

10 August 2020

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*On behalf of 800+ youth signatories,
nationwide (Annex "A1")*

ATTENTION: Hon. MP, Thandi R Modise
Speaker of the National Assembly
Republic of South Africa
PO Box 15
Parliament
Cape Town, 8000
Per email: speaker@parliament.gov.za;
cc: sedem@parliament.gov.za;

AND TO: His Excellency, Hon. Mr President Cyril Ramaphosa
President of the Republic of South Africa
Union Buildings
Pretoria, 001
Per email: malebo@presidency.gov.za
Cc: Roshene@presidency.gov.za; mike@presidency.gov.za

AND TO: Mr Nkosiyakhe Amos Masondo
Chairperson of the National Council of Provinces
Republic of South Africa
PO Box 15
Parliament
Cape Town, 8000
Per email: slucas@parliament.gov.za;
cc: anyambi@parliament.gov.za

**SUBJECT: Urgent Submission of demand to STOP the unfair, biased,
discriminatory and unconstitutional NYDA Board appointment process.**

Dear Hon. Speaker Thandi Modise, Hon. Chairperson Mosiuoa G. Lekota and Your Excellency, Mr President Cyril Ramaphosa,

We, the undersigned; young people, youth advocates, activists, young professionals, youth leaders and citizens from across the country; call and rely on you to **DISMISS** and **DISSOLVE** the unfair, biased, discriminatory and unconstitutional NYDA (National Youth Development Agency) Board appointment process, following the recommendation of seven (7) candidates for your attention, to appointment and officiate as the new NYDA Board members.

We unequivocally object the NYDA Board appointment process to date, which we believe has been consistently unfair, biased, discriminative and unconstitutional in its entirety.

Honorable Speaker, Honorable Chair and Your Excellency, Mr President; we hereby refer you as we call, for the **NYDA Board appointment process to be halted indefinitely, and the list of recommended seven (7) members; not be adopted nor appointed, until an the initiation of an independent review is granted; followed by a provision of an independent report with recommendations paving a way forward.** We remain firm in our position that, the process was neither fair, free, transparent nor adequately open, and the Committee Report issued by the Joint Subcommittee on 06 August 2020, is incoherent to the events that in sooth partook in the process. This is a direct violation of the Constitution of the Republic of South Africa (referred to as “the Constitution”) and additional legislative instruments such as the NYDA Act 54 of 2008 (referred to as “the Act”) and the National Youth Policy (2015 – 2020).

We initiate this demand following our plas to the Speaker of National Assembly and the Chairs’ of the Joint Subcommittee on Women, Youth and Persons with Disabilities and Select Committee on Health and Social Services (referred as “Joint Subcommittee”), to recognise our grievances; addressing the discrepancies, irregularities and diverge from the Rules of Parliament and Constitution during the appointment processes

Mr President, we urge you to recognize our official grievances and deepest concerns; and act accordingly, in contribution to the national youth development agenda, of which you promote so sternly.

Our nine (9) main grievances are as follows, in addition to the grievances noted in the Letter addressed to the Speaker of National Assembly dated 09 July 2020 (**Annex “A”**) and list of youth signatories (**Annex “A1”**):

1. We recognise the constitutional rights to freedom of association for young people, particularly of political affiliation, to partake equally to opportunities. We submit however, that the shortlist and the seven (7) recommended incoming NYDA Board candidates (referred to as “recommended Board members”) were and are **disproportionately dominated by politically affiliated and affluence youth, and an evident single political party dominance.** Where of the seven (7) recommended Board members, the ratio of representation is (1:7). This, is a disregard of political egalitarianism (in the context of young people’s access to public service opportunities) which therefore undermines section 4(d)(i) of the Act and; a contravention of the provisions of section 9(4) of the Act, and section 9(2),(3),(4) and (5) of the Constitution.

1(a) We submit that the NYDA serves a diverse and dynamic population of young people nationally, a youth population that encompasses approximately 60% of the total population of the country. Therefore the (1:7) **disproportionate representation ratio disregards equality** and is therefore unjust and contributes to it’s unconstitutionality.

1(b) We submit that the recommended list of seven (7) candidates be dismissed and the process to date be dissolved and reinitiated; this, is due **to interferences by external forces which influenced the members of the Joint Subcommittee** on the candidates to be shortlisted and selected as members of the incoming NYDA Board. This thus lead to the entire process being predetermined, unfair and unconstitutional; from the onset. A list of predetermined “preferred candidates” was issued by the ANC National Youth Task Team on 11 May 2020; which **influenced the bias the Joint Subcommittee instituted in its selection processes for the 30 candidates and the recommended Board Members; whereby all identified on the list were amongst the 30 shortlisted; and five (5) of whom are amongst the recommended Board members list.** The is no legislative instrument, based on those mentioned by the Joint Subcommittee to have been used for the process; most particularly the Act, which states that the ANC National Youth Task Team has mandate to submit preferred candidate lists to the selection committee and to influence the decisions and processes of selection and election. This is an unconstitutional act that has not been practiced nor recognised in any other process; related to the appointment and officiation of state level Boards.

1(c.) We further note the political party imbalances of the Joint Subcommittee and how the majority representation advantage, assisted and aided in members nominating specific members; as provided for in the third party “preferred Board candidate” list. **The Joint Subcommittee members were lobbied, and thus failed to prevent this occurrence** – albeit discussed at the Parliamentary Portfolio Committee on 03 December 2019, as ascribed in meeting notes on the Parliamentary Monitoring Group.

2. Our collective observation is that the current composition of the recommended Board members, disregards the ‘Principles of Youth Development’ provisions of the Act, and does not adhere to section 9(4) of the Act, which states that “*Members must reflect the demographics and geographical spread of the Republic*”, in particular:

2(a) The list is **predominantly and disproportionately comprised of members who reside in a select province.** Where six (6) of the total seven (7) recommended Board members are based in and reside in the Gauteng Province region. Although some of the candidates natively originate from three (3) of the nine (9) provinces, this is a direct contravention of the provisions on the Act that stipulate need for a reflection of geographical spread as a criterion for an acceptable composition of the NYDA Board. The NYDA Act clearly states that: “*Members should reflect the geographical spread of the Republic*”, and it does not state that members can be from the same geographical location; neither does it provide that members can be from the same geographical location provided that their native geographical location of origin, is not that of where they are currently based and residing. The latter has been noted to be the case for the list of recommended Board members.

2(b) **There is no representation of racial diversity, as well as minority and vulnerable populations, such as Persons with Disabilities and LGBTQIA+.** This is a complete disregard of section 4(b) of the Act; which states that: “*promotion of equal*

opportunity and equal treatment of youth and the promotion of a gender-inclusive approach to the development of youth. where the social influences of gender, disability, the impact of sexism and the particular circumstances of young women are recognized;”. This lack, therefore, is a clear act of discrimination, and thus a violation of human and constitutional rights; as contemplated in section 9(3) and section 9(4) of the Constitution and section 6 of the Employment Equity Act (EEA).

2(c.) It lacks an acceptable gender balance. The gender composition amongst the recommended members is that of four (4) males and three (3) females; this is a disregard of *'Principles of youth development'*, as provided in the Act, and ensuring recognition to redress youth (specifically young women) who have been systematically unfairly affected by imbalances of the past, as provided for in section 4(a) of the Act. Gender equality and balance needs to not only be addressed to the youth that the NYDA and its Board serves; but should also be applicable to the youth development principles and operations of the NYDA as an organization and its members of the Board. This is a further disregard of section 4(b) of the Act

2(d) The NYDA Board recommended composition **currently lacks diversity of skills, knowledge, expertise as well as reasonable experience in leading, coordinating, engaging and undertaking a position at Board and Executive level positions.** It has been noted that, on various occasions the Subcommittee, neglected qualified, skilled and knowledgeable young professionals with Board and Executive level experience to members of the NYDA Board, particularly during the shortlisting of the 30 candidates and in the process towards the compilation of the list of recommended Board members.

3. We note that the process was not fair, free, transparent nor open, in particular:

3(a) The Joint Subcommittee members, contravened section 9(3)(b), which states that *“Members must be appointed in a manner ensuring - transparency and openness”*. The Joint Subcommittee first **held a closed meeting** on the 30th June 2020, where the selection criteria for the shortlist was founded and with-held from the public. Secondly, during the interviews held on the 01-02 July 2020, the Joint Subcommittee **used irregular numerals, that were inconsistent with the candidate numbers**, initially granted to each candidate as represented on their CV placed in the public domain. Thirdly, the Joint Subcommittee, **utilized secret codes when undergoing the process of scoring candidates**, which led to the identities of candidates being made confidential and withheld from the public participative process; which is a contravention of the aforementioned provision of the Act and the Constitution, as it is legislatively required to be open, transparent that promote fairness.

3(b) The Speaker of National Assembly and the Chairs' of the Joint Subcommittee responsible for the NYDA Board appointment process; **disregarded requests from young people to open the “call for comments” public participation process**, after the shortlisting of 30 candidates. [Over 800+ young people through a petition, called for a participation process to be initiated on the shortlist](#) upon its announcement on the 03rd July 2020,

however the Chairs' of the Joint Subcommittee and the Speaker of National Assembly, did not respond to the request. Therefore, this is a contravention of section 9(3)(a) of the Act which states that: "*Members must be appointed in a manner ensuring - participation by youth in the nomination process*"

4. The Joint Subcommittee had a sitting on the 05 August 2020, aimed at deliberating on the process to date, and adopting the NYDA Board Report. During this sitting, the Joint Subcommittee publicly stated the selection criteria that was adopted on 30 June 2020. We submit that the **section criteria used, was not coherent with the nomination process.** Furthermore, we submit that the outcome of the shortlist of the 30 candidates (as well as the recommended Board members) was not a true reflection of the criteria used. Based on the criteria below, we submit the following:

The selection criteria:

- A South African citizen;
- Demographics and geographical spread of the Republic;
- Knowledge (mandate of NYDA, NYDA Act, National Youth Policy and the Constitution) and experience on youth development interventions;
- Sound judgement, high integrity, reliability, independence, team player and commitment to serve the NYDA mission and goals;
- Proven track-record and performance on youth development (4th Industrial Revolution, economy, unemployment, social cohesion and substance abuse) initiatives, innovation and creativity, leadership and vision; and
- Good governance experience.

4(a) The **Joint Subcommittee did not adhere to the provisions of the selection criteria** as it pertains to the "*Demographics and geographical spread of the Republic*", as tabled in **2(a), 2(b) and 2(c)** above, and as referenced **3(a) and 3(b)** in the first letter addressed to the Speaker of National Assembly (**Annex "A"**) and it's an undermining of the Act.

4(b) We submit that the third criteria item, relating to "*Knowledge (mandate of NYDA, NYDA Act, National Youth Policy and the Constitution)*" cannot be assessed during the process of shortlisting candidates. This is because the Joint Subcommittee would only be in possession of the applicant Curriculum Vitae, Qualifications, as well as the mandatory Questionnaire for Candidates. The said questionnaire does not contain a clear question for candidates to answer about the aforementioned, and it is impossible for the Joint Subcommittee to equally assess a candidate's knowledge of the aforementioned without there being a question aimed at assessing it and a response to probe it's assessment. Therefore, this element **of the criteria; is inconsistent with the tools provided to ensure a transparent, equal and open process to all candidates.**

4(c.) We submit that the last item on the criteria on "Good governance experience", was inadequate to add on the selection criteria for shortlisting candidates because it was not an element that can be assessed based on the questions posed on the Questionnaire for

Candidates. This question and overall linked questions are aimed at assessing the candidate's technical competence and knowledge on functions of a Board, but not aimed at assessing good governance expertise and experience. Aside from listing work experience in the sections provided, there was no element of the questionnaire that aimed to assess good governance. To this, **we request that all questionnaires and supporting documents submitted by candidates, to be made public.**

4(d) We submit that the criteria item assessing “*Proven track-record and performance on youth development (4th Industrial Revolution, economy, unemployment, social cohesion and substance abuse)*” is limiting, in the notion that not only does it fully encapsulate the varying issues and initiatives that the NYDA undertakes, as ascribed in the National Youth Policy (2015 – 2020) and the Integrated Youth Development Strategy. This criteria item, further automatically **disregards young people with proven track records and experience in technical fields of expertise within the ambit of NYDA**, comprised of elements required; to ensure competency and capabilities of NYDA operations are established, for the successful functioning of a Board, as provided for in section 5(1)(a)i-v of the Act.

4(e.) We submit that the selection criteria, although appealing to the overall appointment process, it was not adhered to and it **had it's limitations, which therefore automatically disqualified the element of equality when shortlisting candidates, and instituted predetermination and biases** – which lead to a disproportionate representation ratio; owing to the **favour of politically affiliated candidates and youth leaders that are politically associated with a specific political party**; as well as specifically shortlisting former and current staff members of the NYDA.

5. We submit that the Joint Subcommittee **did not follow the Interview Guidelines effectively**, whereby we note that one of the provisions of the guidelines is observing 45 minutes per candidate, per interview. However the Joint Subcommittee allotted most to the candidates on the recommended members list more time to present themselves, in addition to the recommended time of 45 minutes. Therefore, there were candidates who were selectively given opportunity to address the Subcommittee with an average of 20 minutes more time, than others. We note the specific allocation of 1 hour, 15 minutes allotted to the outgoing NYDA Board Executive Chairperson, whom has been nominated to serve the Board for a second term. This portrays as a seemingly evidently predetermined process; which revealed the biased interest in specific candidates, and **exuded incidences of favouritism and unfairness.**

6. Some members of the Joint Subcommittee, did not participate equally and fully in the shortlisting and recommendation of appointment process, in particular:

6(a) A certain number of identified Joint Subcommittee members did not make any nominations during the shortlisting process leading up to the selection of the 30 shortlisted candidates on the 01-02 July 2020, as detailed under **4(a), 4(b) and 4(c)** of the letter to the Speaker (**Annex A**) and as raised in the [Petition objecting the shortlist, signed by 800+ young](#)

[people nationwide](#). This process resulted in biased outcomes and placed a lot of young people at an unfair disadvantage. This resulted in young people expressing accounts of having being discriminated against, based on their background and age.

6(b) A certain number of identified Joint Subcommittee **members did not participate fully and equally** during the interviews stage of the NYDA Board that took place from 27 July – 31 July 2020. The lack of participation from the said Members of Parliament (MPs) resulted in a significant group of young people not receiving scores by the MPs, due to the MPs, not availing themselves for the interviews. This resulted in the affected candidates, receiving fewer scores, and ultimately being unfairly disadvantaged and excluded from the process of being fairly scored.

6(c.) Specific MPs **did not participate productively** during the session that outlined the process of engagement for the recommendation of the seven (7) members for the NYDA Board, albeit the MPs in question stating that they did not have access to technological devices and equipment to ensure that they would be able to engage effectively. This led to young people observing evident accounts of dishonesty and attempted interferences on the scoring process; which ultimately had an impact on the entire scoring process. Furthermore, the scoring process was not made fully transparent to the public, as live broadcasting was discontinued during specific moments of the process.

6(d) In the interest of protecting candidate identities, one of the MPs revealed the candidate's identity during the process of nominating the list of seven (7) members for the Board. This candidate was therefore unfairly and unethically exposed in the process. This also refers to the process not observing the provisions of the NYDA Act relating to transparency and openness. This was not acknowledged in the meeting minutes by the PMG, and this is a count of dishonesty and failure to capture essential information, openly. We therefore call for the Joint Subcommittee to **release the score cards, revealing the names associated with each scored candidate.**

6(e) The scores provided on PMG as per meeting minutes of 04 August 2020, do not correspond with the results of the final scores counted to discern the top scores of the seven (7) candidates for the process. The PMG meeting results of 04 August 2020, reflect scores that have been tampered with, particularly inflated and deflated, and are not the true representation of what was said on record. Although this does not affect the final candidate scores to much degree; it is worrisome that the Chair of the Joint Subcommittee adopted and endorsed the meeting meetings, on the 5th August 2020, to conclude the reporting process as issued on the 06 August 2020. The **PMG report meeting minutes contain falsified information pertaining to the recording and train of events.**

7. The matrix that would be used for the scoring of candidates was not made public, thus; rendering the process not transparent, neither open nor fair. As the process of scoring was made public. It is crucial that young people publicly obtain the matrix that was utilized to

derive to the scoring outcomes for each candidate. **We call for the matrix used to score the candidates, to be released to the public.**

Grievances on The Committee Report:

8. The Joint Subcommittee issued a Committee Report on the proceedings, we not the following discrepancies, dishonesty and omissions noted in the report, which contradicts with the true line of events: as indicated in the “Report of the Portfolio Committee on Women, Youth and Persons with Disabilities on filling of vacancies on the National Youth Agency (NYDA) Board, dated 05 August 2020”, as issued on 6th August 2020, No [109—2020] SECOND SESSION, SIXTH PARLIAMENT, as follows:

8(a) The report notes that “*A total of 680 applications were received. One (1) candidate withdrew and this brought the total number of curricula vitae (CVs) to 679*”. However the Parliamentary Monitoring Group (PMG), meeting minutes of 01 July 2020, indicates that a total of 779 people had applied and only after rejecting applications which did not meet the qualifying criteria, the Members considered 680 names. **The report fails to mention this in it’s report.**

8(b) Furthermore, the same PMG meeting minutes report of 01 July 2020, indicate that: “*Only 609 of these applications had contained all the relevant documentation, as it was stated that applications without qualifications attached would be automatically disqualified*”. This translates that, of the 680 applications received, 71 applications were disqualified due to not meeting the criteria for consideration of application on grounds of it being stated in the advert that applications without qualifications attached would be automatically disqualified.

8(c.) Additionally, the PMG minutes of 01 July 2020, also state that, “*Ms Kashifa Abrahams, Content Advisor: Portfolio Committee on Women, said that of the 680 CVs on uVimba, 222 did not have qualifications*”. The meeting minutes further inform that: “*The Chairperson said that 458 CVs would thus be looked at by the Committee, as per Ms Abrahams’ report. Where no qualifications were attached, it was an automatic disqualification*”. The Chair of the Joint subcommittee, confirmed during the meeting, as presented in the minutes that: “*She had received 222 CVs without qualifications, as well as a list of applications without actual CVs*”.

8(d.) Therefore, the findings addressed on **6(a)**, **6(b)** and **6(c)**, contrasts greatly with the numbers detailed in the Committee Report as identified and referred to on **6(a)**, **6(b)** and **6(c)**. The Portfolio Committee Report, therefore has presented seemingly irregular information relating to the total number of applications received, the report has also omitted critical information on the total number of applications disqualified, as well as the number of applications that the Joint Subcommittee reviewed during the nomination process leading to the shortlisting of the first 30 candidates. **This report fails to report on the true account of events.**

9(a) Based on the methodology that was used to shortlist the 30 candidates. The Joint Subcommittee indicated to have 7 batches of 100 CV's in each, are reported in the PMG meeting minutes of 01 July 2020. This suggests that, the Joint Subcommittee, reviewed all CV's of candidates for the shortlisting process – including the CVs of those who were automatically disqualified, and wouldn't be considered. This is noted as a great fault in the shortlisting process. Further discrepancies were noted in the [Letter to the Speaker of National Assembly dated on 09 July 2020](#). (refer to **Annex “A”**)

9(b) [Young people](#), hereby **publicly reject and object the final list of recommended candidates for appointment; on the basis that the process that lead to the recommendation was unfair, discriminatory, unconstitutional and biased;** on the basis that the process intentionally excluded youth from minority, at risk and vulnerable populations and discriminated against candidates based on demographical and geographical representation. Furthermore, call for the dismissal of the process, and reinitiating a process of shortlisting and onboarding, that is fair, just, Parliamentary and constitutional, which will be observed by an independent adhoc committee to ensure fairness, transparency, openness and equality.

Your Excellency, Mr President Cyril Ramaphosa, Hon. Speaker Thandi Modise and Hon. Chairperson Mosiuoa G. Lekota; as the undersigned young people, activists, advocates, young professionals and youth citizens of South Africa, once again call on you to recognize our grievances, concerns and voices speaking out against the unfair, biased, discriminatory unconstitutional process, and calling for your directive to issue a mandate for the appointment process to be halted; and be reviewed by an independent party organization that would provide a report on the process; table all observed issues, and address the accounts of the process being unconstitutional. Thereafter institute measures to restart the process of shortlisting candidates, using a selection criterion that recognises skills, experience, qualifications and expertise for the potential Board members.

We look forward to obtaining a written response, addressing the engraved grievances herein, and as addressed in (**Annex “A1”**) within seven (7) working days of date issued. We trust that this matter will be given the urgency that it deserves.

Yours Sincerely,



Zanele Mabaso
Youth Advocate and Activist