served by the violation of the right (unfriendliness) and its context, i.e. how it affects the community (Metz, 2012: 546 - 548).

From this perspective, respecting another person's capacity for friendship demands that we derive our interaction with them from the way they behave, i.e. how they have exercised their capacity. This presumes that being unfriendly toward another does not necessarily indicate a degradation or violation of this capacity (Metz, 2012: 546 - 549).

For Metz, respecting those who have not been unfriendly requires that we treat them in a friendly manner. Moreover, respecting those who have been unfriendly entails treating them in an unfriendly manner under conditions in which this is required to protect the victims of their unfriendliness. From this perspective, rights degradation or violations are valid if they are necessary to protect innocent victims against unjustified violence. However, these rights violations may not take the form of retributive justice nor portray perpetrators as less than human (Metz, 2012: 546 - 549). Metz, unfortunately, does not address the possibility of an act being both unfriendly and incomparable, i.e. in the sense that it cannot be compared to another similar act as it is the first of its kind.

In addition, Metz admits that his interpretation of dignity and human rights does permit the use of punishment, including deadly force and other strong-arm tactics. To counter this permissibility of coercion, Metz relies on a deontological restriction and bars the promotion of shared identity and solidarity via a 'substantial degree' of their opposites, i.e. ill-will and division (Metz, 2007: 338 - 339). In closing, Metz argues that coercion, or discordant actions, should not be considered if harm can be prevented or alleviated without duress (Metz, 2007: 338 - 339).

In light of the above, individual rights are justifiable to the extent that sometimes they must be valued above the good of the community (Metz, 2012: 546 - 549). The community, however, remains the fundamental basis of morality, in the sense that morality is ultimately premised on being in community with others.

Ubuntu, as construed above, may be understood as the ideal of relational self-realization. It is characterised by the view that any person can, in principle, exhibit human excellence, i.e. Ubuntu, *via* relating to other human beings in a communal or harmonious manner. To briefly recapitulate, Ubuntu is a doctrine characterized by two recurring themes, specifically:

1. being close, participation and belonging – defined as sharing a way of life, and;
2. being responsive to others' needs, by exhibiting sympathy and sharing what you have – i.e. caring for others quality of life.

### 3. Stakeholder Theory

In this section, I compare and contrast the central ideas encompassed in Ubuntu with those views associated with Stakeholder theory, a contemporary Western approach to business activity. In light of the varying strains of stakeholder theory available, it is more rational to consider the work of a particular scholar.

In the following section, I focus primarily on RE Freeman's (1988-2010) exegesis of stakeholder theory. I begin with a brief introduction before considering stakeholder theory in terms of three key themes: Stakeholders and the re-conceptualization of corporate purpose; The task of Management, and; the Instrumental and normative theses. The section culminates with a brief consideration of some of the key similarities and differences between Freeman's stakeholder theory and Metz Ubuntu.

#### 3.1 Stakeholder Theory: A Brief Introduction

Contemporary stakeholder theory began taking shape in the final third of the 20th century (the 1960s and 1970s). Stakeholder theory, initially, developed as a response to the widely accepted view that a firm's manager, managing director or governing body held obligations with respect to the shareholders of a particular firm exclusively (Evan and Freeman, 1988: 75). This view was supported by corporate law which stated that managers or directors of firms bore a fiduciary obligation to run those firms in a manner primarily aligned with the interests and/or to the benefit of shareholders (Evan and Freeman, 1988: 76).

Freeman (1994) construes stakeholder theory as a genre of theories, as opposed to a monolithic theory, "intimately connected with the practice of business" (Freeman and Phillips, 2002: 334 and 340). A quintessential aspect of this genre is to redefine the task of organisational managers in terms of balancing and maintaining stakeholder relationships (Freeman and Phillips, 2002: 333-334). At the heart of stakeholder theory is the fundamental economic assumption that economic value is fostered *via* the voluntary interaction of individuals which are directed at social enhancement (of all) (Freeman et al, 2004: 364).

Despite stakeholder theory's relatively warm reception within the academic world, those more closely associated with business and management practice were not as supportive of its implications for business activity. The most common argument employed by critics is explained by M Friedman in his defence of the narrow view of corporate social responsibility (CSR) (Goodpaster, 1991: 207-214). In his defence, Friedman essentially condemns acts of corporate altruism and advocates that the only duty managers have is to their shareholders. Moreover, he argues that managers should always act to maximise shareholder profits (Friedman, 1970: 434-435).

Friedman ultimately argues in favour of the traditional sole fiduciary obligation of managers to shareholders. He dismisses firms' attempts at CSR and attempts to incorporate a multi-fiduciary approach as in-efficient, illegitimate and unnecessary (Friedman. 1970: 434 and 436-437).

### 3.2 A Stakeholder Perspective: Stakeholders and the Re-conceptualization of Corporate Purpose

Stakeholder theory is directed at challenging the privileged position of shareholders as having the primary interests' managers need to consider in their decision-making process (Evan and Freeman, 1988: 75 - 76). Freeman suggests that a business should be perceived of as a series of relationships among those groups who have a stake in the activities of a given business (Freeman et al, 2010: 5). His basic claim is that managers should not only be responsible to shareholders, or boards of directors, but to all stakeholder groups (Evan and Freeman, 1988: 75-76).

Freeman and Evan (1988) define a stakeholder as an individual or group that is "vital to the survival and success" of a firm. Specifically, those groups/individuals have a claim on, or stake in, a particular firm. Stakeholders could thus include consumers, shareholders, employees, suppliers and the local community (Evan and Freeman, 1988: 75-76). In addition, Freeman and Phillips (2002) portray stakeholders as an individual, or group, that could impede a firm from realising its purpose (Freeman and Phillips, 2002: 333).

Freeman (1994) argues that another key facet of stakeholder theory is the rejection of the 'separation thesis'<sup>54</sup> and support for the assumption that values are both an explicit and necessary aspect of business activity (Freeman et al, 2004: 364). He posits that stakeholder theory, while ultimately managerial, is a moral endeavour. This assertion is primarily premised on his view that stakeholder theory pertains to "questions of values, choice, and potential harms and benefits for a large group of groups and individuals (Freeman et al, 2010: 4-5)."

In addition, Freeman suggests that one key aspect of stakeholder theory is the reconceptualization of firms' purpose so that firms are considered vehicles for the coordination of stakeholder interests, which are premised on voluntary exchanges and the creation of shared value (Evan and Freeman, 1988: 76 and 82). The above implies that stakeholders are able to make voluntary agreements through firms and these agreements can enhance their socioeconomic position (Evan and Freeman, 1988: 82). A key assumption here is that profits or financial gain should be the result, and not the primary determinant, of the value creation process. Moreover, if the above mentioned (stakeholder) relationships become imbalanced, the firms continued existence is jeopardized (Freeman and Evan, 1988: 82).

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<sup>54</sup> The 'separation thesis' asserts that economics and ethics can be clearly distinguished from one another (Freeman et al, 2004: 364).

In addition, Freeman et al (2010: 4-5) offer a refined account of contemporary stakeholder theory in terms of three core issues:

- "The Problem of Value Creation and Trade - In a rapidly changing and global business context, how is value created and traded?"
- "The Problem of the Ethics of Capitalism - What are the connections between capitalism and ethics?"
- "The Problem of Managerial Mindset - How should managers think about management to (a) Better create value and, (b) Explicitly connect business and ethics?"

From a stakeholder perspective, the best approach to these issues begins with a description of management. Specifically, such an approach should begin with a description which focuses attention on the creation, maintenance and alignment of stakeholder relationships between a business and the groups and individuals who can affect or are affected by it (Freeman et al, 2010: 5). Freeman posits that this reconceptualization of relationships as a unit of analysis better prepares and enables managers, and practitioners, to create value as well as avoid moral failures.

### 3.3 Stakeholder Theory: Management

Freeman and Phillips suggest that the following two normative inquiries are a useful means of construing the primary focus of stakeholder theory, and identifying the role of management:

The first enquiry focuses on asking what the purpose of the firm is. This enquiry should spur managers to publicly explain how the firm's activity contributes to shared value creation. This public articulation of an organizations purpose and shared value creation also serves as a manner of bringing its core stakeholders together. According to Freeman et al (2004: 364), the result of this process should be a forward boost and improved performance, although the extent of these effects is contingent on an organizations purpose and marketplace financial metrics.

The second enquiry ask what type of duty management owes to stakeholders. This inquiry requires that managers explicitly justify the details of their operational vision. Specifically, managers should justify the details of their operational vision, such as the types of relationships that they want to establish with stakeholders to deliver on their specific purpose and how they intend to realize this purpose (Freeman et al, 2004: 364).

From a stakeholder perspective, a business is viewed as a collection of relationships among those groups which possess a stake in the activities associated with that business (Freeman et al, 2010: 5). Here, managers are responsible for (i) the cultivation and balancing of particular positive types of relationships with stakeholder groups (which are premised on accruing as much value as possible for stakeholders), (ii) the

motivation of employees and, (iii) the establishment of an organizational community (or culture) (Freeman et al, 2004: 364; Freeman et al, 2010: 5).

Furthermore, when stakeholder conflicts of interest arise, managers must establish a solution or re-frame the issues in a manner which addresses the needs of all stakeholder groups. If trade-offs are unavoidable, managers must continuously work to improve them for all parties involved (Freeman et al, 2010: 5). Managers are thus responsible for monitoring and implementing the organisation's ethics, purpose and strategy (Freeman and Phillips, 2002: 333-335).

### 3.4 Stakeholder Theory: Instrumental and Normative Theses

The stakeholder framework, as outlined above, has produced a number of theses directed at developing managerial obligations that pay attention to the interests of stakeholders. Freeman and Phillips (2002: 336-338) consider two of the most prominent, libertarian-inspired stakeholder conceptual constructs, namely; the normative and instrumental theses.

#### 3.4.1 Instrumental Thesis

The instrumental thesis suggests that if managers or executives want to maximize shareholder's value in the long-run, they should manage and develop stronger relationships with key stakeholders (Freeman and Phillips, 2002: 337). From an instrumental perspective, the firm is perceived as the shareholder's private property. Here, managers are hired by shareholders, and thus bear a contractual-obligation, to operate firms in the best interest of these shareholders (Freeman and Phillips, 2002: 337).

In addition, the responsibility aspect of libertarian theory presumes that shareholders must be responsible for the uses of their property. As a result of this responsibility, managers ought to consider stakeholder interests, or at least risk harming shareholders by the misusing of their property (Freeman and Phillips, 2002: 337). Here, managers' concern for stakeholder interests are based on the protection of shareholder property rights in terms of the mitigation of risk and encouragement potential future financial gain (benefit) for shareholders.

#### 3.4.2 Normative thesis

The normative thesis states that, "managers ought to pay attention to key stakeholder relationships" (Freeman and Phillips, 2002: 338). Specifically, key stakeholders are those groups or individuals perceived to have a relatively large impact or effect on the firm. The normative thesis, in contrast to the instrumental thesis, relies solely on ethical arguments to justify a concern for stakeholders.

### 3.5 Stakeholder Theory and Ubuntu: Key Conceptual Similarities and Differences

In this section I provide a brief consideration of some of the key conceptual similarities and differences between Ubuntu and stakeholder theory.

The Ubuntu moral doctrine serves as an ideal of relational self-realization and is embodied by the view that, in principle, any person can exhibit human excellence (Ubuntu) by relating to other human beings in a communal or harmonious manner. Ubuntu is a doctrine characterised by two recurring themes: (i) sharing a way of life and (ii) caring for others quality of life and being responsive to others' needs by exhibiting sympathy and sharing what you have.

Metz (2014: 2-4) construes Ubuntu as a comprehensive worldview and other-regarding ethic which focuses on extrinsic or relational properties and where self-definition is characterised by being in relation with others. For Metz (2007: 329), Ubuntu may roughly be understood as an ethical theory wherein all people possess an innate moral worth in virtue of the fact that they are human-beings. This moral worth translates into the view that as humans we have a duty to one another. Moreover, we possess a duty to come together, to do what we can to help others in need and to contribute to the community, irrespective of our differences. In addition, this relational duty generates positive implications for how we treat each other.

#### 3.5.1 Similarities

Although sharply distinguishable, Ubuntu and stakeholder theory nevertheless share several similarities.

First, according to both stakeholder theory and Ubuntu, the purpose of business is the creation of shared value, fostering of particular types of relationships and the enhancement of peoples living conditions (Metz, 2007: 327-330; Evan and Freeman, 1988: 76 and 82). Additionally, both theories describe profits, or financial gain, as the result and not the primary determinant of the value-creation process. (Metz, 2007; Metz, 2012, and; Evan and Freeman, 1988: 76 and 82).

Second, both theories indicate that the managers should focus on balancing, strengthening, maintaining and monitoring relationships with groups and individuals, both internal and external to the firm (Freeman et al, 2010: 5; Freeman and Phillips, 2002: 333-334).

Third, both theories reject the fiduciary primacy of shareholders in the corporate decision-making model (Evan and Freeman, 1988: 75-76; Metz, 2007: 335 - 336 and; Metz, 2012: 545 - 546). Specifically, both theories reject the view that managers should consider shareholder interests above all others and only refer to the interests of other groups and individuals in so far as they align with shareholder interests (Evan and Freeman, 1988: 75-76).

Fourth, both theories suggest that managers have a positive obligation to pay attention to, and acting on, the interests and needs of a wider group of stakeholders. In other words, both theories emphasise the need for a more inclusive corporate decision-making model (Freeman et al, 2010: 5; Freeman and Phillips, 2002: 333 -340; Metz, 2007: 335 - 336 and; Metz, 2012: 545 - 546).

### 3.5.2 Contrasting Aspects

There seem to be three key aspects where stakeholder theory and Ubuntu strongly differ, namely:

1. the degree to which relationships are emphasized;
2. who counts as stakeholders and how firms ought to manage their internal and external relationships, and;
3. the moral motivation that underpins the corporate obligation to consider the interests of stakeholders.

With regards to the first difference, although relationships form a key aspect of stakeholder theory their importance, and the reasons underpinning their importance, differ from Ubuntu. Stakeholder theory suggests that we construe the managerial task in terms of balancing and maintaining stakeholder relationships (Freeman and Phillips, 2002: 333-334). Specifically, that a business should be conceived of as a series of relationships among those groups which possess a stake in the activities that make up a given business (Freeman et al, 2010: 5). Thus, stakeholder theory only emphasises relationships because this is an alternative and more efficient manner of thinking about business activity.

In contrast, Ubuntu focuses primarily relationships and values these relationships *for their own sake*. From an Ubuntu perspective, the focus on relationships is a result of the construal of human beings as relational beings in the sense that one's identity as a human being is causally and metaphysically depends on a community (Metz, 2007: 322 - 326). In light of the above, it is clear that an Ubuntu ethic attaches greater significance, indeed a central role, to human relations (relationships).

The second difference centres on how each theory would direct firms decide who's interests to consider. This difference ties in with each theory's definition of a stakeholder as well as their view on how to balance the competing interests of various stakeholders.

According to Ubuntu, people have moral worth by virtue of their belonging to the human race and thus must be treated ethically. Firms are perceived of as part of the community in which they are based, i.e. as members of a community. As such, firms possess a relationship with all members of the community and have a moral obligation to consider their interests as a part of their corporate decision-making model. From this perspective, firms possess a moral obligation to consider all other entities related to it in virtue of bearing a relation(ship) to them as members of a mutual community, i.e. firms are morally obliged to

consider those entities able to affect it and those that it or its decisions affect, both locally and abroad (Metz, 2007: 322 - 329).

From a stakeholder perspective, a stakeholder is defined as an individual or group that is "vital to the survival and success" of a firm (Evan and Freeman, 1988: 75-76). Specifically, stakeholders are those groups and/or individuals that possess a claim on, or stake in, a particular firm, such as consumers, shareholders, employees, suppliers and the local community (Evan and Freeman, 1988: 75-76). Furthermore, only those groups and/or individuals perceived to be vital to a firm's survival are included as stakeholders, i.e. need to be considered and factored into the corporate decision-making model.

The third difference pertains to the moral motivation that underpins the corporate obligation to consider the interests of stakeholders. This difference seems to follow on from the conceptual discrepancies identified above.

From a stakeholder perspective, firms' obligation to pay attention to the interests of stakeholders is premised on (i) the existence of a voluntary agreement (contract or other) between the firm and its stakeholders, and/or (ii) an indirect result of shareholders property rights, whereby managers aim to minimise the risk to shareholders that could arise from the misuse of their property.

As mentioned above, an Ubuntu ethic presumes that firms are morally obliged to consider all other entities related to it in virtue of bearing a relationship to them as members of a mutual community. In other words, a firm's duty to consider the interests of a wider range of stakeholders is based on the moral imperative to establish friendly or loving relationships with all members of the community in which it is based.

In light of the comparison above, the Ubuntu ethic seems to accommodate the claims of a larger group of stakeholders, especially the poor. Moreover, the Ubuntu framework provides firms with a viable alternative criterion for the calculation of its responsibility to various stakeholder groups.

#### 4. Implications for Firms

"When ethics is applied to business we consider the impact that business organisations and business activity have on the interests of all who are affected by it" (Rossouw and Van Vuuren, 2017).

In this section, I consider the link between public and private sector entities and motivate why the business ethics frameworks discussed in this chapter should, and can, apply to NSFAS.

Thereafter, I look at what Metz's construal of Ubuntu implies for how firms approach business activity, particularly what Ubuntu implies for the operational model of a firm. In addition, I consider what tools, methods or strategies an organisation may employ to facilitate the establishment of an Ubuntu-inspired business model.

## 4.1 Introduction

The theory of Ubuntu, as set above, would require a significant shift in firms' focus. Specifically, it would require a shift away from the traditional financially-oriented corporate frame to a relation-oriented frame. From this perspective, an Ubuntu ethic demands that corporate goals be aligned as far as possible with those of relation-holders.<sup>55</sup>

In this section, I assume that we measure a business's performance in terms of, (a) the manner in which its products or services affect, contribute to or impede the establishment of harmonious relationships between group members and/or their capacity commune, and (b) the firm's response to the claims and interests of community members. In other words, I will argue that we should assess a firm's operational procedures in terms of how their relationships with other community members align with the Ubuntu framework.

The following section is split into six interconnected sub-sections which detail the implications of an Ubuntu ethic for firms.<sup>56</sup> In the first section, I consider the link between public and private sector entities and motivate why the business ethics frameworks discussed in this chapter should, and can, apply to NSFAS.

In the second section, I consider what the implications of an Ubuntu ethic entail for a firm's duty to their relation-holders and the purpose of business. Thereafter, I consider four aspects which may assist firms in embracing a more Ubuntu-oriented approach to business activity, more specifically; decision making and corporate values, ethics (in terms of the governance of ethics and the ethics of governance), transparency and trust; and codes and culture.

## 4.2 The Private - Public Sector Debate

In this section, I consider the link between public and private sector entities and motivate why the business ethics frameworks discussed in this chapter should, and can, apply to NSFAS.

In the last 60 years, the differences and similarities between public and private sector entities has become an increasingly popular source of debate. This public-private debate has cut across multiple fields including economics, politics, public administration and philosophy (Boyne, 2002: 97–99; Perry and Rainey, 1988: 182). Participants in this debate fall along a spectrum ranging from those who argue that there is virtually no differences between public and private entities and that the frameworks used by these entities are easily

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<sup>55</sup> The term 'relation-holders' refers to the other members of a given community (Woermann and Engelbrecht, 2017).

<sup>56</sup> The use of the term 'firm', here, and in the rest of the paper, refers to top management and senior officials, members of the governing body and/or those tasked with governance duties.

transferable, such as Newman and Clarke (1994), to those that argue that public and private entities are two very distinct phenomena with non-transferable frameworks and processes, such as Allison (1979) (Boyne, 2002: 97–99; Perry and Rainey, 1988: 182-184).

Allison (1979: 472) posits that “the notion that there is any significant body of private management practices and skills that can be transferred directly to public management tasks in a way that produces significant improvements is wrong.”

Some insist that the private-public distinction is obsolete and that currently all business entities display characteristics of both public and private sector entities (Boyne, 2002: 97–99; Perry and Rainey, 1988: 182-186).

The dominant view is that public and private sector entities possess both practical and theoretical differences which must be acknowledged. Moreover, that there exists very little scope for transferability of frameworks or practices between similar institutions on opposite sides of the divide. Various scholars have, at different points in time, appealed to the following six points as key points of difference between private and public sector entities:

**Ownership** - this refers to who owns a particular entity. Public sector entities are either partially or fully owned by state, i.e. NSFAS is fully state-owned. Private sector credit providers are owned privately by a collective or an individual or by majority shareholders. The specific form of ownership varies depending on the bank in question and how it was established (Boyne, 2002: 99-103; Perry and Rainey, 1988: 183-187; OECD, 2018 34-53).

**Funding** - this refers to where and how an entity generates income or funds. Public sector entities generally receive the majority, if not all, of their funding from the government. NSFAS receives the majority of its income from the government. Private sector credit providers, i.e. banks, generate income via net interest received and by performing non-traditional activities to generate noninterest income. In general, banks generate income by lending money at a higher rate than the cost of the money they lend. More specifically, banks can collect interest on loans and interest payments from debtors. They can also generate income by providing financial services such as consulting and investment, from operational charges, from CDs, and through short-term borrowings (DeYoung and Rice, 2004: 35-37; Boyne, 2002: 99-103; Perry and Rainey, 1988: 183-187; OECD, 2018 34-53).

**Functions** - this refers to what an entity is allowed to do. Public sector entities typically derive their function and operational guidelines from specific legislature i.e. NSFAS function as a financial lender to students and its operating model is defined in the NSFAS Act 56 of 1999. Private sector credit providers are free to decide their own function and how they want to operate to fulfil their chosen function, as long as their

conduct aligns with the relevant guiding legislature (Boyne, 2002: 99-103; DeYoung and Rice, 2004: 34-37; Perry and Rainey, 1988: 183-187; OECD, 2018 34-53).

**Goals** - this refers to what a particular entity's ultimate objective is, i.e. NSFAS must facilitate a process of socio-economic redress and facilitate national development by increasing the number of skilled workers. Private sector credit providers are free to pursue financial gains, organisational growth, mergers or any other legal goal (Boyne, 2002: 99-103; Perry and Rainey, 1988: 183-187; OECD, 2018 34-53; DeYoung and Rice, 2004: 34-38).

**Accountability** – this refers to who an entity answers to or who the organisation serves. Public sector entities must act in the best interest of the public. For instance, NSFAS must act in the best interests of public especially their beneficiaries and, in theory, should answer to the people and the state. According to the Companies Act, in South Africa all private sector entities must be run in the best interest of the organisation and not to the benefit of a particular party or group. That being said, managers of private entities also bear a fiduciary responsibility to shareholders and must act in a manner which positively affects their investment (Boyne, 2002: 99-103; Perry and Rainey, 1988: 183-187; OECD, 2018 34-53; DeYoung and Rice, 2004: 34-38).

**Regulation** - this pertains to who makes sure that an entity is doing what they are supposed to and formally holds them accountable to relevant standards, depending on their function. Public sector entities are generally subjected to different regulatory bodies and legislature than their private sector counterparts. NSFAS is regulated by the Parliamentary Portfolio Committee on Higher Education and Training (PCHET), the Auditor General of South Africa, the Minister of Higher Education, the Select Committee on Education and Recreation (SCER) and the Standing Committee on Public Accounts (SCOPA) (NSFAS, 2018: 58). With regards to entities that provide credit, the most notable difference is that NSFAS must adhere to the Standards of Generally Recognized Accounting Practice (GRAP) as opposed to private sector entities, which must adhere to the International Financial Reporting Standard (IFRS) 9 (Axway, 2016; ABSA, 2017: 6). Additionally, unlike private sector credit providers NSFAS does not adhere to the National Payment Systems Act 78 of 1998 or the Inspection of Financial Institutions Act 80 of 1998. Furthermore, as of 2017, private sector credit providers have been regulated under a twin peak model of financial regulation (Itzikowitz and Meiring, 2018). On the one hand, the SARB acts as a prudential regulator (the Prudential Authority) and is responsible for the supervision of banks' safety and soundness, insurance agencies and other financial entities. On the other hand, the Financial Sector Conduct Authority (previously the Financial Stability Board) assumes responsibility for the supervision of the manner in which financial institutions go about their business (operate) and treat their customers (Itzikowitz and Meiring, 2018).

The differences listed above are quite general and only paint a partial picture. A consideration of the similarities between NSFAS and a private sector credit provider is needed before a more rigid assessment

as to the potential transferability of their frameworks may be established. It is to this aspect, i.e. the key similarities between NSFAS and private sector financial institutions, which we now turn.

#### 4.2.1 Governance structures

Governance structures are the internal management structures of any particular entity. In the private sector, banks and pension funds (retirement annuity/private retirement fund) both utilize a fairly standard governance structure.

The owner(s) and/or shareholders, i.e. those who put up the capital, the founders or the majority shareholders are at the top. For example, ABSA bank is owned by Absa Group Limited and this group is at the top of ABSA's governance structure (MacIntosh and Scheibelhut, 2012: 34-36; ABSA, 2009: 4; Rossouw, 2017).

The Chairman (of the Board of Directors) occupies the second tier. The chairman is the ultimate authority in the organisation and is the person who ultimately runs the entity and makes the big decisions, i.e. decisions on the entity's direction, overall strategy and the frameworks implemented. The chairman is directly chosen by the owners/primary shareholders. (MacIntosh and Scheibelhut, 2012: 34-36; ABSA, 2009: 5-7; Rossouw, 2017).

At the third tier is the Chief Executive (CE) or Chief Executive Officer (CEO). The CEO is responsible for ensuring that the Board members are doing their jobs (MacIntosh and Scheibelhut, 2012: 34-36; ABSA, 2009: 8-11).

The Board of Directors, Governors or Trustees occupy the fourth tier (MacIntosh and Scheibelhut, 2012: 34-38; ABSA, 2009: 12-13; Rossouw, 2017). The chairman and CEO generally play a role in appointing the rest of the board of directors. These directors are themselves the chairpersons or heads of the committees who oversee the various aspects associated with the operation of a particular entity (MacIntosh and Scheibelhut, 2012: 34-38; ABSA, 2009: 12-13; Rossouw, 2017). The names of these committees can differ, however they tend to focus on similar aspects, for example; audits, statutory and legislative compliance, risk management, remuneration and human resources and finances (ABSA, 2009: 13).

The general manager (GM) occupies the fifth tier. The general manager runs the firm on a day to day basis and ensures that the strategic decisions and frameworks chosen at the top are being implemented (MacIntosh and Scheibelhut, 2012: 34-38; ABSA, 2009: 12-13; Rossouw, 2017).

Various other managerial positions are situated at the sixth tier. These managers are responsible for supervising particular groups of employees (MacIntosh and Scheibelhut, 2012: 34-38; ABSA, 2009: 12-13; Rossouw, 2017).

NSFAS's governance structure is very similar to the private sector template discussed above, however there are some minor differences.

Firstly, the President of South Africa acts as the owner or primary shareholder. The Minister of Higher Education and Training serves as NSFAS's executive authority (NSFAS, 2018: 19). However, the Minister has to oversee the entire higher education sector and cannot devote the necessary time to properly act as NSFAS's Chairperson. In light of this, NSFAS's board has a chairperson who serves in an intermediary capacity and reports directly to the Minister of Higher Education (NSFAS, 2018: 19).

Secondly, NSFAS's board serves as the accounting authority. The board exercises full control over NSFAS and acts in a similar capacity to CEOs in the private sector. Specifically, the board is responsible for a NSFAS's strategic direction; overall performance; statutory and legislative compliance and approach to business activity (NSFAS, 2018: 46).

Thirdly, NSFAS's executive officer (EO or CEO) acts as the executive management or GM (NSFAS, 2018: 19).

#### 4.2.2 Business model

In this section, I will consider the operational aspects of a particular entity, i.e. the actual function, services rendered, sources of revenue and intended consumer market.

In terms of function and purpose, NSFAS primarily acts as a credit provider which provides bursaries and loans to eligible students (NSFAS, 2016: 26 - 27). In practice, similar institutions are mainly found in the private sector, for example; commercial banks which offer student loans, funds or trusts and loan sharks.

The services offered by private sector financial lenders do differ from those offered by NSFAS. This difference is due to the fact that student loans only make up one branch of the commercial banking sector. In other words, private sector credit providers offer a far greater range of services than NSFAS. Both NSFAS and private sector credit providers decide the criteria and requirements that students must meet to be eligible for funding. A further similarity is that both NSFAS and private sector credit providers decide the manner in which interest is calculated on loans.

As noted previously, NSFAS receives the bulk of its funding from the South African government. However, NSFAS's mandate does require the entity to recover loans and actively seek other sources of income. To supplement state funding, NSFAS has looked to investing, in the form of bonds, and garnering increased support from private sector entities, in terms of investment and the establishment of bursary funds (NSFAS, 2018: 15 and 101; NSFAS, 2016: 52 and 87 - 92).

In terms of target market, both NSFAS and private sector credit providers render their services to the entire South African student population. However, NSFAS's consumer market is much larger due to two factors. First, NSFAS's criteria is far less stringent and NSFAS aims to provide finance to the least well-off members of society, many of whom do not qualify for loans in the private sector (NSFAS Act 56, 1999: 2 - 4; NSFAS, 2016: 118 - 121, and; DHET Report, 2009: 15 - 17). Second, unlike private sector entities who have multiple offices or branches around the country, NSFAS's sole office is based in the Western Cape (NSFAS, 2018: 2).

#### 4.2.3 Transferability of Frameworks and Practices

The view that there are numerous similarities between the public and private sector with potential for growth and integration, on both sides of the fence, is one which warrants further consideration.

The idea that public sector entities, such as SOEs like NSFAS, can benefit from adopting typically private sector frameworks has been supported and advocated in various studies and articles across the world. Boyne (2002: 97) posits that proponents of New Public Management theory believe, "that public organizations should import managerial processes and behaviour from the private sector."

Newman and Clarke (1994: 15 - 21) argue that public sector entities should look to managerial and governance frameworks employed in the private sector as a means of boosting effectiveness and efficiency.

Perry and Rainey (1988: 182-189) argue that a single rigid distinction between the private and public sector does not adequately account for the varying degrees of similarity and difference that are encountered when entities in different fields are closely compared. Such a rigid distinction between public and private sector entities is rigid in the sense that there is very little to zero scope for transferability of frameworks and procedures between public and private sector entities under this view. Perry and Rainey consider the value and harm that can accompany a rigid private-public distinction. The argument could be made that this strict belief in a clear boundary between public and private sector entities may be a factor driving the poor performance of NSFAS. In particular the differences in legislation and accounting standards used to regulate NSFAS and private credit providers may contribute to NSFAS's compliance issues. As such, we cannot continue to allow public entities such as NSFAS to operate under vastly different regulative bodies. This difference in regulation allows NSFAS too much freedom and less stringent operating protocols which contribute to the schemes inefficient service delivery and lacklustre performance.

The OECD (2018: 4) posits that, given the growing reliance on and the increased use of SOEs by countries around the world, "... high standards of corporate governance of SOEs are critical to ensure financial stability and sustain global growth."

Bernier (2011: 412-415) argues that SOEs should look at techniques employed in their private sector counterparts for a viable manner in which to improve their corporate governance.

In addition, in their annual reports, NSFAS executives explicitly express their commitment to the principles and frameworks set out in the King Reports on corporate governance (NSFAS, 2018: 44). Moreover, NSFAS (2018: 46) has noted that, “The Board [of directors] constitutes a fundamental base for the application of corporate governance principles in the public entity.”

In addition, IODSA makes a compelling argument for the transferability of corporate governance frameworks. Specifically, the King Report (IV) provides a detailed guide for the application of corporate governance frameworks outside the private sector, in a wide variety of business types (IODSA, 2016: 35 and 74). Moreover, in section 6.6, IODSA (2016: 111-117) specifically deals with a corporate governance framework and 16 principles that can be implemented by state-owned entities. In addition, the establishment, implementation and monitoring of an ethics framework forms a crucial component of good corporate governance. Further, Principle 2 of the Report states that, “[the] accounting authority should govern the ethics of the SOE in a way that supports the establishment of an ethical culture” (IODSA, 2016: 112).

A viable ethics management framework forms a crucial component of both ethical governance and the establishment of an ethical culture. The King Report makes use of the Ethics Institutes ethics management framework as a template, which is applicable across a range of organisational types (IODSA, 2016:74). In addition, in their annual reports, NSFAS executives explicitly express their commitment to the principles and frameworks set out in the King Reports on corporate governance (NSFAS, 2018: 44). Moreover, NSFAS (2018: 46) notes that, “[the] Board [of directors] constitutes a fundamental base for the application of corporate governance principles in the public entity.”

The above discussion supports the view that corporate governance and ethics management frameworks are not only applicable to the private sector or big businesses. Moreover, the discussion provides sufficient evidence that corporate governance and ethics management frameworks can be utilised in the public sector.

In South Africa, we cannot assume that public sector entities are always run or operated by public officials with social welfare or the public as their primary motivating factor. Similarly, we cannot assume that the social status of these entities means that they do not require governance frameworks similar to those employed in the private sector. In practice, South African public sector entities fall far short of their mandates. Lacklustre regulation, oversight and inadequate employee training has severely impeded the South African public sector and kept SOEs from fulfilling their mandates purpose.

### 4.3 Duty and Purpose

In this section, I consider what an Ubuntu ethic might imply for our contemporary understanding of the duties of firms, as well as the purpose of business.

The duties of businesses, and by extension their executive officials,<sup>57</sup> has become a hotly debated topic. The 21st century has witnessed the rise of corporate social responsibility (CSR) as an increasingly popular area of discussion for academics, politicians and firms alike.

The term ‘corporate responsibility’ pertains to a discussion concerning what the responsibilities of a firm should be and to whom a firm is responsible. The interpretation of ‘corporate responsibility’ that a firm endorses has key implications for the manner in which it operates, i.e. its operational, management and decision-making model.

Historically, the global debate pertaining to the responsibility of firms only started to take off, both academically and socially, in the final third of the 20th century (in the late 1960’s and early 1970’s).<sup>58</sup> In the 1960’s, the dominant view was that the primary obligation of firms, or rather the executives steering them, was the legal minimisation of costs and the maximisation of stockholder returns (Carroll, 2008: 23).

In contrast to the above, this thesis assumes that a firm is an active member<sup>59</sup> of the community (society/country/global community) in which it is based.<sup>60</sup> On this view, an organisation, such as a firm, stands in relation to all the other members of their community. My argument also presumes that people have moral worth in virtue of their belonging to the human race.

From this perspective, firms possess a moral obligation to consider all other entities related to it, by virtue of the fact that they bear a relation(ship) to others as members of a mutual community. Firms are morally obliged to consider those entities that its decisions affect, both locally and abroad (Metz, 2007: 322 - 329).

Specifically, firms have a responsibility to promote the good of the community *via* aiding people’s capacity to exhibit a sense of shared identity. This is achieved by fostering friendly and loving relationships. On this view, firms would have to operate in a manner which contributes to the creation of an environment that would allow the community to flourish. Moreover, firms would have a moral obligation to act in a way that allows community members to connect and share a better quality of life.

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<sup>57</sup> The use of the term(s) management/managers/firm's/executives is merely meant to indicate that the elements discussed, such as corporate responsibilities or duties, apply to those running the business and directing its activity.

<sup>58</sup> In addition, there is debate over whether a firm or known entity, other than human beings, could be perceived of as possessing a duty or responsibility in the manner that humans do. The main issue in this debate pertains to the appropriateness of portraying a firm as accountable or obligated to perform a particular duty. Moreover, a common critique mounted against this view suggests that it is those who run firms (executives/management) who possess particular duties or responsibilities. The above-mentioned debate will not form part of the following discussion.

<sup>59</sup> Furthermore, a firm may be defined as a social mechanism which can only exist and flourish through the collaboration of all participants (community members affected by the firm and its ongoing operations). As such, if any participants withdraw support, the firm's sustainability is at risk.

<sup>60</sup> This relation is premised on the shared nature of our existence, in that corporate actions have implications for the communities in which they operate.

Furthermore, firms would also have a responsibility to respond to the needs, interests and complaints of all community members. The strength of the claims made on a particular firm would be based on the urgency and relevance of each particular claim. From this perspective, responsibility demands that firms respond to the (reasonable) claims, needs, expectations, grievances and interests of all community members, irrespective of the consequences and obligations this may bring, i.e. the possible financial, logistic or procedural corporate implications that may follow. Firms would also have a duty not to (i) foster relations characterized by division or ill-will between community members, and, (ii) (not to) exploit others in any manner.

In addition to the above, Nussbaum (2003: 2-3) posits that an Ubuntu ethic presumes that firms have a duty toward all those affected by their operational activity. Nussbaum (2003:3) describes this duty as an obligation for firms to facilitate the, "...sharing of wealth, and, making basic services<sup>61</sup> accessible and visible to all members of our global family."

Second, firms would be morally responsible to people who fall outside of the bounds of their immediate community, namely those who form part of the broader global community. Specifically, this would result in a responsibility to people who are separated from the firm geographically or temporally, i.e. people on other continents and future generations. From this perspective, a firm's responsibility is premised on their capacity to exhibit relationships characterized by solidarity and shared identity.<sup>62</sup> For instance, a firm would be obliged to take responsibility for the environmental effects of their operational activities both in terms of the inputs (resources) used and outputs, or consequences, generated.

Third, a firm has a responsibility to be informed of the historical factors at play in the community in which it operates. This research further serves as a tool for firms to better understand, and address, the interests of various community members. It also enables firms to contribute to easing past injustices or unscrupulous policies, such as those employed during apartheid in South Africa and in the USA before World War Two.

In summary, an Ubuntu ethic redefines the corporate task as the promotion of the good of the community. This redefinition may be understood in terms of the following general implications:

1. Companies must monitor, consider and factor in the interests and grievances (claims) of all community members (relation-holders) when developing their business model and corporate decision-making model. On this view, a firm's incorporation of relation-holder's interests/claims is not tied to their perceived threat or the perceived ability of relation-holders to take action against the firm. Rather, an organisation's duty to consider other parties is premised on the assumption that,

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<sup>61</sup> Basic services such as: medical care; education; sustenance, in terms of food and water, and; shelter (Nussbaum, 2003: 3).

<sup>62</sup> Furthermore, this responsibility is premised on the moral imperative to enable those who fall outside the firm's immediate community to enhance their capacity to exhibit relationships characterised by solidarity and shared identity.

as members of a common community, they possess a relationship with other community members (Metz, 2012: 538-548). This duty demands that firm's honour friendly relationships with others who possess dignity in virtue of their inherent capacity to engage in such relationships (Metz, 2012: 538-548).

2. An Ubuntu ethic requires the re-framing of companies' approaches to that of a socially-oriented approach to business activity. Specifically, this requires that firms shift from an approach directed at financial gains to one directed at the creation of mutual (communal) benefit. Here the focus is on the creation of social benefit and the enhancement of the overall living conditions of all community members. However, firms should give precedence to the worst off and most talented members of the community (Metz, 2007: 322 - 329).
3. Firm's should facilitate, formulate, monitor and employ strategies and procedures which assist in the establishment of an Ubuntu ethical culture at all levels.

A firm's consideration of, and response to, other entities directly or indirectly affected by its operational activity is an ongoing process.

In addition, firms in the public sector are tasked with the provision of those goods and services which, (a) would not be provided for by the private sector or (b) would not be available to the poor. The public sector may be understood as concerned with the provision of socioeconomic support, such as infrastructure, protection services, education<sup>63</sup> and other goods and services, for the community (citizens). The South African Constitution endows citizens with explicit rights against the government. Specifically, citizens have a right to goods and services such as: healthcare; housing; social security (UIF); water; food, and; education (SA Constitution, 1996). The provision of these goods and services is managed through a number of state-owned entities (SOEs).

An Ubuntu ethic offers the following two clusters of arguments in support of an extended view of firm's social responsibilities:

1. The first cluster refers to the relation between an organisation and other community members. One aspect of firm's moral imperative to honour harmonious communal relations requires the establishment of relationships characterised by solidarity and identity with other community members. The facilitation of relationships characterised by solidarity/good-will refers to a type of caring or supportive relationship. This presumes that people should engage in mutual aid and act in a manner 'reasonably' expected to benefit others (Metz, 2012: 537 - 538).

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<sup>63</sup> This is an area which has been identified by the SA government as a means to satisfy the dual goals of national growth and socioeconomic redress.

2. The exhibition of solidarity between entities (such as the State, SOEs and firms) and other community members involves improving their quality of life. This can be done by, for example, bringing about an improvement in infrastructure, public transport, healthcare, protection services, shelter, ablution facilities and consumable water (Metz, 2012: 550).<sup>64</sup> Metz insists that fostering relationships characterised by a sense of shared identity or togetherness between an entity and the other members of a community is gravely impeded if the eradication of poverty is not a priority (Metz, 2012: 550).

The second cluster addresses the relations between community members in general. Another facet of a firm's moral imperative to honour harmonious communal relations is that it must respect the dignity of the other community members.<sup>65</sup> This implies facilitating community members' ability to enter into relationships, i.e. boosting their capacity for community or fostering community among residents themselves (Metz, 2012: 550). The cultivation of shared identity (or a sense of togetherness) between (other) members of the community is difficult, especially, when dealing with the destitute or impoverished (Metz, 2012: 550).

If community members' basic needs are neglected and they are simultaneously subjected to a reality wherein large segments of the community enjoy these goods and services (basic needs and more), it diminishes their (community members) ability to engage in relationships characterized by a sense of shared identity with others (Metz, 2012: 550-551).<sup>66</sup> Community members' ability to partake in joint projects, a key aspect of establishing a sense of togetherness, is impeded when they lack the means (inputs or factors of production) required for said common projects (Metz, 2012: 550-551). On the other hand, the firm's/SOEs/States facilitation of relationships premised on good-will (solidarity) between (other) community members is impeded if the socioeconomic rights (basic needs) of community members are neglected (Metz, 2012: 551).

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<sup>64</sup> Furthermore, this improvement should be pursued for the sake of the community members and should be premised on a sympathetic understanding of their respective situations.

<sup>65</sup> Dignity, as employed here, pertains to people's (or entities') capacity to enter into loving relationships with one another as well as their ability to be both the subject and object in a particular relationship. On this view the South African government's provision of socioeconomic goods and services, i.e. such as infrastructure, public transport, education systems and institutions is merely a means of treating people (community members) as agents possessing the ability to establish and engage in relationships premised on mutual aid (Metz, 2012:551).

<sup>66</sup> In contrast to shared identity, this situation invokes a sense of shame, anger and hatred and, at the minimum, results in the distancing (division) of community members (Metz, 2012: 550-551).

#### 4.4 The Decision-making Model and Corporate Values

In this section, I consider the implications of Ubuntu for firms' decision-making models and corporate values.

An identifying characteristic of an Ubuntu ethic is a focus on the relational existence of human beings. Specifically, there is an emphasis on people's embedded, interconnected and common humanity. This relational focus is placed at the heart of the traditional corporate decision-making model. The conceptual alterations discussed above may be understood as affecting a firm's decision-making model in the following manner:

First, with regard to strategic decision-making, firms must recognize and incorporate the interdependent interests of all community members, including future generations, in its decisions. Specifically, firms ought to prefer decisions which mitigate or minimise the negative effects on community members (relation-holders). Metz's Ubuntu framework provides firms with a means for settling competing claims stemming from different community members (stakeholders). This calculation (weighting/prioritizing) of relation-holder interests is based on (i) the nature of their relations with the firm (legitimacy), and (ii) the urgency and relevance of their claims (Woermann and Engelbrecht, 2017: 10 - 11).

Second, with regard to honouring and prizing communal relations, the solidarity aspect requires that firms conduct their business activity in a manner which improves people's quality of life. This could be achieved by, for example, increasing their provision of social aid, investing in education and community projects, facilitating pro-Bono workshops and initiatives and making goods/services more accessible, especially for those worst-off members of the community. From this perspective, a firm would have to actively consider and implement projects and decisions which contribute to the good of the community and its members.

Third, staff (at all levels) must be incorporated into the strategic decision-making process. This requires that staff participate in the decision-making process, in the sense that all views are heard and minority views are catered for as far as possible (Woermann and Engelbrecht, 2017: 11-12).

In addition to the above, the King IV Report on Corporate Governance (2016) refers to values as:

“[c]onvictions and beliefs about how the organisation and those who represent it should conduct themselves; how resources and stakeholders should be treated; what the core purpose and objectives of the organisation should be; and how work duties should be performed” (IODSA, 2016: 18).

Building on this description, it is suggested that companies typically possess three different but interconnected types of values, namely: work values; ethical values, and; strategic values (Rossouw, 2017; Rossouw and Van Vuuren, 2013: 312-313).

**Strategic values** are directional convictions which typically stipulate where a firm wants to go, i.e. statements of goals. These values are typically shared by everyone in a firm, at all levels. From an Ubuntu perspective, strategic value could be cashed-out in terms of social harmony or the facilitation of relations characterised by solidarity or identity. From this perspective, firms would be directed at the creation of mutual (communal) benefit. Here there is a duty to create social benefits and enhance the overall living conditions of all community members.

However, strategic values are often not sufficient to ensure that directional convictions are met. Specifically, companies might struggle with lazy, uncreative, sloppy and/or wayward employees to the extent that such employees impede the company's ability to achieve its strategic values. As such, firms require a second set of work values to guide staff toward the firm's strategic convictions and combat wayward employees (Rossouw, 2017; Rossouw and Van Vuuren, 2013: 312-313).

From this perspective, **work values** are convictions regarding the manner in which employees should go about their jobs, i.e. these values define how staff should execute their respective duties (Rossouw, 2017; IODSA, 2016: 43-45).<sup>67</sup>

The final set of convictions, **ethical values**, stipulate how employees should treat each other and other relation-holders. These could include ethical values such as respect, dignity, honesty, transparency, shared identity, solidarity, integrity, fairness and honesty. These values are typically spelled out in a company's mission statements (Rossouw, 2017; Rossouw and Van Vuuren, 2013: 312-313).

All three sets of values should function in unison, in other words, they should **complement** one another. From this perspective, these values are tools which firms can employ to guide their staff toward their strategic objectives (Rossouw, 2017; Rossouw and Van Vuuren, 2013: 312-313). However, poorly explicated or defined values can lead to clashes and unscrupulous or unwanted employee results.

#### 4.5 Ubuntu Ethics: The Ethics of Governance and The Governance of Ethics

The nature of corporate governance has long been a source of much debate (Evan and Freeman, 1988: 75-76). A particular focus of these debates is the way in which executives exercise control and influence a

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<sup>67</sup> For example, Ubuntu-inspired work values may take the following forms:

1. Good-will or solidarity. This means that employees should perform their respective duties in a caring and supportive manner. Specifically, this occurs when workers care about others' quality of life, **go beyond what is expected of them** and act in a manner 'reasonably' expected to benefit others (Metz, 2012: 537 - 538).
2. Shared identity. This implies that employees should acknowledge our interrelated reality, help others grow and develop together (Metz, 2012: 537 - 538).
3. Accountability and/or responsibility. This implies that employees should take pride in their actions and be accountable for their conduct. Specifically, this implies that employees' actions or inaction should incur consequences.
4. Transparency. This implies that employees should execute their prescribed duties in a straight forward, comprehensible and morally upright manner.

firm's (corporate) decision-making processes. The 21st century has thus far borne witness to a multitude of events and academic advances. One such advance is visible in the field of business ethics.<sup>68</sup>

In light of growing academic, political and practitioner interest, ethics has become a key aspect of business. It has sparked a number of shifts in corporate thinking and influenced a number of models of corporate governance (IODSA, 2016: 3 - 6).

The recent theoretical sub-divisions between the governance of ethics and the ethics of governance serve as useful frames from which firms can construct a more ethical approach to business activity (IODSA, 2016: 3 - 6).

The ethics of governance refers to the underlying principles, i.e. the underlying ethic, which guide a particular firm's decision-making process. These principles are seldom spelled out and are often implicit. As such, they can be exceedingly difficult to identify or ascertain. These underlying principles typically vary from one organisation to the next (Rossouw, 2017; Rossouw, 2018: 37 and 53).

On the other hand, the governance of ethics pertains to the governance structures, policies and protocols of a firm that are directed at the facilitation of a more ethical company. Moreover, the governance of ethics is typically explicit and straight-forward, in the sense that it either is there or it isn't (Rossouw, 2017). An organisation's governance of ethics may be derived from the following internal and external aspects:

First, in terms of internal aspects, one may look at particular aspects of a firm's operational model. Specifically, its corporate governance structures, code of conduct, code of ethics, mission statement and annual report (Rossouw, 2017; Rossouw, 2018: 37 and 53).

Second, in terms of the external component, one may investigate the regulative policy and legal requirements imposed on firms by national governments and global governance institutions (Rossouw, 2017; Rossouw, 2018: 37 and 53).<sup>69</sup>

To better grasp what a governance of ethics with an explicit focus on Ubuntu ethics implies for firms, we must first consider what exactly corporate governance is.<sup>70</sup>

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<sup>68</sup> Furthermore, this increase in academic, political and practitioner interest in firms' employment of a more ethics-inclusive business model has facilitated growing support for the view that, although there is a legal system which guides or constrains businesses behaviour, activities and procedures (i.e. what is legal in terms of businesses behaviour), this is not sufficient to contain all irresponsible business practices/behaviour. Moreover, the crux of this argument is that we cannot rely solely on the law as it does not necessarily demand ethical conduct.

<sup>69</sup> For example, the United States' Sarbanes-Oxley Act enforces codes of conduct for senior executives, the South African Companies Act (2008) and King Reports enforce such codes of conduct for corporate governance (Paine et al, 2005: 1; SA Companies Act, 2008; IODSA, 2016).

<sup>70</sup> Specifically, in terms of how it contributes to the establishment of communal relationships *qua* solidarity and shared identity, both internally and externally.

Figure 1. Ethics management framework



(Dobie and Plant, 2014: 4)

The following consideration of corporate governance is primarily based on the Ethics Institute's 'ethics management framework' (Fig. 1 above). This ethics management framework outlines an interrelated five-phase model which encompasses strategic, systems and operational aspects and is directed at the enhancement of a company's ethics at all levels (Dobie and Plant, 2014: 4).

The fusion of an Ubuntu ethic and the above-mentioned ethics management framework provides companies with a concise and systematic framework to facilitate their transition to a more Ubuntu-inspired entity. Let us now briefly consider the implications of an Ubuntu-inspired ethics management framework:

**Stage 1 - Leadership Commitment.** First, the role of the CEO is vital in terms of the provision of ethical leadership and a strong (leadership) commitment to ethics. The Minister of Higher Education, NSFAS's chairperson (of the board) and Chief Executive (leadership) must establish a visible,<sup>71</sup> audible<sup>72</sup> and resource<sup>73</sup> commitment, both in terms of (i) behaving in line with Ubuntu ethics and (ii) the governance of ethics (Rossouw, 2017; Dobie and Plant, 2014: 4-5).

According to Rossouw (2017), an ethical impetus must come from the top. In fact, Rossouw (2017) insists that it is a near impossible task to create an ethical company with unethical leaders. However, even if there

<sup>71</sup> A visible leadership commitment pertains to a behavioural commitment and the addition of this commitment to mission statements and annual reports (Rossouw, 2017).

<sup>72</sup> An audible leadership commitment refers to a spoken commitment, in terms of publicly advocating a particular position, or stance, in relation to ethics (Rossouw, 2017).

<sup>73</sup> A resource commitment pertains to the portion of a company's budget allocated to ethics (Rossouw, 2017).

is a strong leadership commitment to (Ubuntu) ethics, a company might remain unable to establish an ethical culture, or indeed any form of enhanced ethical awareness (Rossouw, 2017). To counter this risk, firms must support the ethical commitment of leaders (tone at the top) and also ensure the incorporation of (Ubuntu) ethics management into the organisation's governance structures (known as the mood in the middle) (Rossouw, 2017).

**Stage 2 - Governance Structures.** A firm's governing body (GB) (Board or Trustee's) typically assume responsibility for the governance structures (governance of ethics) within the firm.<sup>74</sup> Here, governance structures refer to the strategy, oversight, policy creation and disclosure associated with the governing of ethical structures (Rossouw, 2017; Dobie and Plant, 2014: 4-5).

**Stage 3 - Ethics Management Function.** This stage pertains to the actual management of ethics within an organisation. This responsibility can be assigned to one person, such as an ethics officer or champion, or a team of people, such as ethics department or office (Dobie and Plant, 2014: 5). From this perspective, the ethics office (ethics management function) is responsible for the active management of ethics in an organisation, i.e. they design the ethics management program, manage it and make sure that it is effectively implemented (Rossouw, 2017).

In addition, the ethics office (i.e. those tasked with management function) must address **five** key processes (tasks) associated with the implementation and management of a firm's ethics management program (Dobie and Plant, 2014: 5).

**(1) The first task** is to engage in an **ethics risk assessment (analysis)**. This is a process characterized by rigorous quantitative (i.e. questionnaires) and qualitative (i.e. focus groups, interviews and document analysis) research (Rossouw, 2017).<sup>75</sup> This process allows firms to identify risks and formulate its corporate risk profile. The resultant risk profile depicts two sets of behaviours, practices and beliefs; those that the firm wants to protect and affirm and those that the firm wants to remove and manage out of the company (IODSA, 2016: 44). On the one hand, the entity may want to remove those who, in carrying out their prescribed, duties facilitate a sense of division and relationships characterized by ill-will. For instance, those employees who continue to undermine ethics, compliance offenders, those who lack the necessary skillsets to fulfil their prescribed duties and those who do not appreciate the serious purpose which NSFAS fulfils. On the other hand, a firm may wish to affirm those employees who facilitate a sense of identity and relationships characterized by solidarity. For instance, those employees who participate or do more than

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<sup>74</sup> From this perspective the GB (or relevant responsible party) would be responsible for (i) ensuring that the values and standards that should guide the company are identified, (ii) ensuring that the afore mentioned values and standards are communicated to all members of society (stakeholders), (iii) the creation of ethics structures (i.e. ethics committee or ethics office), (iv) the delegation of ethics management duties (i.e. ethics champion or officer), (v) the incorporation of ethics management into a firm's governance structures and (vi) overseeing the governance of ethics (Rossouw, 2017; Rossouw, 2002: 125 - 134; Surbhi, 2016; Dobie and Plant, 2014: 4 - 5, & IODSA, 2016: 44).

<sup>75</sup> Furthermore, this process must be done according to the highest possible scientific standards.

they are required to in ensuring that NSFAS meets its mandate or those who are responsive to beneficiaries' needs and exhibit greater care for beneficiaries' quality of life.

**(2) Second**, once the risk profile has been completed, the firm's ethics management function must use its findings<sup>76</sup> to derive and formulate an **ethics management plan and strategy**. The strategy and management plan provide (a) a broad outline of where the firm wants to go, i.e. to become an entity characterized by Ubuntu ethics, and the areas that the firm needs to focus on and (b) specific details<sup>77</sup> regarding how the firm will reach its goals (Rossouw, 2017, and; IODSA, 2016: 44).

**(3) Third**, once the strategy and management plan has been formulated, the ethics office must formulate and implement a **code of ethics**, which is a key tool for a firm's management of ethics (Rossouw, 2017; Dobie and Plant, 2014: 5, and; IODSA, 2016: 44-45). A code of ethics is a document that stipulates the correct conduct for the organisation's internal and external stakeholders (community members).

Once formulated, this code must be supplemented by **policies** which provide the details on the particular elements stipulated in the code (Rossouw, 2017; IODSA, 2016: 44-45).<sup>78</sup> These policies must be formulated in a manner which facilitates the realization of the strategy and management plans.

**(4) Fourth**, the findings returned in the preceding sections must be put into practice, or, **institutionalized via**: (i) communication, in the sense that the firm should train its employee's; (ii) the provision of safe reporting systems, i.e. whistle-blowing; (iii) the firm's recruitment and promotion policies/procedures, so as to attract the 'right kind' of people and remove the unsavoury elements; (iv) recognition (reward) and discipline, focusing on acknowledging or rewarding those who do 'right', and; (v) information (data) collection and management systems (Rossouw, 2017; Dobie and Plant, 2014: 5, and; IODSA, 2016: 44-45).

**(5) Fifth, monitoring and reporting**. Data collection systems enable the ethics office(r) to monitor how well the firm is doing and report these findings back to the governance structures.<sup>79</sup> The ethics office(r) would typically monitor the implementation of the ethics management program by investigating the efficiency and effectiveness of the systems/procedures/policies employed.<sup>80</sup> In addition, the ethics office(r)

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<sup>76</sup> The subsequent risk profile may be interpreted as a mirror image of the beliefs, practices and behaviours at play within a (particular) company (Rossouw, 2017).

<sup>77</sup> The management plan provides specific details about the means which will be employed to realize the strategic goals. For example; this plan should provide information on targets, indicators, the delegation of responsibilities, time frames, target dates and the resources required (Rossouw, 2017).

<sup>78</sup> Policies such as a gifts policy, procurement policy, conflicts of interest policies, and whistle-blowing policies (Rossouw, 2017).

<sup>79</sup> So as to better grasp the firm's position and improve existing governance and management structures.

<sup>80</sup> Furthermore, here the ethics office(r) would typically monitor and report on the efficiency and effectiveness of systems/procedures/policies such as:

1. the whistle-blowing system, in terms of the number of calls received per month
2. company interventions, i.e. we have trained 80% of the staff in this area but only 24% in another;
3. trends i.e. are there more and more incidents of things we want or don't want (theft) in company, and;
4. new or unforeseen developments or consequences (Rossouw, 2017; Dobie and Plant, 2014: 5-13).

would monitor and report on the firm's interventions (staff training) and trends (Rossouw, 2017; Dobie and Plant, 2014: 5).

**Stage 4 - Independent Assessment and External Reporting.** This is typically where the internal audit function comes to the fore. The internal auditors make an assessment of the adequacy and effectiveness of the entire ethics management process. Once compiled, they report their findings to the executives, the GB and externally to stakeholders (Rossouw, 2017; Dobie and Plant, 2014: 5).

**Stage 5 – Culture.**<sup>81</sup> This presumes that Ubuntu ethics should be embedded in a firm's identity so that it becomes a key part of the culture of the firm and informs the operation of the firm (even when no-one is looking) (Rossouw, 2017; Dobie and Plant, 2014: 5). In other words, the entity's identity or culture should be characteristically Ubuntu. Specifically, its culture should be characterised by (i) sharing a way of life (being close, greater participation and sense of belonging) and (ii) caring for others quality of life (being responsive to others' needs, exhibiting sympathy and sharing what you have).

In addition to the above, the measurement or calculation of risk forms is another key tool with the potential to enhance a firm's strategic decision-making and governance procedures or models.<sup>82</sup>

Furthermore, ensuring that all levels of a firm are familiar with the implications of an Ubuntu ethic might prove to be a near impossible task without (a) leadership commitment; (b) an ethics department to ensure its management, monitoring, application and improvement, and; (c) a feasible and detailed model for the governance of ethics. These aspects further promote a sense of shared identity and facilitate the establishment of relationships characterized by solidarity between staff members and management, as well as the firm and other parties affected by it (other community members).

In addition, increased corporate investment in ethics, as outlined above, forms part of respecting people's capacity to commune, in terms of providing them with the tools to facilitate this capacity at all levels of a firm.

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<sup>81</sup> This aspect is explored further in section 4.6.

<sup>82</sup> I concede that the establishment of both an ethics department and risk department may be quite difficult (financially) for many SOEs and is an area where the South African government must offer a means of easing this financial burden (ABSA, 2009; Maginn, 2007).

## 4.6 Organisational Transparency and Trust

Transparency and trust are two key elements which firms should actively manage and monitor.<sup>83</sup>

The following model of transparency and trust is primarily derived from Schnackenberg and Tomlinson's (2014) *Organizational Transparency: A new Perspective on Managing Trust in Organization-Stakeholder Relationships*.

Schnackenberg and Tomlinson (2014: 7-11) provide a multidimensional model of transparency.<sup>84</sup> Here, transparency is a function of the quality of information shared by a particular firm and relation-holder (stakeholder) perceptions of the quality of the information released by the firm.

From this perspective, an organisation's management of transparency can produce positive or negative effects on relation-holder (stakeholder) perceptions of an organisation's trustworthiness (Schnackenberg and Tomlinson, 2014: 19-20). On this view, an organisation's transparency, or the quality of the information it releases, is premised on three equally important aspects: disclosure; clarity, and accuracy (Schnackenberg and Tomlinson, 2014: 7-11).

Schnackenberg and Tomlinson (2014:11) fuse their three-dimensional model of transparency with Mayer et al.'s (1995) theory of trust in order to illustrate the nature of the relationship between transparency and trust.<sup>85</sup> Schnackenberg and Tomlinson (2014:11) presume that relation-holders' level of trust in an organisation is primarily informed by their (relation-holders) assessment (perception) of the company's trustworthiness. Moreover, Mayer et al. (1995: 715) offer three interrelated scales of measurement which indicate an organisation's trustworthiness, namely; ability, integrity and benevolence.

**Disclosure** entails that for information (behaviour, procedures, decisions and processes) to be transparent it must be relevant, made available in a timely manner and openly-shared (Schnackenberg and Tomlinson, 2014: 8-9). These stipulations are premised on the assumption that irrelevant, inaccessible and untimely (i.e. late) information impedes relation-holders' (stakeholders') ability to establish a clear, or more complete, understanding of an organisation (Schnackenberg and Tomlinson, 2014: 8-9).

In addition, a firm's disclosure of information affects trust *via* its influence on relation-holders' perceptions of an organisation's benevolence and integrity (Schnackenberg and Tomlinson, 2014: 13). Here a firm's

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<sup>83</sup> Transparency and trust are especially relevant in terms of acts 3 and 5 in the set of acts considered immoral by Westerners and Africans alike.

<sup>84</sup> Schnackenberg & Tomlinson (2014: 19-20) construe transparency as, "... a perception of the quality of intentionally shared information from a sender..."

<sup>85</sup> Mayer et al. (1995: 712) define trust as, "... the willingness of a party to be vulnerable to the actions of another party based on the expectation that the other will perform a particular action important to the trustor, irrespective of the ability to monitor or control that other party."

benevolence is premised on its disclosure of potentially risky information.<sup>86</sup> This is especially the case when the information disclosed may be used against the firm in a harmful manner (Schnackenberg and Tomlinson, 2014: 13). **Benevolence**<sup>87</sup> refers to how far the entity in question is willing to go to promote the best interests of the trustor (relation-holders) (Mayer et al, 1995: 718-719).

**Integrity** presumes that a company's disclosure of sensitive information reflects fair-dealing, in other words, the decision to 'do the right thing'. The disclosure of sensitive information serves as a firm beacon of integrity in the sense that this serves as an indicator of a company's commitment to moral/ethical codes, values and principles associated with openness, sharing and fostering mutual benefit for all relation-holders (Schnackenberg and Tomlinson, 2014: 13). An entity with a reputation characterized by high standards in the above aspects is almost immediately interpreted as a trustworthy entity (Schnackenberg and Tomlinson, 2014: 12).

**Clarity** refers to the perceived degree of understandability of the information received from a company (sending party). Here, there is a duty to ensure the smooth transfer of meaning from one party to another. This implies that information should be presented to relation-holders in an easily apprehensible manner (Schnackenberg and Tomlinson, 2014: 9-10). This construal of clarity is premised on the assumption that information rife with (i) expressions in a foreign language, (ii) industry jargon or (iii) complex numerical algorithms cannot be easily understood and, as such, cannot be characterised as transparent (Schnackenberg and Tomlinson, 2014: 9-10).

In this view, firms (particularly relevant staff members) are able to facilitate a greater degree of information understandability *via* the apt and masterful application of linguistic devices (Schnackenberg and Tomlinson, 2014: 10).<sup>88</sup> The (perceived) clarity of the information disclosed by firms has strong implications for relation-holders' perceptions of the company's ability (Schnackenberg and Tomlinson, 2014: 13-14).

**Accuracy** refers to the perception that the information disclosed by a firm is correct to the greatest degree possible given (i) the relation(ship) between the sender and receiver and (ii) the tools available to facilitate said correctness (Schnackenberg and Tomlinson, 2014: 10-11).<sup>89</sup> This conception of accuracy is based on the assumption that information that is intentionally biased, contrived, false or unfounded cannot be transparent (Schnackenberg and Tomlinson, 2014: 11).

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<sup>86</sup> From this perspective, the voluntary disclosure of potentially harmful information indicates that an organisation is willing to accept the risk for the benefit of its relation-holders (Schnackenberg & Tomlinson, 2014: 13).

<sup>87</sup> Mayer et al. (1995:718-719) portray benevolence as, "... the extent to which a trustee is believed to want to do good to the trustor, aside from an egocentric profit motive," and, "... the perception of a positive orientation of the trustee toward the trustor."

<sup>88</sup> In addition, Schnackenberg & Tomlinson (2014:10) posit that, "[in] written communication, clarity is a matter of perceived grammatical and semantic coherence."

<sup>89</sup> This does not imply that all information shared must be completely correct and that this should be enforced with retrospective action.

In addition, Schnackenberg and Tomlinson (2014: 14) posit that accuracy affects relation-holders' perceptions of a firm's ability and integrity. **Ability** refers to an entity's possession of the necessary, field-specific<sup>90</sup> collection of characteristics, training, technical expertise, skills, knowledge, procedural experience and competencies required for the effective and efficient execution of its duties (Mayer et al, 1995: 717).<sup>91</sup> Ability further implies that relation-holders require information of an exceedingly technical nature and subject to a myriad of statutory reporting regulations and principles (i.e. accuracy) (Schnackenberg and Tomlinson, 2014: 14). From this perspective, firms capable of espousing accurate information, or firms that are perceived as possessing this capability, are able to influence relation-holders' perceptions of their (technical) ability or technical prowess (Schnackenberg and Tomlinson, 2014: 14)<sup>92</sup>.

Furthermore, the perceived accuracy of a company's disclosed information is indicative of a firm's underlying degree of truthfulness as well as the level of honesty in the firm (Schnackenberg and Tomlinson, 2014: 14). This is especially relevant when the information disclosed is high risk (potentially harmful), as this indicates honesty and portrays the firm in a positive light.

In the above combined view, trust is taken to be indicative of relation-holders willingness to have faith in an entity's expected actions, promises or statements released. This willingness is premised on positive and reliable expectations of an entity's intentions and conduct (Schnackenberg and Tomlinson, 2014: 14).

In addition to the above, Schnackenberg and Tomlinson (2014: 14-16) claim that transparency perceptions can positively or negatively affect an organisation's accountability, or relation-holder perceptions thereof. Specifically, in terms of the provision of a platform to reward trustworthy conduct and punish untrustworthy conduct.

From an Ubuntu perspective, increasing trust and transparency contributes to the establishment of harmonious relationships between the firm and all its relation-holders, both internally and externally.<sup>93</sup>

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<sup>90</sup> The use of the phrase 'field specific' simply implies that the ability, or collection of skills, required changes as one moves from one task/field/discipline/situation/domain/sphere/department to the next.

<sup>91</sup> Mayer et al. (1995: 717) define ability as, "... that group of skills, competencies, and characteristics that enable a party to have influence within some specific domain." Furthermore, they offer the following explanation in support of its (ability and trust) domain-specific nature;

... the trustee may be highly competent in some technical area, affording that person trust on tasks related to that area. However, the trustee may have little aptitude, training, or experience in another area, for instance, in interpersonal communication. Although such an individual may be trusted to do analytic tasks related to his or her technical area, the individual may not be trusted to initiate contact with an important customer (Mayer et al, 1995: 717)

<sup>92</sup> This refers to firms' ability to navigate through complex data and a mastery of the technical aspects of data compilation required to foster and disclose reliable information (Schnackenberg & Tomlinson, 2014: 14).

<sup>93</sup> Increasing transparency and trust occurs both internally, in terms of the methods and procedures in place within an organisation, and externally, in terms of the quality of information shared with all other relation-holders.

In other words, the perceived transparency of the information released by an entity can positively or negatively affect the establishment of harmonious relationships between an entity and (i) its relation-holders, (ii) community members in general or (iii) particular groups of community members.

In terms of the former, an entity's release of low-quality information has a negative effect on the establishment of harmonious relationships between said entity and its relation-holders, i.e. other affected community members. Here, the release of low-quality information (low transparency) serves to induce a sense of distrust and anger in its relation-holders. The dissemination of sub-par information thus promotes relationships based on ill-will. The dissemination of high-quality information - i.e. information that is easy to understand, informative and accurate – can facilitate the establishment of harmonious relationships between an entity and its relation-holders. The release of transparent (high quality) information allows the recipient to make more informed decisions and contributes to the cultivation of relationships premised on good-will between sender and receiver.

In terms of the latter, the release of transparent information contributes to establishing an environment where (affected) community members consider themselves an integral, however replaceable, part of the whole (Metz, 2012: 547 - 548). Additionally, the release of certain information has the potential to increase community members motivation to play a role in realizing the 'good' of the community (Metz, 2012: 547 - 548). Conversely, if an entity releases low quality information it could lead to relationships characterised by division and ill-will. The extent of these negative effects is determined by the context and details of the information being released.<sup>94</sup>

Considering the above, it should be clear that the governance of transparency is a crucial, complex, dynamic and continuous task.

## 4.7 Codes and Culture

The increase in corporate scandals and corporate failures tied to unscrupulous or unethical conduct was a prominent characteristic of the 1990s and 2000s. This also served as a key contributor to the rapid growth of the field of business ethics (Salz Review, 2013: 186 - 189; Rossouw and Van Vuuren, 2013: 301 - 303). Over the last two decades, codes of conduct<sup>95</sup> and codes of ethics have become key aspects of discussion among academics and practitioners alike (Paine et al. 2005: 1 - 2).<sup>96</sup> The establishment of these codes has

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<sup>94</sup> For example, if other public sector entities such as Eskom or SAPS were to release low quality information, the details of the information can have far reaching secondary effects. More specifically, if the information pertains to the loose enforcement of laws it may result in increases in crime. However, beyond this increase in crime, it may result in a mass intellectual exodus from South Africa or cripple South Africa's international relations.

<sup>95</sup> As mentioned in sub-subsection 3.4, a code forms one aspect of a larger governance of ethics framework.

<sup>96</sup> In the extant literature pertaining to codes of conduct and codes of ethics, these terms are typically referred to as different names for the same thing (Paine et al. 2005: 1-3). In this thesis I follow GJ Rossouw's (2017; 2002: 125-134) interpretation of them (codes of ethics/conduct) as two related yet distinct conceptual constructs. Rossouw (2017; Rossouw & Van Vuuren, 2013)

become common practice and has been drafted into practice *via* various statutory and policy requirements, such as the Companies Act of 2008 and the Public Service Integrity Management Framework (in the South African context) (Paine et al. 2005: 1 - 5).

Codes of conduct and codes of ethics<sup>97</sup> are organization-specific documents which communicate and clarifying the roles, expectations and appropriate conduct for an organisation's internal and external stakeholders (community members) (Rossouw, 2017; Dobie and Plant, 2014: 5; Rossouw, 2002: 125 - 134; Rossouw, 2018: 37 and 53; IODSA, 2016: 44 - 45, and; Rossouw and Van Vuuren, 2013: 301 - 308).

In terms of what a code actually encompasses, Rossouw (2017) suggests that firm's approach the establishment of a code of ethics in terms of the following five aspects, or, decisions.

**Purpose**, this aspect pertains to what the envisioned purpose of the code is or, in other words, what job/role the code should fulfil.<sup>98</sup> This aspect may be approached in terms of internal and external organisational decisions or purposes (Rossouw, 2017; Rossouw, 2002: 125-134).

**Process**, this aspect pertains to the process(es) that are followed in developing the code (Rossouw, 2017). Here one considers what method would best enable the relevant organisation, or party, to formulate a code capable of fulfilling its pre-determined purpose (Rossouw, 2017; Rossouw, 2002: 125-134). For example, two commonly employed methods are the unilateral and multilateral-consultative processes.

**Format**, this aspect concerns the format that a particular code ascribes to in terms of its position along the aspirational - directional spectrum. Codes of ethics can be (broadly) categorized into one of the following three classes:<sup>99</sup>

1. Aspirational codes, which are typically short, value-laden or integrity-based, and suggest an ideal state of affairs to which the firm (all its employees and stakeholders) can aspire;
2. Directional codes, which are more specific, in the sense that they stipulate or constrain the behaviour of employees, stakeholders and/or community members in more detail or in very exact terms, and;

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construes a code of conduct as being more rules driven and specific, in terms of stipulating exact conduct guidelines (i.e. directional codes). He describes a code of ethics as typically more concerned with the correct moral conduct so that they provide a more value-oriented guide, i.e. aspirational codes (Rossouw, 2017; Rossouw, 2002: 125-134, & Rossouw & Van Vuuren, 2013).

<sup>97</sup> A code of ethics goes beyond the firm's normal statutory requirements (law) and may be understood as a company's moral constitution (Dobie and Plant, 2014: 5; Rossouw, 2018: 37 & 53; King IV, 2016: 44-45).

<sup>98</sup> Theoretically speaking, a code can serve an infinite number or a combination of purposes (Rossouw, 2017; Rossouw, 2002: 125-134).

<sup>99</sup> Furthermore, both aspirational and directional codes have negative aspects. For example, aspirational codes encounter problems with enforceability and vagueness, and directional codes battles with recallability and discretion (Rossouw, 2017; Rossouw, 2002: 125 - 134).

3. Hybrid codes, which are codes which contain elements of aspirational and directional codes (Rossouw, 2017; Rossouw, 2002: 125-134, and; Surbhi, 2016).

**Content/structure** pertains to the content<sup>100</sup> that will be encompassed in the code, in other words, decisions about what content the code should include (Rossouw, 2017; Rossouw, 2002: 125-134).<sup>101</sup>

**Underlying-tone**, this aspect concerns what people may read 'between the lines' of a particular code. The tone of a code sits on a spectrum, it may range from a negative, prohibitive tone, which occurs when a code focuses on what stakeholders should and should not do (conduct), to a positive, supporting tone, which occurs when a code focuses on depicting an ideal to work toward and aspire to (Rossouw, 2017; Rossouw, 2002: 125-134).<sup>102</sup>

Codes alone are not sufficient to ensure ethical conduct, and as such must be supplemented with a governance of ethics to facilitate the establishment of an ethical culture (Rossouw, 2017; Dobie and Plant, 2014: 5; Rossouw, 2002: 125 - 134; Rossouw, 2018: 37 and 53; IODSA, 2016: 44 - 45, and; Rossouw and Van Vuuren, 2013: 301 - 308).<sup>103</sup>

An organisation's culture may be understood as the collective practices and values which govern the manner in which individuals within companies interact as well as the manner in which firms interact with their various relation-holders. These collective habits become the lens through which individuals perceive the world around them and the way things are done. This plays a role in defining individuals and fostering an identity within the group (Salz Review, 2013: 177-181). An organisation's ethical culture is not something which can be regulated, punished, or incentivised into existence (Salz Review, 2013: 177-194; Rossouw, 2017).<sup>104</sup> From this perspective, a company cannot bring about an ethical culture by merely focusing on rewarding those who act ethically and punishing those who act unethically. While this reward and punishment system may bring some positive results, it does not cultivate the desired ethical conduct shift. Rather, this process pushes employees to establish more creative or elaborate means for disguising

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<sup>100</sup> A code may encompass elements (i.e. content) such as: sanctions; support systems and resources; punishment and penalties; rationale or logic followed; an organisation's vision, mission and/or values; conduct provisions; guidelines for decision-making, and; leadership or executive commitment (Rossouw, 2017; Rossouw, 2002: 125-134).

<sup>101</sup> The content included within a particular code is primarily determined/informed by its purpose and format. Moreover, the content included in a particular code should be more appropriately comprehended as a menu, in the sense that firm's pick and choose the relevant or required content, as opposed to a checklist (Rossouw, 2017; Rossouw, 2002: 125-134).

<sup>102</sup> Rossouw (2017) suggests utilizing the following four quadrants to consider/address/set the tone of a code: (i) relational, i.e. trust building, (ii) transformational, i.e. strive for change, (iii) instructional, i.e. tells you what to do, and (iv) informational, i.e. provides facts.

<sup>103</sup> Brinkmann and Sims (2003:247) posit that the effectiveness of a company's code is tied to, and informed by, the ethical culture at play in that firm.

<sup>104</sup> There are two basic forms of corporate culture available to firms: conviction-based (intrinsic) and fear-based (extrinsic). Intrinsic motivation is an inward-facing model, in the sense that it comes from within, facilitates ethical responsibility by rewarding those who do the right thing and promotes a conviction-based motivational model (Rossouw, 2017; Rossouw, 2018). Extrinsic motivational models tend to be more preventative and are premised on a fear-driven and rule-based compliance model (Rossouw, 2017).

unethical action. In light of the above, a framework for the governance of ethics is crucial in the establishment of an ethical corporate culture (Rossouw, 2017).

In the next section, I discuss some of the most common criticisms scholars' level against Ubuntu. These criticisms primarily pertain to the applicability and usefulness of Ubuntu for firms, in terms of business ethics.

## 5. Criticisms

### 5.1 The Omission of Religion (i.e. God)

Metz (2007:328) acknowledges the existence of a heated debate within extant Ubuntu literature:

“There is debate about the respects in which religion and morality relate to each other in African thinking, with some arguing that religion is foundational with respect to morality and others denying it.”

The following critical discussion pertains to the role of religion, particularly supernatural elements such as ancestors and the spirit realm, within an Ubuntu ethic.

As noted above, Metz omits all religious or supernatural elements in his construal of an Ubuntu ethic. Instead, he claims that, in contemporary South Africa, the most promising theories of Ubuntu perceive moral norms as logically independent of super naturalist notions (Metz, 2007: 329 - 330). This position is not a common feature within extant Ubuntu literature. Rather, most of the literature suggests that an Ubuntu ethic is intricately bound up with religious or similar super naturalistic notions (Metz, 2007: 321 - 323 and 329 - 341; Metz, 2012: 534 - 535 and; Gade, 2012: 487 - 494).

Despite the above, I agree with Metz's omission of religion, or supernatural elements, as it is a notoriously sensitive and tricky aspect to navigate which often produces exclusionary implications. Within the extant Ubuntu literature, those who premise their theoretical constructions of Ubuntu on belief in supernatural entities have faced an arduous task. Typically, they struggled (a) to provide sufficient insight<sup>105</sup> into the

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<sup>105</sup> In terms of unclear or empty explanations pertaining to the manner in which they function, a systemic method of application or a framework from which to work. For example, students are unable to cope with the jump from school to the demanding coursework associated with programmes offered at university or college and the low-quality basic education available. This produces poor pass rates and in turn affects the participation rates of historically disadvantaged individual's (HDI's) in higher education. Moreover, this impedes their ability to further their formal education. The movement of fees associated with attending tertiary education institutions and the lack of transformation in higher education sector further serves to compound the above issue. In addition, the South African government has failed to assist historically black HIEs in facilitating a process of congruence to bring them up to par with historically white counterparts (Spaull, 2015: 34 - 38).

nature of the relationship between Ubuntu and the supernatural and (b) with a general lack of empirical support for their existence (Mangena, 2016; Taylor, 2014, and; Khoza, 2012).

Metz's conception of Ubuntu allows for more precision and less exclusion than other accounts while staying true to the essence of Ubuntu. Despite his exclusion of supernatural elements from his account of Ubuntu, Metz succeeds in acknowledging the importance of history and traditional ideas in the origin and development of Ubuntu. His systematic and detailed interpretation of an Ubuntu ethic provides a viable foundation for an Ubuntu-inspired critique of South Africa's SOEs.

## 5.2 'Strawman' Arguments

One common claim in the extant Ubuntu literature is that only those of African descent may meaningfully contribute to any uniquely African thought, such as Ubuntu. Specifically, this claim implies that white people, especially those born abroad, cannot know what Ubuntu means. Furthermore, some scholars contend that Ubuntu cannot be attributed to a white person (Jones and Metz, 2015: 538-549). This claim is typically accompanied by the assertion that Metz's account is too Western. There is a large body of African scholars who support the claim that Western ideas are inherently evil or problematic.

I contend the above charge does not constitute a thorough engagement with Metz's academic work nor the technical aspects and premises of his theoretical position. Rather, it is directed at Metz as a person – his ethnicity, nationality – and is premised on resentment for what he symbolises (the West) (Jones and Metz, 2015: 538-549).

Furthermore, proponents of the aforementioned charges diminish the importance of the establishment of an employable and comprehensive framework of Ubuntu that furthers the spirit of Ubuntu as a project in its own right. Instead, they suggest that the most crucial aspect of a theory of Ubuntu is that it be put forth by someone of African descent (Jones and Metz, 2015: 540-549).

## 5.3 Perpetuating the Cycle of Problematic Political Incumbents

Many scholars contend that Ubuntu's emphasis on family and existing relationships (which are partial elements of decision making) serve to exacerbate the current issues ravaging the South African public sector. The argument here is that Ubuntu seems to support the recycling of public officials (resignation or relocation). This is because Ubuntu seems to imply that retrenchment and dismissal are morally wrong. It seems that an Ubuntu ethic would imply that firms (including public departments) should look to train or relocate employees before contemplating dismissal. The universal application of such a policy could mean that all transgressions would follow a set route to recovery where dismissal should be the last resort.

However, this issue seems to be based on an incomplete understanding of the implications of an Ubuntu ethic. For instance, if the recycling of problematic political incumbents is detrimental to the good of the community, then this practice would not be condoned under Ubuntu, irrespective of the nature of existing relations or historical aspects. From this perspective, the recycling of problematic political incumbents would be construed as morally wrong.

## 6. Concluding Remarks

In this chapter, I discussed the theoretical basis for this thesis. This chapter was comprised of three sections which were directed at making the reader more familiar with the theoretical points of departure which will be utilised in the following discussion NSFAS.

In my discussion, I employed a three-step approach in that I expanded on:

1. Ubuntu ethics, the ethical theory at the heart of this thesis;
2. The implications of Ubuntu for the ordinary operational practices of firms, as well as;
3. Three common criticisms that scholars' level against Ubuntu.

In the second section, I fleshed out Metz's interpretation of Ubuntu ethics.

This thesis focuses on Metz's interpretation of Ubuntu as it seems to offer more precision and less exclusion than other accounts while staying true to the essence of Ubuntu. He also succeeds in acknowledging the importance of history and traditional ideas in the origin and development of Ubuntu, i.e. in terms of aspects such as ancestors, the spirit realm, the emphasis on relationships, the community focus, and more.

Moreover, as Metz suggests, it is up to the reader to decide which interpretation of Ubuntu is most applicable to the context at hand. From this perspective, his systematic and detailed interpretation of Ubuntu provides a good way of explaining and framing the overall effect of NSFAS's problematic functioning on the South African public. In addition, Metz's conception of Ubuntu provides a good vision for how NSFAS should operate.

For Metz, Ubuntu is a comprehensive worldview and is characterised by an emphasis on the interconnected nature of human beings. Ubuntu is interested in extrinsic, or relational, properties and presumes that our natural state is characterised by being in relation with others.

An Ubuntu ethic presumes that all people possess an innate moral worth in virtue of the fact that they are human-beings. This moral worth translates into the understanding that, as human beings, we have a duty to come together, to do what we can to help others in need and to contribute to the community, irrespective of our differences. Moreover, in Ubuntu the establishment of harmonious communal relationships is a key area of concern.

Metz argues that the combination of goodwill and shared identity is the most attractive conception of harmonious communal relationships. From this perspective, identification with others is cashed out through sharing a way of life with them and caring about others' quality of life is interpreted as indicative of solidarity. Ubuntu presumes that one is morally obliged to be concerned for the good of others. On this view, there is an obligation to conceive of oneself as bound up with others and to think in terms of a 'we'. Ubuntu further implies that familial relations should incorporate the entire community.

In addition, an Ubuntu ethic possesses both descriptive and prescriptive elements. It is descriptive in that it claims that one's identity as a human being depends on the community, both causally and metaphysically. It is prescriptive (normative) in the sense that it dictates that one should morally support the community in particular ways.

In the third section, I considered what Metz's construal of Ubuntu implies for how firms ought to approach their business activity.

In addition, I considered what tools, methods or strategies an organisation may employ to facilitate the establishment of an Ubuntu-inspired business model. It was argued that Ubuntu would require a significant shift in firms' focus. Specifically, it would require a shift away from the traditional financially-oriented corporate frame to a relation-oriented frame.

This section is further split into six sub-sections, which each address a particular aspect of companies' internal corporate structures. I considered what an Ubuntu ethic entails for a firm's duty to their relation-holders and their purpose of business. Thereafter, I considered decision-making and corporate values; ethics, in terms of the governance of ethics and the ethics of governance; transparency and trust as well as codes and culture.

In the fourth section, I examined three of the most common criticisms scholars' level against Metz's interpretation of Ubuntu ethics. These criticisms primarily pertained to the applicability and usefulness of Ubuntu for firms, in terms of business ethics. Here, I found that that these critiques did not identify any issues with Metz's construal of Ubuntu which could not be adequately addressed. In light of the above, it should be clear that an Ubuntu ethic provides a suitable base from which a public sector entity's (such as NSFAS) operational activity and performance may be analysed.

## Chapter 3: Higher Education and The State - The National Student Financial Aid Scheme

### 1. A Brief Introduction

In this chapter, I analyse NSFAS's operational activity. This analysis is supplemented with qualitative data from NSFAS's annual reports and an array of South African state publications. With regards to the field of business ethics, the subsequent analysis is guided by the Ubuntu-inspired ethical implications that were discussed in section 3 of chapter 2. This business ethics base is further supplemented by the requirements outlined in the King Reports on corporate governance.

The following chapter is split into five sections. In the first section, I briefly clarify what exactly NSFAS is and its purpose.

In the second section, I briefly discuss its operational environment and identify some preliminary areas of concern.

In the third section, I take a closer look at NSFAS's approach to business activity, particularly the foundations of its operational model.

In the fourth section, I address NSFAS's ethics and corporate governance.

In the fifth section, I investigate some potential reforms that NSFAS could implement in its business model and make suggestions directed at the improvement of NSFAS's operational model so that it may better fulfil its mandated purpose.

### 2. What is NSFAS?

As mentioned in chapter 1, the South African higher education system, indeed the entire education system, has long been a source of debate in South African society. This debate has constantly shifted and touches on a plethora of concerns. Specifically, this debate has typically centred on the structural, operational and general aspects which hinder students' ability to complete their studies.<sup>106</sup>

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<sup>106</sup> For example, students are unable to cope with the jump from school to the demanding coursework associated with programmes offered at university or college and the low-quality basic education available. This produces poor pass rates and in turn affects the participation rates of historically disadvantaged individual's (HDIs) in higher education. Moreover, this impedes their ability to further their formal education. The movement of fees associated with attending tertiary education institutions and the lack of transformation in higher education sector further serves to compound the above issue. In addition, the South African government

One such concern is the exclusionary nature of higher education in South Africa, which is a result of the high cost of higher education (CHE, 2004: 24). The difficulties associated with access to higher education were acknowledged as early as 1991. To neutralize this exclusionary trend, the South African Minister of education, then Mr S Bengu, established the Tertiary Education Fund for South Africa (Tefsa) (CHE, 2004: 24).

Tefsa was initially established in 1991 as a non-profit organization providing support, in the form of loans, to students in higher education (CHE, 2004: 24). In 1999, Tefsa was succeeded by the National Student Financial Aid Scheme (NSFAS) with the passing of the NSFAS Act 56 of 1999. In this thesis, I consider NSFAS not as a policy but rather as a public sector entity, specifically, an SOE.

NSFAS (2018:2) defines its purpose as follows:

“The nature of the activities of the entity is to provide financial assistance in the form of loans or bursaries to eligible students at public higher education institutions and Technical and Vocational Education and Training (TVET) colleges, to administer such loans and bursaries, and to recover the loans from the students once they are employed and earning in excess of R30,000 per annum. Following the announcement of the new bursary funding programme by the former President of South Africa in December 2017, financial assistance to all eligible students is now in the form of bursaries from the 2018 academic year.”

As the above quote suggests, NSFAS was primarily established to give effect to the South African government’s plans for National Development and state redress, as espoused within ANC’s recently released development strategies (NSFAS, 2016: 14; Government Gazette, 1999: 1-2).<sup>107</sup> One key aspect of the South African government’s social redress and economic development initiatives is the provision of aid to previously disadvantaged individuals (PDIs) who are eligible for tertiary education but unable to bear the cost of tuition.

### 3. Setting the Scene and Areas of Concern

NSFAS was introduced to South Africans as the ANC’s catch-all answer to the country’s problematic higher education environment. It was the ANC’s ‘pride and joy’ and formed the core of their national development and social justice initiatives. Moreover, it served as a nationally binding commitment to the

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has failed to assist historically black HIEs in facilitating a process of congruence to bring them up to par with historically white counterparts (Spaull, 2015: 34 - 38).

<sup>107</sup> More specifically, the National Development Plan (NDP) 2030 and the National Skills Development Strategy (NSDS) 3.

eradication of poverty, mitigation of inequality, promotion of national development and affordable and sustainable socioeconomic redress (Government Gazette, 2012: 9 - 12).

The ANC's 2017/2018 commitment to state-funded tertiary education, and the reforms made to NSFAS, are crucial components of the South African government's social redress and economic development initiatives. However, these commitments and reforms do not address the NSFAS's deep-rooted systemic and structural problems. Instead, these changes are primarily directed at the symptoms of these problems and not the core issues. More specifically, the above changes ignore NSFAS's inefficient and overloaded operational model, service delivery problems, inability to curb corruption, unethical conduct, compliance problems and lack of competency.

While positive, these commitments have also lacked detail in terms of how the fiscal burden, which they entail, will be accommodated. Additionally, these changes have drawn public interest away from NSFAS's deep-seated issues. These issues should not be undermined, and I will address them in the sections that follow.

#### 4. NSFAS Business Model: Their Approach to Business Activity

NSFAS was established to open the financial doors of learning to the less-well off members of South African society (NSFAS Act 56, 1999: 2 - 4).<sup>108</sup> More specifically, its mandated responsibilities include:

“...providing loans and bursaries to eligible students; developing criteria and conditions for the granting of bursaries to eligible students in consultation with the Minister of Higher Education and Training; raising funds; recovering past loans; maintaining and analysing a database and undertaking research for the better utilisation of financial resources; advising the Minister on matters relating to student financial aid; and undertaking other functions assigned to it by the NSFAS Act or by the Minister” (NSFAS, 2018: 15).

The high cost of fees and associated tertiary education costs has meant that very few South Africans are able to acquire a decent tertiary education.<sup>109</sup> At its core, NSFAS is responsible for providing eligible students with equal opportunity to access a quality tertiary education. As such, NSFAS functions as a credit provider which provides bursaries and loans to eligible students (NSFAS, 2016: 26 - 27).

Interest on NSFAS study loans is incurred at a rate of 80% of the repo rate and is calculated via the effective interest rate method at amortised cost. Students are further benefited by the fact that interest on their

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<sup>108</sup> 2016 saw the Scheme disburse R9.3 bn, R100 mill unspent, to 414 941 students in loans and bursaries at 23 HEIs and 50 TVETCs throughout the Republic (NSFAS, 2016: 25 - 26 & 75).

outstanding balance only comes into effect one year after they graduate or exit university (NSFAS, 2018: 10).

In addition, loan repayments are contingent on the debtor finding employment and receiving an income in excess of R30 000 per annum (NSFAS, 2018: 10). NSFAS bursaries are subject to particular stipulations and loans are issued with a possibility of up to 40% being converted into a bursary, depending on academic performance. In addition, final year students may have 100% of that year's loan converted into a bursary if they meet the relevant graduation requirements (NSFAS, 2016: 77; 80; 81; 97).

The financial support that students receive is contingent on their acceptance to a tertiary education institution. The extent of the financial support is premised on (i) the relevant applicant's financial means, (ii) the make-up of their family and (iii) their academic level and field of study (NSFAS Act 56, 1999: 2 - 4; NSFAS, 2016: 118 - 121, and; DHET Report, 2009: 15 - 17).

In the last five years, NSFAS has introduced and implemented various amendments as part of its shift to a more student-centred business model. These alterations are directed at bridging the gap between NSFAS and its beneficiaries (primarily students and HEIs) (NSFAS, 2013: 14).<sup>110</sup> In theory, this move should facilitate an improvement in NSFAS's ability to fulfil its mandated purpose (NSFAS, 2014: 1 - 2, and; NSFAS, 2013: 14). To date, there have been three noteworthy developments that have attempted to bridge the gaps between students and NSFAS.

First, a cell phone-based voucher system, namely the sBux voucher system, was introduced to make funds more readily available to students.<sup>111</sup> The sBux system was designed to give NSFAS some control over what students are able to buy as each purchase must first be approved. This built in control function provides NSFAS with a means of establishing a better understanding of student's spending habits (NSFAS, 2015: 17).

Second, in the aftermath of the 2016/17 student protests, NSFAS executives exhibited a renewed focus on upgrading all systems so that they would be on a digital platform (NSFAS, 2017: 7 - 8). This technological focus was proposed as a development which would greatly enhance NSFAS's administrative processes. Previously, NSFAS's operational capacity was severely hindered by its archaic archival system as most of its records were not backed up but kept in boxes and placed in storage (DHET Report, 2009: 15 - 17).

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<sup>110</sup> As part of bridging this gap, NSFAS would now pay fees and residence costs directly to HEIs. In addition, NSFAS would also pay allowances - to be used for books, meals, travel costs and private accommodation - directly into student's student accounts (NSFAS, 2013: 14).

<sup>111</sup> NSFAS initially piloted this system in 2014 (NSFAS, 2015: 17).

Third, in 2018, NSFAS implemented an overarching ‘value chain’ approach to guide its operational activity (NSFAS, 2018: 15). This value chain model is premised on a life-cycle approach to business activity and is characterised by an interrelated six-step framework (NSFAS, 2018: 15):

1. “Step 1 - solicit - this implies that NSFAS must take deliberate steps to cultivate better relations with its stakeholders” (NSFAS, 2018: 15);
2. “Step 2 - onboard – this step focuses on the need to develop a process for evaluating and establishing a transactional relationship with stakeholders” (NSFAS, 2018: 15);
3. “Step 3 - solution – this focuses on providing goods and services which satisfy NSFAS’s operational requirements” (NSFAS, 2018: 15);
4. “Step 4 - fulfil – this reiterates NSFAS’s obligation to satisfy its operational requirements” (NSFAS, 2018: 15);
5. “Step 5 - maintain and service – this step focuses on adherence to a set of defined standards and meeting stakeholders’ expectations through various mediums of communication” (NSFAS, 2018: 16) and;
6. “Step 6 - monitor, evaluate and report – this step focuses on providing evidence of progress made and the outputs achieved in terms of lead and lag indicators. In addition, NSFAS must provide details of the institutionalization of new development plans” (NSFAS, 2018: 16).

The primary problem with this approach is that NSFAS does not provide more details on its theoretical base, how it will be applied nor how it aligns with their prescribed targets. Although the last two steps do refer to two more easily identifiable and measurable performance indicators, i.e. measuring whether NSFAS’s conduct is in accordance with the relevant set of defined standards, the other four steps do not. More specifically, it is not clear how NSFAS aims to implement or approach these functions, what purpose they serve, how the various steps align with their prescribed objectives or how these steps help NSFAS to fulfil its mandate. In addition, NSFAS does not provide any additional information as what this model implies for their standard approach to business activity. Considering the above, NSFAS’s proposed value-chain model resembles that of a poorly outlined code of conduct. Moreover, this poorly constructed model suggests that those tasked with its formulation did not possess the necessary skills to complete this task. The vague nature of the above model indicates that incompetency may be some of the reasons behind NSFAS’s wealth of operational troubles.

NSFAS has consistently identified the recouping of loan repayments from previous beneficiaries as the most sustainable means to counteract rising tuition costs, increase beneficiaries and replenish its dwindling financial capital (NSFAS, 2016: 21; NSFAS, 2018: 15, and; NSFAS, 2012: 14). More specifically, NSFAS has consistently claimed that, “[a]s part of the measures of ensuring that the student funding pool is increased... outstanding debt is continuously collected, thus increasing the pool of available funding for students...” (NSFAS, 2017: 9).

The above claim seems to be intuitively flawed. This is because the people aided by NSFAS are the worst-off in society, as such it seems illogical to use them as a key source of capital to replenish NSFAS funds. Furthermore, if NSFAS is meant to act as a of providing redress, why are those who are assisted by the scheme asked to repay the money that they use to pay for their tertiary education? Because the tertiary education gained by whites under apartheid was superior to the sub-par education received by the non-white demographic groups, they are now better off and able to fund the education of their kin without incurring debt. To put it simply, white South Africans are able to afford high tertiary education costs because of the privileges which were historically afforded to them and the affording of these privileges was based on injustice. It is precisely because of the injustices of apartheid that black South Africans are not able to afford these same costs. It seems that the NSFAS will not be able to act as a genuine tool for redress for previously disadvantaged groups if this is not acknowledged and if it is expected that these people repay the funds granted to them.

Furthermore, NSFAS's investment strategy is to invest in state bonds, which are held to maturity, as this is deemed less risky by NSFAS. These investments are viewed as less risky because state bonds are held with triple-A institutions and guarantee a return (NSFAS, 2016: 52 and 87 - 92). In addition, all unutilised funds, including cash kept on hand, is stored at institutions with triple-A credit ratings, so as to safeguard against liquidity risk (NSFAS, 2016: 101 - 118). However, both the above perceptions rest upon flawed and archaic accounting and risk management standards, namely the Generally Recognised Accounting Practice (GRAP) (NSFAS, 2018: 74).<sup>112</sup> The current corporate race for International Financial Reporting Standard (IFRS) 9 compliance highlights the archaic nature of their reporting standards (Axway, 2016).

#### 4.1 Governance Structure

NSFAS's governance structure is similar to those found in private sector companies. Until 2017, NSFAS operated with a large degree of autonomy. The primary difference between NSFAS and a private sector entity is that the NSFAS Board (GB) is responsible to the incumbent Minister of Higher Education and Training, instead of being responsible to shareholders (NSFAS, 2013: 11; NSFAS, 2009: 3 - 4, and; NSFAS, 2017: 6).

In 2018, NSFAS's structure was reconfigured to address its service delivery and operational issues (NSFAS, 2018: 19). Its organisational restructuring aimed to better align the scheme's structure with that of a public sector entity. Specifically, it provided the Minister of Higher Education and Training with a more direct and involved role as NSFAS's executive authority (NSFAS, 2018: 19). In addition, the NSFAS

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<sup>112</sup> BASEL 2, best practice banking regulations, contend that a commercial bank may not possess a higher credit rating than the state in which it operates, a reality South Africans came to terms with early in 2017 (ECB, 2005: 3 - 11; White, 2017).

board was reconceptualised as the accounting authority and the executive office assumed the executive management responsibility (NSFAS, 2018: 19).

## 4.2 Transparency and Trust

As noted previously,<sup>113</sup> I follow Schnackenberg and Tomlinson's construal of transparency as a function of the perceived quality of information an entity disseminates. On this view an organisation's transparency, or the quality of the information it releases, is based on three equally important aspects, specifically: disclosure; clarity, and; accuracy (Schnackenberg and Tomlinson, 2014: 7-11). With regards to NSFAS, the quality of information released by specific NSFAS executives and staff and the information released by NSFAS in general tends to be cause for concern. From an Ubuntu perspective, the perceived transparency of the information released by NSFAS can positively or negatively affect the establishment of harmonious relationships between NSFAS and other community members (relation-holders, mainly students) and between community members in general.

In his annual report, the Auditor General of South Africa (AG) has consistently identified material misstatements in NSFAS's financial statements (NSFAS, 2018: 76 - 78; NSFAS, 2014: 44 - 47; NSFAS, 2017: 62 - 64; NSFAS, 2015: 64 - 68, and; NSFAS, 2013: 69).<sup>114</sup> Specifically, NSFAS's financial statements, "...were not prepared in accordance with the prescribed financial reporting framework (NSFAS, 2018: 78)." These misstatements are direct violations of section 55(1)(b) of the Public Finance Management Act (NSFAS, 2018: 78).<sup>115</sup>

NSFAS is frequently criticised by the South African media as a result of its inadequate service delivery (Mabuza, 2018; Kahn, 2018). NSFAS annual reports document the scheme's long-standing battle with operational and performance problems. Specifically, NSFAS annual reports (2009 - present) highlight the entity's struggle to consistently satisfy more than 50 percent of its annual strategic objectives and accompanying key performance indicators.<sup>116</sup> More specifically, the AG has found evidence (i) that NSFAS strategic objectives did not correlate with those pre-set at the start of the financial year, (ii) of logical inconsistencies in terms of how the strategic goals tie in with their accompanying key performance indicators and (iii) of loosely defined methods of calculation for the evaluation of planned indicators as

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<sup>113</sup> Specifically, section 3.4 of Chapter 2.

<sup>114</sup> For example, some of NSFAS material misstatements included misstatements about assets, revenue, deferred income, expenditure and disclosure items (NSFAS, 2018: 76 - 78; NSFAS, 2014: 44 - 47; NSFAS, 2017: 62 - 64; NSFAS, 2015: 64 - 68, & NSFAS, 2013:69).

<sup>115</sup> At the core, the PFMA is a reform to the management of government finances.

<sup>116</sup> NSFAS's record of attaining its strategic objectives paints a disturbing picture, more specifically:

48 % in 2009 (NSFAS, 2009: 17 - 30); roughly 42 % in 2010/11 (NSFAS, 2011: 24 - 43); 29 % completely met and 65 % partially met in 2011/12 (NSFAS, 2012: 20 - 41); 21.4 % met and 64.3 % partially met in 2014/15 (NSFAS, 2015: 12); 71.1 % in 2015/16 (NSFAS, 2016: 19); 57 % in 2016/2017 (NSFAS, 2017: 19), and; 14.3 % in 2017/18 (NSFAS, 2018: 23).

required by the Framework for Managing Programme Performance Information (FMPPI) (NSFAS, 2014: 44 - 47; NSFAS, 2017: 62 - 64; NSFAS, 2015: 64 - 68, and; NSFAS, 2018: 76 - 78).

NSFAS's long-standing battle with inadequate and inefficient service delivery has had detrimental consequences for the students the scheme was designed to assist. On the one hand, NSFAS's problems with achieving its strategic objectives impacts the scheme's ability to provide financial support in a timely and satisfactory manner. For example, NSFAS consistently releases funds to most beneficiaries around March or April, over two months after the start of the first term (Mabuza, 2018; Kahn, 2018, and; Government Gazette, 2017: 1 - 10 and 508 - 522). This delayed release of funding further impedes students' ability to actively engage in their studies.<sup>117</sup> On the other hand, NSFAS's inadequate service delivery contributes to increased levels of social unrest and questions pertaining to its staff's competency. The most recent consequence of NSFAS's inability to fulfil its mandated functions the wave of student protests which swept across the country following the 2015/16 announcement of suggested fee increases.

NSFAS annual reports, indeed most of its publications, are generally:

1. Difficult to understand as the reports are littered with industry jargon and poorly explained evaluative methods (clarity). The AG has consistently identified instances of poorly explained evaluative methods present in NSFAS's annual reports. Specifically, the AG has found evidence (i) that NSFAS strategic objectives did not correlate with those pre-set at the start of the financial year, (ii) of logical inconsistencies in terms of how the strategic goals tie in with their accompanying key performance indicators and (iii) of loosely defined methods of calculation for the evaluation of planned indicators as required by the Framework for Managing Programme Performance Information (FMPPI) (NSFAS, 2014: 44 - 47; NSFAS, 2017: 62 - 64; NSFAS, 2015: 64 - 68, and; NSFAS, 2018: 76 - 78).
2. Inaccurate or questionable as they have been tampered with, tactically framed or NSFAS has not exhausted all the available tools to facilitate correctness (accuracy). The AG has found considerable evidence of inaccurate information released by NSFAS. Further, in his annual report the AG has consistently identified material misstatements in NSFAS financial statements (NSFAS, 2018: 76 - 78; NSFAS, 2014: 44 - 47; NSFAS, 2017: 62 - 64; NSFAS, 2015: 64 - 68, and; NSFAS, 2013: 69). Specifically, the AG notes that NSFAS financial statements, "...were not prepared in accordance with the prescribed financial reporting framework" (NSFAS, 2018: 78). This aspect raises further questions pertaining to NSFAS staff's competency.
3. Provide a large amount of inaccessible and untimely (i.e. late) information. An example of NSFAS's untimely release of information is the late publication of their annual reports. NSFAS

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<sup>117</sup> For example, it is difficult to secure accommodation, groceries or transport with a NSFAS bursary or loan award letter.

annual reports are supposed to be released 1 – 3 months after their financial year ends, which means that they should be released by May. However, NSFAS typically release their reports around July or August (NSFAS, 2015; NSFAS, 2016; NSFAS, 2017; NSFAS, 2018). NSFAS's code of ethics is another prime example of the inaccessible information it releases. Since 2015, the code of ethics has been mentioned in every annual report released by NSFAS. Despite these numerous references to the code of ethics it is not available online or in any of the reports released (NSFAS, 2016: 53 and 68; NSFAS, 2017: 51, and; NSFAS, 2018: 59).

The release of low-quality information has negatively impacted the relationship between NSFAS and other community members, especially the least well-off members of South African society. This induces a sense of distrust and anger in other community members as they feel neglected and undermined. As a result of this, NSFAS promotes relationships characterized by division and ill-will. The dissemination of sub-par information has hampered NSFAS's ability to establish harmonious relationships between itself and its relation-holders, i.e. other affected community members.

From this perspective, NSFAS's dissemination of low-quality information was a key driver of public unrest. This social unrest was also a result of NSFAS's own inability to ensure the timely arrival of funds. In the face of severe social pressure,<sup>118</sup> NSFAS has consistently claimed that the entity is, and will in future be, able to fulfil its mandated purpose (NSFAS, 2018: 4 -12; NSFAS, 2017: 8 - 15).<sup>119</sup> Additionally, the release of low-quality information and the scheme's statutory compliance troubles contribute to past beneficiaries' reluctance to make loan repayments. These beneficiaries may be weary of NSFAS employees' reputation for unscrupulous conduct.

In addition, NSFAS's reputation of disclosing low-quality information can lead to the entire community to question the ability of NSFAS, and ultimately the entire education department, to execute their duties. Moreover, this trend further contributes to decreased community trust in the government, social unrest, and the lowered status of the country in the international community. All of these factors contribute to a volatile social environment and negatively impact the communities' overall level of social harmony.

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<sup>118</sup> The recent wave of protests which erupted across tertiary institutions in late 2015.

<sup>119</sup> This has been a typical feature of NSFAS board members' reports in the Annual Reports that are released by the organisation (NSFAS, 2017; NSFAS, 2018; NSFAS, 2016; NSFAS, 2015; NSFAS, 2014; NSFAS, 2013; NSFAS, 2012, &; NSFAS, 2011).

## 5. Ethics and Corporate Governance (i.e. Governance of Ethics and Ethics of Governance)

In this section, I consider NSFAS in terms of its board of directors (governing body), governance of ethics and ethics of governance. This discussion of corporate governance is further supplemented with qualitative data extracted from NSFAS's annual reports (from 2009 - 2018). This discussion of NSFAS's corporate governance draws from the ethics management framework outlined by the ethics institute of South Africa and the King Reports on corporate governance.

In addition, I consider some of NSFAS's operational stipulations as set out in South Africa's statutory policies and protocols, such as those encapsulated in the Public Sector Integrity Management Framework (PS-IMF). The PS-IMF is a detailed integrity framework which addresses a number of ethical and good governance measures for public sector entities such as NSFAS (DPSA, 2016: 2). The PS-IMF was designed to facilitate the following public sector objectives:

1. the upgrading of existing measures for regulating poverty;
2. the enhancing of public entity's anti-corruption capacity;
3. more effective monitoring and evaluation of public entity's operational activity to ensure statutory compliance and;
4. the use of punishment as a deterrent for mismanagement and non-compliance of the IMF (DPSA, 2015: 2).

### 5.1 The Governance of Ethics

As mentioned in chapter two, the governance of ethics pertains to the governance structures, policies and protocols of a firm which are directed at the facilitation of a more ethical company. The governance of ethics is typically explicit and straight-forward, in the sense that it either is there, or it isn't (Rossouw, 2017).

Furthermore, the King Report IV on corporate governance mirrors Rossouw's focus on an effective governance of ethics and views the governance of ethics as a key aspect in any firm's attempt to bring about an ethical culture (IODSA, 2016: 20 and 111-117). From this perspective, the board's ability to cultivate an ethical culture is a function of the board's governance of ethics and the establishment of an ethics risk and opportunity profile (IODSA, 2016: 43 - 67).

The NSFAS board of directors serves as the entity's primary accounting authority. In addition, the NSFAS board is responsible for the application of the its corporate governance principles (NSFAS, 2018: 46). Specifically:

“[The NSFAS] Board [of directors] has the absolute responsibility for the performance of the public entity and is fully accountable to the public entity for such performance. It gives a strategic direction to the public entity; It holds absolute responsibility for the performance of the public entity; It retains full and effective control over the public entity; It has to ensure that the public entity complies with applicable laws, regulations and governance policy; It has unrestricted access to information of the public entity; It formulates, monitors, reviews corporate strategy, major plans of action, risk policy, annual budgets and business plans; It ensures that the shareholder’s performance objectives are achieved; amongst others.”

In its 2018 annual report, NSFAS (2017: 47; 2018: 44) described its corporate governance framework as;

“... [premised on] the legislative requirements in the NSFAS Act (Act 56 of 1999) ... applied through the Public Finance Management Act (PFMA) (Act 1 of 1999) and [incorporating] the principles contained in the King Code of Governance Principles of South Africa, 2009.”

In addition, the establishment of an organisational culture characterised by personnel who are intolerant of unethical conduct, fraud and corruption is a key aspect in the PS-IMF’s anti-corruption objective (DPSA, 2016: 21 - 23). Additionally, public sector entities and employees, such as NSFAS, are bound by South Africa’s (1996) Constitution, particularly section 195, and have a duty to promote and maintain high standards of professional ethics (Government Gazette, 2013: 2).

Despite the above emphasis on corporate governance and the active management of ethics, NSFAS does not follow through on its commitments. In the six reports released by NSFAS between 2008 and 2016, the subject of ethics was mentioned only twice. Specifically, the subject of ethics is mentioned within the 2015/2016 report under the mandate of the Audit and Risk Committee and as part of the Boards statement of responsibility. However, this mention of ethics was removed in the 2017 report (NSFAS, 2018; NSFAS, 2017, and; NSFAS, 2016: 53 and 68). Moreover, there are several noteworthy omissions in the governance of ethics, these include:

- no official ethics strategy or ethics management framework in place;
- no ethics risk profile;
- no code of ethics, and;
- no designated ethics management function, i.e. no ethics committee, no ethics officer and no ethics champion (NSFAS, 2015; NSFAS, 2016; NSFAS, 2017, and; NSFAS, 2018).

The non-existence of a variety of key ethical aspects is a serious flaw and a driver of many of NSFAS's problems (NSFAS, 2017: 33; NSFAS, 2018: 68; NSFAS, 2016: 62, and; DPSA, 2015: 4 - 8).<sup>120</sup> Specifically, the absence of the aforementioned ethical structures has facilitated the development of a toxic corporate culture. Some features of this culture include the undermining of ethics, a laid-back approach to the execution of professional duties, a virtually consequence-free working environment and the view that students serve as a "revolving door" (in terms of funding) (NSFAS, 2016: 10 - 21; NSFAS, 2018: 4-15, and; NSFAS, 2012: 4-14). This culture is evident in NSFAS's multiple chronic operational problems which include irregular expenditure, administrative errors, their failure to achieve annual targets and corruption. Furthermore, the undermining of ethical conduct and poor control systems have jointly contributed to NSFAS's statutory compliance issues and ineffective service delivery.

NSFAS has insisted, since 2016, that a code of conduct has been established and implemented.<sup>121</sup> However, a copy of this code of conduct is not available online nor within the scheme's Annual Reports (NSFAS, 2016: 53 and 68; NSFAS, 2017: 51, and; NSFAS, 2018: 59).

NSFAS's leadership and staff, particularly its board members, have encountered a multitude of issues which require stringent corporate governance and ethics management responses. One such issue is visible in NSFAS's struggle to implement the changes that the repeal of section 23 of the 1999 NSFAS Act requires (NSFAS, 2012: 8 - 10). Section 23 allowed NSFAS to deduct loan repayments directly from debtor's pay checks without their consent (in a similar manner to unemployment and pension fund reductions). It also provided NSFAS with the ability to issue extrajudicial garnishee orders to employers to enforce compliance with this system (DHET Report, 2009: 18 - 21). Since the passing of the amendment in 2011, NSFAS has been unable to comply to the extent that it has entered into talks with the National Committee on Accreditation (NCA – now the National Credit Regulator) with the aim of bypassing the changes in protocol that the amendment requires (NSFAS, 2011: 47 - 49; NSFAS, 2015: 65 - 68, and; NSFAS, 2016: 26 and 85).

In light of the above, NSFAS leadership's commitment to the management of ethics, and the establishment of an ethical organisational culture, seems tenuous at best.

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<sup>120</sup> Because NSFAS has between 200 and 400 staff members, it is not required to establish an ethics committee (NSFAS, 2017: 33; NSFAS, 2018: 68; NSFAS, 2016: 62, & DPSA, 2015: 4 - 8). However, in light of the extent of NSFAS's ethical problems, the establishment of an ethics committee should be a priority.

<sup>121</sup> In 2016, NSFAS first appointed a Chief Risk Officer (Risk & Audit Committee) to act as a champion for ethical conduct and against fraud and corruption. Additionally, NSFAS also established a fraud hot-line to aid the elimination of fraudulent conduct (NSFAS, 2016: 50). The scheme's internal fraud and corruption watchdog has failed to identify, report on or investigate any cases since its inception. NSFAS has not, however, been free from allegations of fraud and corruption (NSFAS, 2015: 49 - 50).

## 5.2 The Ethics of Governance

As mentioned in chapter two, the ethics of governance refers to the underlying principles, or the underlying ethic, which guide a particular firm's decision-making process. These principles are seldom spelled out, are often implicit and can be exceedingly difficult to ascertain. These underlying principles typically vary from one organisation to the next (Rossouw, 2017; Rossouw, 2018: 37 and 53).

Furthermore, NSFAS employs a form of stakeholder theory. This is evident in the rhetoric used in documents that describe the scheme's mission<sup>122</sup>, vision<sup>123</sup> and values<sup>124</sup> (NSFAS, 2018: 17; NSFAS, 2017: 4 - 5, and; NSFAS, 2016: 12 - 14).

Despite NSFAS's stakeholder rich rhetoric, it is clear that NSFAS does not fully understand who its stakeholders are nor what their listed values imply (NSFAS, 2018: 17; NSFAS, 2016: 12).

A prime example of this misconception is evident in NSFAS's explanation of transparency (external value) which states that, "[w]e [NSFAS] are open and honest with all students and stakeholders" (NSFAS, 2018: 17; NSFAS, 2016: 12). This definition hints at NSFAS lack of understanding as to what transparency implies or how to approach its management. The above reference to students and stakeholders is indicative of NSFAS's uncertainty as to who their stakeholders are. More specifically, NSFAS does not seem to be aware that the students they serve should be included as part of their stakeholders.

Stakeholders may be defined as all those affected by, or able to influence, a corporate entity's chosen means of goal acquisition (Goodpaster, 1988: 205).<sup>125</sup> As such, NSFAS stakeholders may include the following groups: Parents, current beneficiaries, students, State departments, graduates repaying loans, tertiary education institutions such Universities and TVETCs, the poorest in society and the entire state as NSFAS is primarily funded by taxpayer funds. Although plausible, it is improbable that a mistake of this nature could be made by someone who is familiar with stakeholder theory. The likely source of the above

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<sup>122</sup> NSFAS (2018:17) describes its mission as, [the transformation of] NSFAS into an efficient and effective provider of financial aid to students from poor and working-class families in a sustainable manner that promotes access to, and success in, higher and further education and training, in pursuit of South Africa's national and human resource development goals.

<sup>123</sup> NSFAS's vision is, "[to become a] model public entity that provides financial aid to all eligible public university and Technical and Vocational Education and Training (TVET) college students from poor and working-class families (NSFAS, 2018: 17)."

<sup>124</sup> NSFAS's external values include: accessibility ("[w]e create an environment that allows efficient, effective and direct access to NSFAS and the funding it provides to eligible students"), transparency; affordability ("[w]e offer affordable solutions for students to study at public universities and TVET colleges"); reliability ("[w]e honour our commitments and strive to deliver on our mandate") and; authenticity ("[w]e protect our students and stakeholders by offering quality services and information (NSFAS, 2018: 17).").

NSFAS internal values are as follows: integrity ("[w]e act with integrity towards all stakeholders, and support clients that uphold the same values"); accountability ("[w]e take responsibility for our actions that drive performance management"); respect ("[w]e treat all our staff members with respect and fairness") and; innovation ("[w]e strive to innovate in communicating with and serving students (NSFAS, 2018: 17).").

<sup>125</sup> Employees, customers, suppliers, competitors, communities, the environment and governments (Goodpaster, 1988: 205).

contradiction may be attributed to NSFAS's inability to attract senior management and employees who possess the necessary skills and expertise.

NSFAS interprets its purpose as based on three distinct roles, all of which seem to construe NSFAS's primary functions as the disbursement of loans and bursaries and loan collections so as to finance the next generation of students (NSFAS, 2018: 16 - 48). This logic is a serious cause for concern as it implies that NSFAS has undermined the second half of the fund management equation by not adequately meeting its investment responsibilities. The fact that NSFAS has not properly managed investment so as to supplement the pool of funds at its disposal is partly to blame for its questionable loan recovery strategy and practices.

In addition, NSFAS's management has never acknowledged a lack of funds as a possibility that must be accounted for. Instead, the board felt the scheme had access to more than enough funds to continue to supply a growing number of students year on year. The 2015/2016 annual report is the first report in which the scheme acknowledges its dismal financial position. It must be noted that in the 2009 Review of NSFAS the committee found that the scheme's available funding was nearly 5 times less than the required amount. Moreover, the committee predicted that, unless immediate rectifying steps and procedures were implemented, crisis would follow (DHET NSFAS review, 2009: 15-20). This warning was not heeded, and the consequence of this failure came to the fore with the mass student protests of 2015 (KPMG, 2016: 5).

### 5.3 Accountability and Statutory Compliance

In terms of its statutory requirements, NSFAS is subject to an extensive list of external laws and regulations (NSFAS, 2016: 14). Moreover, as a credit provider, NSFAS is subjected to regulations set by the National Committee on Accreditation (NCA)/National Credit Regulator (NCR). Specifically, NSFAS is subject to the National Credit Act 34 of 2005, which is applicable to all financial credit providing entities. However, the NCA Act does not require all credit providers to register with the NCR so that they may enforce these regulations. NSFAS is not subject to regulation by the NCR, the Financial Stability Board/Financial Sector Conduct Authority or the SARB. Rather, NSFAS is regulated by the Auditor General of South Africa (AG),<sup>126</sup> the Select Committee on Education and Recreation (SCER), the Standing Committee on Public Accounts (SCOPA) and the Parliamentary Portfolio Committee on Higher Education and Training (PCHET).<sup>127</sup>

More specifically, NSFAS adheres to the following list of laws and regulations:

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<sup>126</sup> The AG engages in an annual audit of NSFAS and reports back to Parliament. All findings are published in NSFAS Annual Report.

<sup>127</sup> Of these four bodies, NSFAS reports to AG on annual basis and the others only when called upon. NSFAS was increasingly called upon to report back to these bodies in the wake of the 2015 protests (NSFAS, 2016: 42).

- Public Finance Management Act (Act 1 of 1999);
- NSFAS Act (Act 56 of 1999);
- Framework for Managing Programme Performance Information (FMPPI);
- National Credit Act (Act 34 of 2005), and;
- Treasury regulations for departments, trading entities, constitutional institutions and public entities (NSFAS, 2018: 58).

In addition to the above, NSFAS ascribes to aging American accounting standards, namely the Standards of Generally Recognized Accounting Practice (GRAP) (Axway, 2016; NSFAS, 2016: 95).

The primary issue here is NSFAS's lack of accountability and systemic compliance troubles. Public confidence in the scheme's accountability and ability to fulfil its purpose sustained a major blow with the publication of the (2009) Ministerial Review of NSFAS and the (2010) Disclaimer that was issued by the AG. The 2009 Review suggests that NSFAS is beset by deep-rooted structural, governance, competence, systemic, resource and compliance related issues (DHET, 2009: Viii-X). As previously indicated, the committee identified the scheme's primary overarching obstacle as a comprehensive lack of funding. (DHET, 2009: Viii-X).

Since the release of the Ministerial Reports, NSFAS has acknowledged and integrated a number of the committee's recommendations. More specifically, the 2009 review led to reforms to the debt recovery strategy and more precise book valuation of loans. One noteworthy potential reform, which was overlooked by NSFAS, was the incorporation of the South African Revenue Service (SARS) into the schemes loan recovery function. The Review Committee had taken proactive steps and contacted SARS, however, ultimately nothing materialized in this regard (DHET Report, 2009: 12 - 20).

In addition, the AG performs an annual audit of NSFAS. In this audit, he has consistently drawn attention to the scheme's endemic irregular expenditure (NSFAS, 2009: 50; NSFAS. 2018: 74, and; NSFAS, 2015: 66). In 2009, NSFAS recorded irregular expenditure in excess of R1 billion. Fortunately, this figure has been significantly reduced and has, on average, remained below R 600 000 000 (NSFAS, 2014: 46 - 47; NSFAS, 2012: 14; NSFAS. 2018: 78, and; NSFAS, 2015: 66). In 2018, the AG general once again emphasised this issue in his report. He cited inadequate and poorly enforced internal control protocols and a lack of corporate governance as key drivers of this trend (NSFAS, 2018: 74 - 79).

In the years following 2009, NSFAS has reported more than 150 resignations<sup>128</sup> and dismissals<sup>129</sup> (NSFAS, 2018: 68). Most of these resignations were tied to the deep-rooted issues mentioned above. NSFAS's

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<sup>128</sup> More specifically: 34 in 2018 (NSFAS, 2018: 68); 41 in 2017 (NSFAS, 2017: 33); 24 in 2016 (NSFAS, 2016: 63); 14 in 2015 (NSFAS, 2015: 43) and 14 in 2014 (NSFAS, 2014: 37).

<sup>129</sup> More specifically: 2 in 2018 (NSFAS, 2018: 68); 1 in 2017 (NSFAS, 2017: 33); 1 in 2016 (NSFAS, 2016: 63); 0 in 2015 (NSFAS, 2015: 43), and 1 in 2014 (NSFAS, 2014: 37).

constant recycling of staff has further served to compound its operational and performance issues. On the one hand, the removal of problematic employees is in the best interest of the entity. On the other hand, the scheme's high staff turnover can further hamper its ability to operate efficiently.

From this perspective, the extent of the effect that resignations have on NSFAS's operational capacity depends on the particular resignations received. Regardless, the large number of resignations does not bode well for relation-holders' perceptions of NSFAS's accountability nor its ability to fulfil its mandated functions (NSFAS, 2009 - 2016: HR Committee report).

In the AG's 2018 report, he highlights that the scheme's "[l]eadership did not exercise sufficient oversight responsibility (NSFAS, 2018: 78 - 79)." More specifically, the AG points out that:

“[NSFAS's] Effective systems of internal controls and the monitoring thereof were not properly implemented for the administration of student loans and bursaries, which led to an overspending on loan and bursary agreements in non-compliance with the NSFAS Act, resulting in material misstatement of the recorded student loans receivable balance and irregular expenditure in the financial statements” (NSFAS, 2018: 78 - 79).

The above trends are indicative of the deep-rooted flaws in the NSFAS business model and corporate governance framework. The scheme's longstanding, indeed, ongoing, battle with compliance issues is indicative of the link between good corporate governance practices and the law (IODSA, 2009: 10). As such, the habitual compliance issues identified annually by AG seem to be inexorably linked to governance issues. Despite the recurrent nature of this array of issues, nothing in the form of concrete consequences has materialised.

## 6. Reforms and Suggestions

In addition to the structural and operational Ubuntu-based alterations addressed in chapter 2 (section 3), the reforms addressed in this section may assist in moving NSFAS in a positive direction in terms of sustainable operational protocols and practices.

In January 2016, a National Commission of Inquiry was established to investigate the feasibility fee-free tertiary education in South Africa, namely the Heher commission. The Commission's report proposed several recommendations and possible alternatives to NSFAS's current operational model (DHET, 2017: 20; The Presidency, 2017).

One of the Commission's recommendations was the replacement of NSFAS loans with an income-contingent loan (ICL) system. This ICL system would initially be financed by commercial banks and repaid after an agreed upon period by the South African government. The ICL system would retain the calculation

model employed by NSFAS, i.e. interest at 80% of the Repo rate which only starts accumulating a year after students have left or completed their studies (DHET, 2017: 1 - 10 and 508 - 522, and; Government Gazette ExecS, 2017: 1 - 7). This ICL system would have no financial means restrictions and would be available to all students at public and private HEIs. Additionally, the extent of every loan would be determined purely by the student in question's choice and not according to their needs (Government Gazette, 2017: 1 - 10 and 508 - 522).<sup>130</sup> It seems that the suggestions proposed by the Heher commission are a bit too utopian. In particular, the absence of a financial means test, and the universal availability of the loans would place immense fiscal strain on the government. Moreover, the absence of a financial means test seems to undermine one of the original purposes of NSFAS, which was to provide redress for the imbalances in South African society that are a result of unjust apartheid policies.

In contrast to the proposed ICL system, I offer the following, less extreme, suggestions:

Firstly, NSFAS should be subjected to considerable restructuring, i.e. such as the suggestions provided in the remainder of this thesis, and all of its employee's competency levels should be evaluated.

Secondly, NSFAS's responsibilities should be limited to that of logistical paperwork, i.e. the granting of loans so that NSFAS is ultimately removed from the financial equation. Furthermore, the recovery of loans function should be transferred to SARS and tied to students' tax numbers.

Thirdly, the cost of student loans should be tied to inflation so that students pay back the exact amount borrowed. In addition, the assistance provided to students who are part of the least well-off in South African society, i.e. students with family earnings below R 350 000 per annum, should be purely bursary based.

Fourthly, the South African government should consider increasing the budget for education to at least 2.5% of GDP, rather than the minimum of 1% suggested by the Heher commission (The Presidency, 2017). Additionally, the South African government could consider capping university fee increases so that they mirror year on year wage increases.

In the next section, I consider a potential restructuring of NSFAS's financial responsibilities in terms of the adoption of a fund management investment model.

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<sup>130</sup> In addition, the Heher commission proposed the following stipulations for the ICL system:

- limiting the repayment period of loans to prevent extending payments into the beneficiary's retirement (Government Gazette, 2017: 1 - 10 & 508 - 522);
- those who emigrate should settle their loans before leaving (Government Gazette, 2017: 1 - 10 & 508 - 522);
- responsibility for the collection and recovery of loans would be undertaken by SARS (Government Gazette, 2017: 1 - 10 & 508 - 522).

## 6.1 Fund Management Alternatives

One characteristic of the 21st century has been the rising interest in sustainable development.<sup>131</sup> This ‘sustainable’ trend is exemplified by the global push towards achieving the Millennium Development Goals and the realisation that companies operate in a triple bottom line context (People, Planet and Profit) (IODSA, 2009: 12 - 13).

NSFAS receives the bulk of its funds from South Africa’s State Departments (NSFAS, 2016: 52 and 87 - 92).<sup>132</sup> As a result of this guaranteed funding, the NSFAS governing body does not actively look to manage the pool of funds at the scheme’s disposal. This gross oversight is evident in the scheme’s investment portfolio. The NSFAS portfolio indicates that the board is only concerned with the distribution of funds and not actively monitoring or researching alternative means to supplement its pool of funds. In addition, NSFAS does not employ the services of an actuary in a management and oversight capacity, the current actuary has been limited to investigating loan impairments (NSFAS, 2016: 25, 87 - 92). As such, the NSFAS board is not acting as a responsible corporate citizen. Rather, NSFAS’s operational activity is impeding on the sustainability of South Africa’s social environment.

Fund managers invest funds so as to ensure that the fund is able to make repayments to whoever it needs to. In order to do this, the manager has to calculate how much funds have to come in *via* investment to offset the loss of disbursement (Maginn, 2007: 587). NSFAS risk management procedures fall significantly short of those published by endowments, pension funds and trusts. In light of NSFAS’s nefarious past and surmounting inefficiency, what can be done to mitigate the scheme’s downward trend?

Theoretically, there exist a number of promising paths from which to choose, however, the capacity for failure remains. Despite this, there are a couple of options which may be promising.

In light of the above, the first option may be to facilitate a form of public accountability: South Africa’s best fund, trust or endowment managers could be approached to form a type of external review committee as part of corporate social responsibility (CSR). This committee could be tasked with quarterly assessment of NSFAS. Alternatively, top fund, trust or endowment managers could be approached to handle NSFAS’s investment portfolio, thereby transferring the fund management function to actual fund managers.

Private sector fund managers must pass a host of screenings and years of study before they are even able to apply for fund managing license. However, NSFAS’s top management and fund managers do not possess

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<sup>131</sup> Sustainability extends far beyond mere financial sustainability, operating practices or environmental impact. Sustainability is premised on the delicate, interconnected and interlinked relationship between the earth and all life on it because without the earth, all human activity ceases to exist. From this perspective, a firm's (governing body and senior management) apprehension of sustainability, and its disclosure of perceived relevant information, can expose the firm’s true beliefs.

<sup>132</sup> Primarily DHET and loan repayments, however, also private sector, NGO and individual contributions in the form of grants, gifts, donations and various contractual agreements entered into involving the distribution of student aid (NSFAS, 2016: 52 & 87 - 92).

any of the qualifications or necessary training that their private sector counterparts enjoy, nor are they subject to the same regulations (Maginn, 2007: 64 - 65). The underlying ideas are very much the same, yet NSFAS staff members are not subject to the same regulations and do not possess similar skill-sets. This is a perplexing state of affairs which seems to have played a role in NSFAS's inefficiency problems. If NSFAS were subject to FSB regulations, the current situation may have been averted (Maginn, 2007: 64).

Furthermore, the pool of funds available for loans and bursaries could be addressed through the establishment of a fund or trust. Here, a percentage of the budget allocated to education could be added yearly and the funds would not be used for the first 3-6 years. The fund could also appeal to the top performing private sector fund managers to manage the pool of funds on a pro-bono basis. In this way, the fund could appeal to the so called 'white capital' in the private sector to pool their efforts for the good of all South Africans. This would be an important step for building good-will as the private sector is often criticised by the South African public for not doing enough to aide community members. Under this scheme, the private sector managers would manage funds for the benefit of the least well-off community members. This benefit would be directed at the facilitation of equality in opportunity rather than equality of outcome.

Additionally, NSFAS's independence and the fact that NSFAS operates as the Republic's lone provider of financial support for needy students have ultimately resulted in the scheme being allowed to become inefficient due to a lack of competition and oversight. The above deliberation begs the question: would NSFAS not be more appropriately regulated like a trust, endowment or pension fund, all of which bear a striking resemblance to NSFAS itself?

At its core, NSFAS operates in a similar capacity to a commercial bank or private sector credit provider. However, NSFAS's mandate requires its leadership and top-level officials to operate like a SOE, specifically in terms of its financial status and needs, much like a standard pension fund. Simply put, a pension fund operates in the following manner: while working, beneficiaries pay a certain percentage of their income into a pension fund. Once these beneficiaries retire or stop working, the pension fund pays out to the beneficiaries, either through monthly instalments or a lump-sum. A pension fund must then ensure that the funds it receives are wisely invested so as to ensure that the pool of funds at its disposal is sufficient to cover all beneficiaries' payments. In light of the above, NSFAS operates in a similar capacity to pension funds, however, it functions in reverse. On this view, the key difference between NSFAS and a typical pension fund is that instead of disbursing funds at the end of an individual's career, the funds are issued at the beginning. From this perspective, it is evident that NSFAS has to actively supplement the pool of funds at its disposal.

The above reforms and suggestions do not address the low-quality basic education available to the poor nor the fact that many students are unable to cope with the jump from school to the demanding coursework

associated with programmes offered at HEIs (Spaull, 2015: 34 - 38). Spaull (2015:34-38) posits that, in South Africa, low quality education acts as a poverty trap. Specifically, low quality basic education produces poor pass rates and in turn negatively affects the participation rates of historically disadvantaged individuals in higher education. This further impedes their ability to further their formal education and ultimately utilise education to escape poverty. A further cause for concern here is the lack of transformation in the higher education sector and the fact that the South African government has failed to aid historically black institutions so that they can be on par with their historically white counterparts.

## 7. Concluding Remarks

In this chapter, I provided a critique of NSFAS's operational activity. This critique is based on Ubuntu ethics as well as the particular aspects of business ethics that were discussed in chapter 2. My analysis of NSFAS was supplemented with qualitative data collected from NSFAS's annual reports and several South African state publications. In particular, I made use of the requirements outlined in the Public Sector Integrity Management Framework and the King Reports on corporate governance.

In this chapter, I argue that we should assess a firm's operational procedures in terms of how their relationships with other community members align with the Ubuntu framework. The chapter was comprised of five sections all of which are guided by the Ubuntu-inspired ethical implications that were discussed in section 2 and 3 of chapter 2.

In the first section, I briefly clarified that NSFAS is a non-profit organization providing support, in the form of bursaries and loans, to previously disadvantaged individuals (PDIs) who are eligible for tertiary education but unable to bear the cost of tuition.

In the second section, I briefly considered NSFAS's operational environment and identified some areas of concern. In this section, I argue that NSFAS has deep-rooted systemic and structural problems which are often exacerbated by the South African government. NSFAS's problems include - but are not limited to - an inefficient and overloaded operational model, problems with service delivery, an inability to curb corruption and unethical conduct, endemic compliance problems and a lack of competent executive officials.

In the third section, I briefly analysed NSFAS's approach to business activity. In this section, I employed a three-pronged examination, in the sense that I considered:

1. the foundations of NSFAS operational model;
2. its organisational structure, and;
3. the quality of the information NSFAS released.

NSFAS's focus on loan repayments as a key source of alternate funding (in addition to state budget allocation) is indicative of the scheme's failure to ensure proper financial management. Specifically, NSFAS executives have neglected their duty to increase beneficiaries and replenish the entity's dwindling financial capital. In light of the above, I argue that NSFAS's operational model is flawed and has been misinterpreted by most, if not all, of its staff members. In addition, I found that NSFAS has consistently struggled to release transparent information. The release of non-transparent information has further impeded NSFAS's ability to foster trust between itself and its relation-holders (stakeholders).

In the fourth section, I briefly examined NSFAS's ethics and corporate governance structures. In this section, I found that NSFAS claims to place great emphasis on corporate governance protocols and the active management of ethics. However, this commitment is contradicted by NSFAS's endemic struggle with governance and oversight failures. In addition, NSFAS lacks a variety of key ethical features, such as an ethics management function. This is a serious flaw and a driver of many of the scheme's other issues.

In the fifth section, I considered some potential reforms for NSFAS's operational model. In addition, I argued that the field of fund management could be approached to find alternate means of combatting some of NSFAS's enduring challenges.

## Chapter 4: Concluding Remarks

The ethical theory of Ubuntu, as set out in this thesis, would require a shift in firms' focus. Specifically, it would require a shift toward a relation-oriented frame or perspective. From this perspective, an Ubuntu ethic demands that corporate goals must be considered and aligned as far as possible with those of relation-holders. In this section, I assume that we measure a business's performance in terms of, (a) the manner in which its products or services affect, contribute to or impede the establishment of harmonious relationships between group members or their capacity to commune, and (b) the firm's response to the claims and interests of community members. In other words, I posited that we should assess a firm's operational procedures in terms of how their relationships with other community members align with the Ubuntu framework.

The National Student Financial Aid Scheme (NSFAS), theoretically, contributes to an improved situation for the worst off in South African society through the provision of financial resources that allow financially needy students to access higher education. This focus on tertiary education is a result of the power and value of education and its ability to lift people out of poverty. In light of the above, the purpose and mandate of NSFAS is in agreement with the Ubuntu ethics approach to business ethics.

In light of the Republic's chequered past, the ANC's commitment to NSFAS, or more specifically state-funded higher education and training for the eligible poor, over state-funded education for all seems to be ethical. However, an analysis of NSFAS in terms of the ethical foundations of its operational activity reveals that NSFAS is unequivocally unethical. In this consideration of NSFAS's ethical foundations, I analysed aspects such as the soundness of NSFAS's approach to business activity in terms of the state of its corporate governance and ethics; the level of transparency in terms of the information released by NSFAS, NSFAS's accountability and statutory compliance; NSFAS's ability to fulfil its mandated purpose and NSFAS's operational sustainability.

It has been almost 20 years since NSFAS was established and it remains the ANC's main solution to the problems faced by South Africa's deteriorating tertiary education sector. However, NSFAS has largely been inefficiently operated and has struggled to serve its mandated purpose. NSFAS has been subject to endless public scrutiny because of its toxic corporate culture, which is visible in its ongoing struggles with systemic, structural and deep-rooted issues. The NSFAS's operational development is characterized by frequent resignations, mismanagement, a flawed corporate governance framework, corruption, problems with legislative compliance, inadequate service delivery, a failure to satisfy a large portion of its strategic objectives and key performance indicators, inadequate internal controls and disclosure failures (NSFAS, 2009 - 2016: Report of AG; DHET Report, 2009: 5 - 18).

However, NSFAS has made some strides in combating the endemic nature of its problems. These positive strides are visible in the scheme's improved organizational structure, a revised strategic procedure, a focus on technological advances (specifically in terms of IT and upgrading to a digital record-keeping system), improved physical resources (in terms of staff, property and equipment) and a decreasing number of regulatory infractions (NSFAS, 2009-2016: Report of AG). However, many of the reforms employed by NSFAS are not as new as the state has portrayed them to be. In fact, many of these reforms were already recommended in the 2009 Ministerial Review, so it seems that these changes should have materialised a while ago.

In his annual report, the AG has consistently identified material misstatements in NSFAS financial statements. These misstatements are direct violations of section 55(1)(b) of the Public Finance Management Act.

As mentioned previously, NSFAS's problems with inadequate service delivery are evident in the entity's annual reports. Specifically, NSFAS's annual reports (2009 - present) highlight the entity's struggle to consistently satisfy more than 50 percent of its annual strategic objectives and their accompanying key performance indicators. In addition, the AG has, in numerous reports, identified inconsistencies between NSFAS's strategic objectives and their accompanying key performance indicators. More specifically, the AG has found evidence (i) that NSFAS strategic objectives did not correlate with those pre-set at the start of the financial year, (b) of logical inconsistencies in terms of how the strategic goals tie in with their accompanying key performance indicators, i.e. that they do not function as adequate performance indicators, and (c) of loosely defined methods of calculation for the evaluation of planned indicators.

NSFAS's long-standing battle with inadequate and inefficient service delivery has had detrimental consequences for the students it was designed to assist. On the one hand, NSFAS's problems with achieving its strategic objectives impact the scheme's ability to provide financial support in a timely and satisfactory manner. This partial service delivery is visible in NSFAS consistently releasing funds to most beneficiaries around March or April, over two months into the first term. NSFAS's delayed release of funding further impedes student's ability to actively engage in their studies. On the other hand, NSFAS inadequate service delivery contributes to increased levels of social unrest and questions pertaining to its staff's competency and ability to do their jobs. The most recent consequence of NSFAS's inability to fulfil its mandated functions is the wave of student protests which swept across the country following the 2015/16 announcement of suggested fee increases.

The non-existence of a variety of key ethical aspects is a serious flaw and a driver of many of the issues that NSFAS faces.

Furthermore, in terms of sustainability there is no active fund management of the pool of funds available to NSFAS. In order to keep up with demand, NSFAS cannot simply focus on disbursement, it must also

ensure that its pool of funds grows. If the sustainability aspect is neglected, as currently is the case, the scheme will be unable to meet its growing demand. In general, inefficiency does not necessarily equate to increased moral hazards. However, in this instance the incompetency and inefficiency of the public officials within the NSFAS has contributed towards an increased susceptibility to moral hazard.

Moreover, the above seems to be a consequence of NSFAS employees' high level of ethical contempt, in terms of employees undermining of ethics, and their myopic focus, in terms of the scheme's narrow focus on the disbursement of funds.

Considering the above issues, it seems that the best path forward, morally speaking, would be to regulate NSFAS like a pension fund, trust or endowment, subject to FSB regulations. The lack of accountability in conjunction with no threat of redundancy has seemingly facilitated a lackadaisical culture of doing the bare minimum, a myopic focus and the inefficiency that is evident in NSFAS.

NSFAS struggles with a flawed corporate governance framework which has dire consequences for most of the organisation's operational activity. In the broadest sense, NSFAS corporate governance issues may be understood as a result of one of two issues:

1. The executives are attempting to establish adequate internal controls, however, for some reason, their efforts have not been very successful. This raises questions about the ability and will of NSFAS's staff and board members to execute their stipulated responsibilities, or;
2. Executives don't care about ethics and thus do nothing to curb unethical conduct.

The 2017 'free education' announcement and cabinet reshuffling can be characterised as a ploy to cover up years of failure. These reforms served as a means for NSFAS to sidestep taking responsibility for its failures. The technical and operational problems plaguing NSFAS have been swept under the proverbial rug. Moreover, these suggested solutions overlook the more deep-rooted challenges facing South African citizens, especially the less fortunate youth. In particular, 'free education' reforms do not address the poor quality of education received by the majority of South Africa's learners, low participation rates in tertiary education, a lack of transformation in tertiary education institutions or the difference in standards between historically black institutions and historically white institutions.

As a result of the above arguments, it seems that all mainstream ethical theories would condemn NSFAS as a harmful organisation. However, what makes Ubuntu different is the nature of the harm that it identifies. The nature of the harm is not that the scheme has acted against human utility, although in terms of Utilitarianism it does, or that it has violated rights, as would be the case under Deontology. Rather, the harm identified under Ubuntu is the destructive impact that the scheme has had on harmony and solidarity within the community. This destructive is compounded by the fact that NSFAS should assist the least well-off members of South African society.

From this perspective, the nature of the harm caused by NSFAS's operational activities is the primary area of concern. One aspect of this harm is the way in which its operational activity serves to upset social harmony. This is particularly detrimental because South Africa's apartheid history resulted in deep-rooted racial divisions which are still present today. History is an aspect which Ubuntu typically emphasises. This emphasis presumes that the past and all its negative effects must be addressed in some or other way to try and re-establish a form of harmony.

NSFAS is in a position to promote harmony and solidarity by making tertiary education accessible to eligible students whose families cannot afford the financial costs associated with tertiary studies. This financial aid has the potential to facilitate equal access of opportunity for those students directly assisted by the scheme and could also indirectly affect the lives of students' families. That NSFAS could, with a few alterations, deliver on its dual goals of socio-economic redress and economic development.

While NSFAS has certainly provided financial assistance to many students, the scheme's many problems have meant that it has also played a role in the downfall or academic failure of many of its student beneficiaries. The Scheme's operational and service delivery issues prevent it from functioning as it should. As noted in chapter 3, NSFAS suffers from extreme delays and various administrative errors. More specifically, NSFAS's beneficiaries are only able to actively engage in their studies when the scheme pays out the amounts owed. As NSFAS consistently delivers students funds three months into the academic year it hampers student's ability to fully engage in their studies. This delay puts students on the back-foot at the start of the year as they are only able to purchase the necessary study materials much later. Moreover, those beneficiaries who are unable to recover from this set-back (delays) typically drop-out or fail to qualify for readmission. The students who are pushed to drop-out or fail are forced to repay the funds with immediate effect, irrespective of their ability to do so. From this perspective, NSFAS's problematic functioning has contributed to making the situation of an already vulnerable group worse.

In addition, one of the key goals of NSFAS is to offset inequality in South African society. Inequality is a state of affairs which impedes harmony, obstructs relationships characterized by solidarity and which is in itself not harmonious. This state of affairs, which NSFAS was designed to address, is something which, in some cases, they have made much worse. Considering the above failures, it seems that instead of bringing people together by mitigating the gap between income groups and facilitating a process to equalise access to opportunities, NSFAS has pushed the public (community members) further apart by failing to meet its mandate.

The problems and issues noted thus far have resulted in NSFAS being unable to meet its mandate and societal expectations, specifically with regard to national development and socio-economic redress. In light of this, I argue that NSFAS's failures may be viewed as a primary driver of wider socio-economic problems visible within the tertiary education sector. These socio-economic problems include the slow pace of

transformation, rising intra- and inter-group inequality, high youth unemployment rates, South Africa's large unskilled labour force and a rising youth debt rate.

It seems that the scheme's problematic institutional functioning can be attributed to its executive officials' undermining of ethics, lack of accountability and questionable competency levels. Specifically, NSFAS's underlying assumptions, operating practices, lack of ethical framework, endemic compliance issues and toxic culture are all evidence of the extent of the executive's failures. Furthermore, NSFAS's inability to meet societal expectations has contributed to a volatile environment at HEIs across South Africa and increased the overall level of political disenchantment among citizens. The wave of student protests, which erupted across various higher education institutions between 2015 and 2017, are evidence of the social unrest and violations of social harmony and solidarity which NSFAS has caused. The primary charge made in this thesis is that NSFAS, through its immoral and archaic operating procedures, has failed to achieve its dual purpose – redress and national development of the South African state.

Furthermore, I argue that Ubuntu can serve as viable ethical basis for SOEs such as NSFAS. In section 2 of chapter 2, I discuss Metz interpretation of Ubuntu. In section 3.1 – 3.2 of chapter 2, I consider what Metz's Ubuntu implies for NSFAS's duty, purpose, values and behaviour.

While the key aspects of Ubuntu do relate to the business ethics frameworks discussed in section 3 of chapter 2, the extent of this relation varies. In fact, in some cases it may be rather weak. However, I posit that these frameworks could offer a viable means of encoding the key principles of Ubuntu into NSFAS's operational activity.

Additionally, I contend that NSFAS, and SOEs in general, do not think in terms of Ubuntu. More specifically, in chapter 4 I attempt to show that Ubuntu provides a useful framework for explaining the overall effect of NSFAS's problematic functioning on the South African public. Moreover, Ubuntu provides a means of envisioning how NSFAS should operate, i.e. to promote solidarity and harmony. Ubuntu provides a frame of reference which reveals the problems in the way NSFAS thinks about its purpose and project.

The business ethics frameworks discussed in section 3 of chapter 2 also allow for a better understanding of where exactly NSFAS went wrong. Additionally, these frameworks offer a practical means of solving NSFAS's ethical issues.

In light of the extent of NSFAS's problems both in terms of its operations, emphasised in chapter 3, and the manner in which it affects the public, emphasised in chapter 4, I attempt to provide compelling evidence that the scheme should be reformed and altered. Moreover, I attempt to show that Ubuntu ethics, the business ethics frameworks discussed, and the reforms suggested in this thesis could provide a viable means of facilitating the required changes required.

In closing, regardless of the perspective from which NSFAS is analysed, it seems that the scheme is immoral, systemically inefficient, outdated, biased<sup>133</sup> and in need of considerable restructuring.

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<sup>133</sup> The use of the term ‘biased’, refers to NSFAS’s focus on distribution of loans and bursaries and the recouping of loans. This has resulted in NSFAS neglecting to fully consider the status of the pool of funds at their disposal and their failure to secure a viable and sustainable source of alternate funding.

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