

Social Security Review 2021

Evolution of Social Security in South Africa: An Agenda for Action



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Department of Social Development

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GLOSSARY: SOCIAL PROTECTION/SECURITY

None of these terms are fully 'objective': how they are used depends on the context, agency, etc.

Social protection	Social protection is the set of public actions that address both the absolute deprivation and vulnerabilities of the poor, and the needs of the currently non-poor for security in the face of shocks and lifecycle events. It encompasses a broad range of policy instruments
Social protection floors	A nationally defined set of basic social security guarantees which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion for all – especially those at risk (children, the ill, elderly, disabled & those unemployed). Embedded in ILO Recommendation 202
Social security	<ul style="list-style-type: none"> Broadly synonymous with social protection
Social safety net	<ul style="list-style-type: none"> Broadly synonymous with social assistance – used by World Bank primarily to refer to those programmes that 'goal of protecting families from the impact of economic shocks, natural disasters, and other crises'
Contributory social protection	Involve participants making regular payments to a scheme that will cover costs related to life-course events, for example, maternity, unemployment, old age or illness. Sometimes costs are matched or subsidised by the scheme provider. However... social insurance is strongly linked to the formal labour market, meaning coverage is often limited to formal workers. Broadly synonymous with social insurance
Non-contributory social protection	SP financed through tax revenues or through external aid in many low income countries. Includes social assistance and social care services.
Social assistance	<p>A form of non-contributory social protection, most commonly targeted at low income groups or vulnerable population categories, providing social transfers (cash transfers, in kind or vouchers), cash/food for work (public works) or fee waivers for health or education.</p> <ul style="list-style-type: none"> Broadly synonymous with social safety net
Social insurance	<ul style="list-style-type: none"> Broadly synonymous with contributory social protection
Social care services	Sometimes classified entirely separately from social protection, social care helps address the interaction between social and economic vulnerability, through services such as home-based care and family support services
Labour market interventions	<p>Labour market interventions provide protection for poor people who are able to work, and aim to ensure basic standards and rights. Interventions can be active or passive:</p> <ul style="list-style-type: none"> Active labour market policies aim to help the unemployed and the most vulnerable find jobs, through interventions such as job centres, training, and policies to promote small and medium sized enterprises. Passive interventions include maternity benefits, injury compensation, and sickness benefits for those already in work, financed by the employer. Passive interventions also include changes to legislation, for example establishing a minimum wage or safe working conditions.
Subsidies	Subsidies can keep prices low for basic goods and services consumed by the poor. However, subsidies are often regressive, e.g. on fuel, favours the middle classes who own cars and travel more
Informal social protection	Traditional community-based forms of social protection distribute risk within a community and fill some of the gaps left by formal interventions. We should always be asking how state interventions support or corrode such spontaneous systems!



MINISTER'S FOREWORD

It gives me great pleasure to present the inaugural Social Security Review, a new publication under the auspices of the Department of Social Development, which aims to generate and influence national discourse amongst key stakeholders on issues within the social security environment.

This publication could not have come at a better time as we are confronted with a crisis like no other before. The novel coronavirus known around the world as the global COVID-19 pandemic presents unprecedented socio-economic challenges that has brought existing inequalities to the fore and risks exacerbating them, not only in South Africa but also across the globe. These are the times for which social protection programmes were created- to protect the poor and vulnerable to respond to crisis and shocks, including the global COVID-19 pandemic.

South Africa has embraced a rights-based approach to social security, which is enshrined in the Constitution (Constitution of the Republic of South Africa, Act 108 of 1996). The constitutional right to social protection is given effect through the implementation of a legal framework that guarantees coverage of the population against the risks faced throughout the life cycle through social assistance programmes, amongst others.

Since 1994, government has made great strides in extending social security coverage, and enhancing its performance through legislative and institutional reform. This notwithstanding, the

sector continues to be characterised by misconceptions and negative perceptions which diminish the important role that social security plays in the country.

Through this publication, the Department hopes to create greater awareness and appreciation of our social security system, and facilitate public participation in the national policy discourse. The theme of this inaugural Social Security Review is ***“Evolution of Social Security in South Africa: An Agenda for Action”***. The publication covers a wide range of subjects, such as the history of social security in South Africa, the legal framework for social security practice in our country, the establishment of SASSA as a primary intervention of the new dispensation, and more current debates on the interaction between the economy and the social security system.

The publication locates social security squarely on the continuum of South Africa's developmental agenda envisaged in the National Development Plan and as an integral part of the Agenda 2030 for Sustainable Development Goals (SDG 1). For example, it identifies social grants as one of the most effective anti-poverty interventions in the world, which have proved to have positive developmental outcomes for children, older persons and persons with disability. Combined with social insurance provisions such as unemployment insurance, occupational injuries and diseases protection and road accident cover, they reduce poverty and inequality while contributing to social inclusion of individuals and households that would otherwise not be able to participate in the economy.

Although this publication was commissioned by the Department of Social Development, the chapters were authored by different individuals with diverse backgrounds, including civil society activists, academia, local and international social security experts. By inviting a wide range of contributors, the Department intends to encourage engagement and debate by independent participants, so as to create space for diverse views and opinions to be expressed. This will provide helpful critique to government, and contribute to more responsive policymaking for the benefit of all South Africans.

Since this is the inaugural publication of the Social Security Review, I would like to invite our stakeholders to engage, critique, comment and respond to the publication and ideas contained herein. The input and feedback we receive from you will give guidance to the Department as to the value and merit of developing future publications.

We hope the topics covered in this first publication will stimulate informed debate and lively exchange of constructive ideas on social security matters so that it serves as a platform to engage on the role of social security in addressing the key socio-economic challenges facing our democracy. I also encourage your input on topics to be covered in future publications of the Social Security Review.

Ms Lindiwe Zulu, MP
MINISTER OF SOCIAL DEVELOPMENT

1. INTRODUCTION

Siyaya Phambili: Towards Inclusive Social Security in South Africa

Editors: Shirin Motala, Stewart Ngandu and Tim Hart

Globally, South Africa, which recently celebrated twenty-five years of democracy, has been lauded for its extensive non-contributory social security system, reflecting the state's commitment to adopting policy measures and programmes working towards translating socio-economic rights which are underpinned by the Bill of Rights, as enshrined in the Constitution (RSA, 1996; World Bank, 2018)

The substantial expenditure on social security has served as a critical redistributive mechanism aimed at enhancing the lives of millions of poor South Africans. Importantly, it has contributed to growing South Africa's social wage offering, which includes free primary health care, free schooling, and free basic services such as water, access to housing and social grants (ibid). These public policy instruments, which seek to address deprivations and vulnerabilities of the poor arising from shocks and lifecycle events and provide security to the non-poor, are generally referred to as "social protection."

It is thus opportune that this *Social Security Review* provides the platform for reflection on the legal and policy architecture that has shaped South Africa's social security system, and to understand the context underpinning its development, which has enabled the realisation of the social economic rights enshrined in the constitution. The *Review*, which was conceptualised by the national Department of Social Development (DSD), aims to disseminate reliable and accessible information about the history and fundamentals of social security, including policy issues, regulatory frameworks and topical issues within the social security environment.

The *Review* seeks to address a significant gap in information and understanding about social security in South Africa. It hopes to address the misconceptions and negative perceptions that society has with respect to social security, which expands beyond social assistance to cover contributory social security schemes, such as social insurance, which help to ensure that those in formal employment and their dependents are insulated from adverse events and life cycle changes. In doing so, it also serves to enhance and bolster active and meaningful participation by South Africans in the policy discourse on social security.

This first edition of the *Social Security Review* has been designed as a resource for those involved in social security policy, strategy, programming, implementation and research.

The Review brings together a collection of ten commissioned papers drawing on a diverse and exceptional group of contributors who are experts in their given fields.

Each chapter provides insight into a specific aspect of social security and can be read independently, providing a comprehensive overview of that subject matter. However, there is synergy and continuity between the chapters. Chapters 2 to 4 provide a historical perspective to the development of social security in South Africa and a succinct synopsis of the constitutional, legal and policy imperatives that have driven the development of the current system. The next three chapters 5 to 7 surface some of the key debates with respect to the parameters of a comprehensive social security system and begin to explore the need for South Africa to expand its *Social Protection floor*. The final set of chapters 8 to 11 explore issues arising from the implementation of one of the largest components of the social security system, namely social assistance.

Chapter 2, ***Social Security in South Africa: A Historical Perspective***, by Selwyn Jehoma and Abigail Ornellas, begins by making the argument that, if one is to reflect on the social security instruments in the country today, it is necessary to understand the historical influences that shaped the contemporary system. To inform the present and to inspect the persisting inequalities, they examine the history of the social security system in South Africa, highlighting its origins in the British colony, through the decades of apartheid, to the attempted transformations of the post-1994 period. The authors posit that the system was clearly underpinned by colonial and apartheid segregationist motives, creating a fragmented and non-egalitarian society. Jehoma and Ornellas examine four periods in the development of social security, starting with the period prior to 1920 and then look at the legislative processes and changes between 1920 and 1945. This is followed by an examination of the post-war period, the rise to power of the National Party in 1948 and the subsequent and gradually apartheid-influenced social security structure. Here they note the apartheid influences, changes in welfare focus and the increasing effect of resistance to apartheid until 1994, which impacted in different ways on the prevailing system. Towards the end of this period, some concessions were made but the system was largely carried over intact into the post-1994 era, which they describe as the 'rebirth of social security', following the dismantling of apartheid legislation and structures mediating social security policy and interventions. Generally, they maintain that the social security system transitioned, becoming more inclusive, and expanding its target groups following the 2002 *Committee of Inquiry into a Comprehensive System of Social Security* (Taylor Committee) (DSD, 2002). Jehoma and Ornellas conclude by noting the contradictions that arose from market-driven approaches, notions of developmental social welfare and how these mitigated the democratic social security reforms envisaged by the Reconstruction and Development Programme.

In its preamble, the Constitution of the Republic of South Africa (RSA, 1996) affirmed the state's commitment to "heal the divisions of the past and establish a society based on democratic values, social justice, and fundamental human rights". In chapter 3, ***Selected Constitutional and Legal Perspectives on Social Security in South Africa***, Marius Olivier reflects on the transformative nature of South Africa's constitution, particularly as it has and continues to impact on the development of social security in South Africa. He posits that the debates with respect to social security in South Africa have been significantly enhanced through the entrenchment of social security rights in the constitution. It has obligated the state to give effect to these fundamental rights and, equally importantly, it has compelled courts to enforce rights so that they are properly realised. The chapter calls for recognition of these fundamental rights as being major poverty addressing instruments. It draws attention to the indivisible, interrelated and mutually supporting rights in the Constitution; one such right being Section 33(1) which demands that the state's conduct is "lawful, reasonable and procedurally fair." Furthermore, the constitution sets out the basic values and principles governing public administration, many of which are applicable to the delivery of social assistance and other social security programmes. The exclusionary nature of South Africa's current social security provisioning is reviewed, with concern noted that millions are denied access to either social insurance or social assistance. He concludes by forewarning the state that its failure to roll out a comprehensive social security package could result in exposure to constitutional challenge.

South Africa's Constitution guarantees social security as a universal human right, with the qualifier that the features and coverage depend on its affordability by the State. In 2015, South Africa ratified the *United Nations International Covenant on Economic, Social and Cultural Rights (UNCESCR)*. Isobel Frye, in chapter 4, ***South African Social Security Policy and the Human Rights Based Approach: A Review***, reviews the national social security policy alongside the Human Rights Based Approach framework (HRBA), using the standards of the UNCESCR as a backdrop. She points out the imperative for the current review of the social security system to move from a minimalist to a transformative human rights-based approach. This, she suggests, will bring it in line with the guidelines and principles of the UNCESCR and other international standards. Internationally, this minimalist approach she contends is contained in the ILO Convention 102. She advances the argument that, in South Africa, the effect has been the exclusion of working age population between 18 and 60 years of age, compounded by the rigid means test applied to grant eligibility, which has in turn excluded many deserving cases below and above these age-defined criteria. Frye argues that there has been a lack of meaningful participation in the process of revamping the social protection policy in South Africa, from the design phase through to implementation and monitoring and evaluation of interventions. Frye suggests that it is possible that the realisation of diverse socioeconomic rights can supplement one another, simply "through single point registration of eligibility" to overcome the current duplications. She further notes that the necessary international and national guidance exists for a comprehensive redesign of

the social security system. While she welcomes the activation of the long-delayed policy negotiating process at NEDLAC, she expresses concern that this is too narrow a process to meet the test of meaningful engagement. Frye recommends that a series of public workshops and fora are convened to create awareness and educate South Africans about their rights to social security and the nature of these rights and expectations. This strategy must then be bolstered by the well-versed contributions of beneficiaries and their representatives before policy finalisation.

Globally, there has been phenomenal expansion of social protection policy adoption by both developing and developed countries, informed largely by an understanding of social protection's contribution to inclusive development and equitable growth. Impact studies and many independent evaluations (OECD, 2009; Heinrich, Hoddinott and Samson, 2016; Handa, Devereaux and Webb, 2010) have identified the socio-economic benefits of South Africa's grants. In chapter 5, ***Universalisation vs. Targeting: Policy Considerations***, Michael Samson suggests that these attributable outcomes result from the design features of the programmes that manage the trade-off between targeting and universalism. In acknowledging that no social protection programme is perfectly targeted, or truly universal, Samson argues, that the balancing act depends on policy considerations which determine equity, efficiency and developmental impact. The chapter provides a definition of targeting in the context of social protection and thereafter elaborates on the design and implementation factors that can contribute to the success or failure of the social protection programme. Some of the negative factors which have resulted in exclusion errors include stigma associated with a programme, misconceptions as to eligibility criteria and social tensions between beneficiaries and in beneficiary communities. Universalism on the other hand, he argues, has lower political and social costs, generates fewer incentive costs and is shown to minimize the risk of dependency. For Samson, South Africa's child support grant presents the perfect case in the manner in which it transitioned from a poverty-targeted approach to a universal categorical approach. He concludes with the sobering recognition that compromises are necessary when resources are constrained and that even in those situations, pursuing a combination of geographical and categorical targeting will contribute more effectively to inclusive development and economic growth.

In chapter 6, ***The Right to Social Security and its Implementation: What Role can the ILO Social Security Standards Play?***, Krzysztof Hagemejer places the right of all people, not only the employed, to social security in an international perspective, stemming from the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948. Nevertheless, over 70 years later, much of the global population still lives in uncertainty and has no access to robust social protection. During this century, deeper analysis of successful social security programmes (i.e. those that extended coverage and introduced new policies to cover those previously unprotected) in the Global South led to changing perceptions about the significance and role of social protection in development

and the further refinement of policy mechanisms to address gaps and increase coverage. Importantly, in 2012, ILO member states adopted the new international standard - Social Protection Floor Recommendation No. 202. According to Hagemejer, Recommendation 202 should complement existing social security standards and provide a robust set of priorities and guidelines. These guidelines and priorities ought to result in reduced coverage gaps, help secure a minimum income and basic access to essential health care for those most desperately in need thereof. Hagemejer concludes that Recommendation 202 is important and can be used in a flexible way by experts, policy makers, implementers and civil society as a tool to design and implement policies that ensure the right to social security is realized. He further suggests that it can serve as an aid to achieving the Sustainable Development Goals in a manner envisioned as most appropriate by the society of any country.

Given the huge disparities and the triple challenge of deepening poverty, increasing levels of inequalities and unemployment that confront South Africa, **Vivienne Taylor**, in chapter 7, **Social Protection Floor: A proposal for a South African Approach for Social Justice**, asserts that a South African approach to a social protection floor ought to be premised on social justice, social solidarity and cross subsidiarity to achieve a decent standard of life and the progressive realisation of constitutional rights. She propounds that South Africa's historical, social and economic context of mass exploitation and structural inequalities, taken together with the contemporary features of neo-liberal globalisation, are critical factors that underpin a compelling argument for a developmental and rights-based approach for a social protection floor. Taylor, who chaired the 2002 *Committee of Inquiry into a Comprehensive System of Social Security*, draws on the Committee's Report (DSD, 2002) and the National Development Plan Vision 2030 (National Planning Commission, 2011) in providing clear theoretical arguments that reinforce a human rights and constitutional approach to social protection for South Africa. Noting that social protection has gained traction globally, the chapter outlines the components that constitute a social protection package or floor and therefore a decent standard of life. These, Taylor suggests, include interventions which address the multi-dimensional nature of poverty, namely income poverty (grants), capability poverty (such as access to health care, education and basic services), asset poverty (land, infrastructure) and programmes to mitigate life cycle risks (social insurance) as well as special needs. Taylor recognises that linking the social floor components to a decent standard of life and reductions in the cost of living is a complex process, which involves a wide range of actors. She urges policy makers to respond to two critical questions, namely, *how do we arrive at a defined social minimum or social floor that prescribes an adequate standard of life?* and *how do we reduce the cost of living so that a decent standard of life is attainable, even in the poorest of households?*

Several years after democracy, only marginal gains have been made, with respect to reducing inequality, whilst poverty levels remain unacceptably high. Could this be as a result of counterproductive policies, that are caused by a poor understanding of the nature of the problem or

could it be that the enormity of the challenges themselves, overwhelms the current battery of policies, thereby implying that only modest gains can be achieved in the medium to long term? These are the questions that **Alex van den Heever** explores in chapter 8, **Economic Growth and Social Security: Competing or Mutually Support**, by focusing on South Africa's current conceptualisations of poverty, inequality and unemployment in the mainstream policy discourse. The chapter proceeds with a critique of the measures for addressing poverty and inequality as articulated in the National Development Plan. The importance of employment as a panacea for these problems and the small role that is assigned to social protection is argued to be tenuous, together with the diagnosis of the constraints on employment which are seen as arising from weak growth and supply-side failures. Van den Heever argues that the role of household demand as it relates to the distribution of income is missing from this understanding. This he suggests creates a policy bias towards interventions aimed at shifting the structure of the economy whilst expenditure on social protection becomes the next best alternative forgone. Citing recent studies that debunk mainstream economic considerations of the impact of labour market imperfections on unemployment, van den Heever, argues that there is evidence to show that inequality negatively affects economic growth and that well-designed redistributive schemes do not. This is more so in a context like South Africa, where there is high pre-tax inequality, underestimation of the changes in well-being and the absence of pro-poor growth. The chapter then assesses the adequacy of existing policies and the significance of the social wage in terms of its redistributive effects, through education and health. Here the bone of contention relates to the proportion of the direct transfer that accrues to the workforce providing the services, in the form of compensation to employees who accounted for over 65% of total expenditure between 2002/3 and 2015/16. Together with the lack of a comprehensive social protection system and a fragmented institutional capacity to formulate appropriate policies and to deliver at the required scale, if unaddressed these factors will transfer social risks to the poor and compromise the ability to address the structural causes of inequality. The chapter concludes by offering four broad social security reforms for South Africa.

By the early 2000s, the correlation between financial exclusion and poverty had been established and goals for greater inclusion were defined with the aim of removing the constraints that prevented the poor from full participation in the financial sector (United Nations, 2006). **Mutsonziwa et al** of the FinMark Trust assess the impact of the SASSA MasterCard on the level of financial inclusion of grant beneficiaries in chapter 9, **Digitisation of Social Grant Payments and Financial Inclusion of Grant Recipients in South Africa – Evidence from FinScope Surveys**. Using a financial product usage typology, the bankable population is classified into those who are financially excluded/included, the products or services they use and the degree to which they are formally/informally served. The chapter shows that relative to other South Africans, grant recipients witnessed a significant increase in financial access from 34 percent in 2004 to 100 percent by 2016; relative to

77 percent of the South African adult population. This increase was largely influenced by the introduction of the SASSA MasterCard in 2012, where 76 percent of grant recipients were banked. The bank account usage of grant holders revealed that cash withdrawals were the main transactions used, with 46 percent reporting in 2016 that they took all the money out as soon as it was deposited. The chapter also highlights the changes in the savings trends of grant recipients which show variability over the 12-year period: 18 percent in 2016 decreasing from 23 percent in 2012. The trend in borrowing, however, showed a dramatic change after 2012 having been fairly stable since 2004, by more than doubling to 41 percent by 2016, from 20 percent in 2012. This increase was driven by changes in formal credit which rose from 14 percent in 2012 to 36 percent by 2016. The overall conclusion from this chapter is that while social grant recipients in South Africa already enjoyed relatively high levels of financial inclusion, the introduction of the SASSA MasterCard has seen greater financial inclusion relative to the general adult population. The evidence presented, however, notes a potential risk arising from grant recipients being targeted by those marketing credit which might have implications for the level of indebtedness of this demographic sub-group.

In chapter 10, ***SAMOD, a Tax and Benefit Microsimulation Model***, Gemma Wright and Michell Mpike discuss the use of a South African tax-benefit-Microsimulation Model (SAMOD), that allows for policy analysis around the impact of the current tax and benefit regime on poverty and inequality, examples of how the tool has been used and the construction of the model in other countries within the region. SAMOD enables one to explore numerous issues of relevance to social security analysis; for example, the incidence of existing policies across the income/consumption distribution, their (direct) impact on poverty indicators, their budgetary cost, and the analysis of gainers and losers between actual or hypothetical policy reforms. The benefit policies, or 'grants', that are simulated in SAMOD are the Child Support Grant (CSG), Foster Child Grant (FCG), Care Dependency Grant (CDG), Disability Grant (DG) and Old Age Grant (OAG). These are briefly summarised in the chapter in relation to how they are simulated within SAMOD. The chapter then discusses how SAMOD has been used over the past 10 years and these include its internal use by DSD and SASSA to examine the impact of hypothetical policy changes and to inform responses to parliamentary questions. Within academia, a number of hypothetical changes to the social security system have been simulated using SAMOD. These include an income maintenance grant for working age adults; a caregiver's grant; several different scenarios for the provision of social assistance for young people aged 18-24; variants of the Child Support Grant; and a series of options for implementing a universal Old Age Grant and a universal child benefit. SAMOD has also been used to explore the impact of the whole tax and benefit system on child poverty in South Africa.

In chapter 11, ***Ten Years of the South African Social Security Agency: The Journey 2006-2016***, Stewart Ngandu and Shirin Motala assess the performance of the South African Social Security Agency (SASSA) over its first 10 years. The chapter

provides a historical account that frames the context under which the agency was established as well as an overview of the legislation adopted in order to establish the agency. Whilst the Review focuses on the first 10 years of SASSA, a timeline of key events preceding the formal establishment of the agency allows for a greater appreciation and assessment of the state of the grant administration regime prior to 2006, and the key legislative changes around social security. Ngandu and Motala, argue that this context not only formed the basis for the creation of the agency, which is solely responsible for the country's non-contributory social assistance, but it also played an important role in the continued entrenchment of social protection rights in South African law. The chapter highlights SASSA's achievements across a number of dimensions with respect to the quality of service delivery, the reach of social assistance, the drawing up of comprehensive guidelines, and the standardisation of business processes and procedures across provinces. More importantly, it is noted that whilst the governance challenges that SASSA inherited from the old system have been addressed through various initiatives, some challenges have persisted and in recent years have led to serious concerns with respect to the integrity of SASSA's management and oversight structures. The authors note that these events reduced public confidence in both SASSA and the Department of Social Development. The chapter concludes with several recommendations, which the authors believe must inform the priorities of SASSA in the future if SASSA is to continue to make progress towards the greater fulfilment of its mandate.

The contributors to this edition provide a detailed reflection of South Africa's historical and contemporary social security platforms and instruments; during apartheid and post-1994. While South Africa's critical redistributive mechanism of social security has come a long way since 1994, the authors note that some continuities with the past remain and some new challenges have arisen. Despite this, the authors put forward recommendations on how to strengthen South Africa's social protection provisioning. While much of the groundwork has been laid, there is need for a deeper democracy that ensures greater citizen participation in social security policy and practice to ensure that all South Africans can live a life of value and dignity.

It is hoped that this inaugural edition of ***Social Security Review*** will stimulate robust debates and an assessment of the appetite for further editions of such a publication.

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2. SOCIAL SECURITY IN SOUTH AFRICA: A HISTORICAL OVERVIEW

Selwyn Jehoma and Abigail Ornellas

Introduction

South Africa, like all former British colonies, inherited social security systems that catered almost exclusively for the colonial expatriates. This chapter is a brief overview of the historical precursors of South Africa's social security system, locating it within its colonial past, in order to inform our understanding of the present. Whereas the historical choices of social security systems in many countries are the outcome of social, political and economic forces and structures, South Africa had the added dimension of race, and in particular the Apartheid ideology. Up until 1992, social policy choices were largely driven by racially based political and economic ideologies, cemented within Victorian capitalist colonialism and imperialism. It is important to understand this history if we are to recognise South Africa's successes in social security developments since 1994 and be aware of continuing gaps and influence of external forces and ideologies on policy.

The chapter explores key periods within South Africa's history that influenced the development of the social security system we know today. It is the authors' belief that developing such understanding will enable critical evaluation of the successes and continuing challenges within the country's social security system. Key periods that the chapter reviews include: (i) social security prior to 1919; (ii) legislative measures and developments from 1919 to 1945; (iii) the Apartheid—



influenced social security system and changes influenced by an emerging Apartheid resistance, from 1946 to 1994; and, (iv) the re-birth of social security from 1994, with the dismantling of Apartheid, and some reflections on the present day. These four periods are identified by the authors as precursors to shaping the country's social security system and are summarised in Table 1.

Against the backdrop of these historical periods, the influence of colonialism in social security development is explored through reflections on key decisions, policy developments and transitions in South African society. For the purpose of this chapter, the authors offer two definitions with regard to 'colonialism' and 'social security' within the South African historical context, which will further inform understanding of the underlying themes that are present throughout the chapter. Following these definitions, the authors outline the literature review methodology undertaken and highlight key texts and their relevance. The remainder of the chapter then discusses the historical and social evolution of social protection during the four critical periods discussed above. The chapter concludes with some reflections on current challenges and gaps within the social security system, and provides suggestions for the future within the context of influential ideologies and the National Development Plan.

Table 1 Framework for review: Critical precursors to South Africa's Social Security development

Key Period	Significant developments
Prior to 1919	Social security predominantly rendered through philanthropic charities and the Church; this marked the beginnings of racially divided social security measures.
1919-1945	Introduction of more structured means of social security through the state; increase in provision and formalisation; some extensions to certain groups of Black residents.
1946-1994	A period of regression in social security achievements of the previous period; increase in racially discriminatory policies; followed by significant shifts in the 1970s with the beginnings of Apartheid resistance. The early stages of dismantling apartheid-based social security provision, moving toward the introduction of radical post-1994 shifts.
Post-1994	Noteworthy successes in the establishment of an extensive and equitable social security system under the African National Congress (ANC); some necessary reflections about market-driven contradictions that highlight possible reasons for existing social security gaps.

Source: The authors

Definitions and methodology

Colonialism

In the context of this chapter, colonialism refers to the establishment, exploitation, maintenance, acquisition, and expansion of a colony in one territory by a political power from another territory. Thus, it engenders an unequal relationship between the colonial power and the colony, and often between the coloniser and the colonised. Within such a framework, colonialism is characterised by (i) the political and legal domination of indigenous cultures; (ii) power dynamics that render indigenous societies both economically and politically dependent; (iii) an exploitative relationship between the imperial power and the colony; and (iv) racial and cultural inequality. Against this backdrop, colonisation was largely extended through capitalist means, which engendered the concept of 'Other' in order to create and sustain cheap labour and grotesque profit generation for select groups. Capitalist ideology 'helped to ingrain racially coded relations of coercion and subordination in colonial culture' (Bundy, 1992:27).

The impacts of colonisation have been immense and pervasive, with both immediate and protracted effects. They have included: the spread of unequal and inequitable social relations; the creation of new institutions that facilitate further exploitation; and improved infrastructure and technological progress. Colonial mechanisms further encourage the spread and adoption of colonisers' languages, literature and socio-cultural institutions, and systems of governance. Colonisation also has a negative influence on the post-colonial regime, particularly through its spread of western ideas on socio-political stratification based on a racial hierarchy, where the 'Western' or European ideas and practices are still believed to be superior to the 'non-western' or Black (i.e. African, Coloured and Indian) ideas and that societies can be built on systems of exclusivity and elitism. This inherited white supremacist ideology led to post-colonial systems that perpetuated the belief that certain racial groups could have authority over the other racial groups in all spheres of life and enjoy better benefits than others; that entitlement by an 'elite' minority was acceptable and that the poor majority were undeserving. Furthermore, the post-colonial commitment to capitalism, and later, neoliberalism, has continued to encourage a widening gap between the rich and the poor, an inequality that begets competition, and has limited the effective development of post-colonial economic freedom for many population groups.

Social Security

It is important here to distinguish what is meant by the term 'social security', as it is often used interchangeably with similar terms such as 'social protection', 'social welfare' and 'social assistance', and can have different interpretations. By way of a general definition, social security can be understood as representing 'the provision of security through social or public means, thus defining the agency responsible for provision' (Kruger, 1992:4). In this case, Kruger (1992) understands 'public means' to indicate collective behaviour by several

actors, including the state and private sector, in the interest of a particular group or community, thereby inferring the word 'social'. This definition is considerably broad in scope. Within more formal definitions, social security is often understood as being related to contributory schemes concentrated within the formal economic sector, acting as a third pillar within the larger social protection system (alongside social assistance and social welfare programmes).

For the purpose of this chapter, social security in the South African context refers to both social insurance, 'which aims to cushion households against adverse events and usually includes a contributory element such as in 'pension or unemployment insurance', as well as social assistance schemes, 'where transfers in cash or in kind are made to deprived populations. These include public works programmes and cash transfer programmes (including non-contributory social pensions)' (Woolard et al, 2011:358).

Literature Review Methodology

This chapter explores key texts by experts in the field of South African social security, as well as building on the authors' knowledge and experience in the formation of the South African social security system and developments in rendering social grants post-1994. A literature review was undertaken using key words such as 'social security', 'colonialism', 'social welfare policy' and 'South Africa' to identify relevant arguments and understandings within academic literature. Key texts identified by the authors and used to offer an overview of the historical precursors of South African social security development, as well as to substantiate arguments presented in this chapter include: the substantial work by Olivier (2011) on the *History of South African Social Security System from the Pre-Apartheid Era to the dawn of democracy during early 1990s*; Monograph Prepared for the Department of Social Development; Kruger's (1992) thesis on *State provision of social security: Some theoretical, comparative and historical perspectives with reference to South Africa*; the critical work of Smith (2014), in her extrapolation of social work development through an analysis of historical dialogue and competing narratives; and Visser's (2004) *Shifting RDP into GEAR*. These authors have contributed substantially to knowledge of South African social security development, particularly within the colonial era.

Social Security in South Africa before 1919

It can be assumed that family, communal structures and clan formations were the earliest forms of economic security in southern Africa before the arrival of the first Europeans in 1652 (Smith, 2014; Visser, 2004). According to Smith (2014), although poverty and inequality existed prior the colonial era, the effects were largely mitigated by existing mechanisms of kinship and reciprocity. There is evidence that the first formation of more structured social mechanisms of security were initiated by the arrival of the Dutch East India Company (DEIC), for assisting the identified poor and vulnerable. These

measures were primarily provided by the church and were mainly charitable and philanthropic. According to Olivier (2011) the DEIC extended church collections so as to raise funds for the upliftment of the poor, who were increasingly seen as the responsibility of the church. From around 1664, this activity led to cash assistance being offered by the church to enable the poor to meet their basic needs. During this time, cash and in-kind benefits through the church began to be disbursed as regular monthly grants to the elderly, the disabled, widows and poor infirm people, including former slaves who met these criteria. Kruger (1992) suggests that up to this point, race was not yet a criterion in the provision of such social assistance. In fact, there were no formal criteria to qualify for assistance from the church at the time, and cash or in-kind assistance was granted based on personal knowledge of a family or individual's deprivation, or inspection by the deacons. However, assistance was at times withheld on the basis of immoral or undesirable behaviour (Marais, 1943).

Ignoring race as a precondition changed in 1705, at which time Blacks began to receive church-rendered cash benefits at a lower rate than other racial groups (Kruger, 1992); by 1710, monthly grants allocated to 'free Blacks' were given at a rate of less than half of that provided to White groups (Kruger, 1992). This coincided with the emerging global dialogue at the time, which was dominated by paternalism, individualistic ideology and a favouring of the 'White elite' in the attempt to construct an inferior 'Other' to meet cheap labour demands (Patel, 1992; Smith, 2014). As outlined by Bundy (1992:27), the demarcating of race allowed for 'racially coded relations of coercion and subordination in colonial culture.'

Kruger (1992) proposed that the arrival and settlement of the English in 1820 led to a paradigm shift in South Africa's philanthropic social welfare model, as they introduced a slew of legislative reforms - underlined by capitalist and Victorian notions of the 'deserving' and 'undeserving' poor - that gave precedence to personal and family support for all racial groups, however, with a notable discrimination for non-whites. The 'deserving' poor group included orphans, 'Voortrekkers' older than 70 years, and physically capable persons that participated in public work opportunities (Olivier, 2011). This is significant in understanding early transitions in the nature of social security provision, which, while still dominated by philanthropic ideals, indicated the growing expectation of self-reliance and responsibility for well-being.

The visible increase in deprivation after the aforementioned regime change has been attributed to the gaps in the Victorian model of social security provision. In addition, the rapid transformation of the South African economy, as a result of diamond and gold mining in the late 1800s, served to further intensify this deprivation, through increased urbanisation during the transition from an agrarian to a mining society, growing land scarcity, and the post-1834 gradual shift from slavery to wage labour (Kruger, 1992). Racial divides intensified during this period through the increased demand for cheap labour (Bundy, 1979; Smith, 2014).

The status quo remained the same between the late 1800s and the early 1900s when welfare provision was dominated by charitable organisations and limited state intervention. This resulted in the establishment of self-help and private philanthropic organisations, the majority of which were run by religious groups. Additional social welfare assistance was, however, provided by the mining sector. For example, the Present Help League (funded to a large extent by mine-owners) provided assistance to skilled mine workers who had become unemployed. However, this criterion excluded unskilled workers, most of whom were Black. In addition, the De Beers Consolidated Mines established what could be considered the first private health arrangement in 1889 and, by 1910, there were seven similar private medical schemes (Olivier, 2011).

With the formation of the Union of South Africa in 1910, some shifts began to take place in the national regulation of welfare within the South African colony. While voluntary organisations continued to play a dominant role in welfare provision, the responsibility for poverty relief was handed over to the demarcated provinces and the state began to become more involved in relief efforts, funding many voluntary organisations (Kruger, 1992), as well as establishing some formalised means of assistance. The Workmen's Compensation Act of 1914, for example, was the first legislation to regulate compensation for occupational injuries and diseases, through a system of mainly state administered insurance. Assistance beyond the workplace also began to emerge, especially in the fields of childcare and provision of support to poor families. Various child protection initiatives were further introduced from 1905 to 1910, including the founding of voluntary child welfare societies, the consolidation of the Children's Protection Act in 1913, and the provision of maintenance grants to destitute white and Coloured children, orphanages and children's homes (Olivier, 2011). A rare example of a 'categorical' welfare benefit in the context of South African welfare policy can be found in the provision of a maternity allowance to pregnant women from 1918, in terms of labour legislation.

Despite the development of the above-mentioned policies, social security remained rigid and limited to 'relief of distress' (Pollack, 1960: 3). In addition, racial discrimination in the provision of assistance continued. In the case of the Workmen's Compensation Act of 1914, for example, Black workers were regulated separately by the already existing *Naturellearbeid Regelingswet* of 1911 (Olivier, 2011). Although the 1918 Maternity Allowance was not necessarily racially exclusive, it was selective in its exclusion of large categories of female workers, such as farm and domestic workers, most of whom would have been Black or Coloured.

The above-mentioned developments serve as an outline of social security notions prior to 1919, and the persistence of philanthropic and private charity-based social security means, with racist undertones in the Capitalist formation of racial-based inequality. Both social security provision, and racial divides, gradually began to be entrenched and formalised as transition from the Victorian social welfare model began to take place between 1919 and 1945.

Social Security developments from 1919 to 1945

Although South Africa preserved the Victorian social welfare model post-1919, significant shifts in the formalisation of social security continued to take place. In one instance, social security measures began to be more formalised through state regulation. However, alongside this was the evident 'unwillingness of white parliaments to use general government revenue in the financing of services to Africans' (Kruger, 1992:159) and this began to be institutionalised into legislative provisions.

The formalisation of welfare provision after 1919 can be said to be partly a result of rising poverty after the First World War, as well as the changing political climate of the 1920s. The War Veterans' Grant was introduced in 1919, at the end of the war, exclusively for returning soldiers. This benefit consisted of payments for disabled as well as able bodied returning servicemen and could be regarded as more of a reward for supporting the cause of the Allies, than as a form of social security.

South Africa institutionalised its first occupational pension in 1920. This provision was followed by further developments, such as the payment of maintenance grants to caregivers of children, by way of the Child Protection Amendment Act of 1921. However, the occupational pension and maintenance grant continued the theme of racial discrimination, and were mainly available to whites, although the urban Black child could access the maintenance grant under 'exceptional circumstances', although an example of such circumstances is difficult to locate.

In 1924, the political climate of the country began to change, and the National Party, led by Hertzog, and the Labour Party (which was socialist in orientation), formed a coalition and won the election. In a turnaround policy from that of the liberal Botha and Smuts government, the Pact government came to power on the mandate of breaking the English stranglehold on economic policy and committed to addressing the plight of poor whites, who had been voicing their concerns through several large protest actions, including the 1921 mineworkers strike and the 1922 Rand Revolt. The establishment of the 1924 National Council for Child Welfare and 1929 National Council for the Blind and the Deaf demonstrated shifts towards the nationalisation of social welfare. Soon after the change in government, the Pienaar Commission on Old Age Pensions and National Insurance produced three reports that, according to Olivier (2011), provided the foundations for South Africa's welfare regime. The most significant of these was the 1928 introduction of means tested social pensions for Whites (at R5 per month) and Coloureds (at R3 per month); but nothing for other Black groups (Africans and Indians).¹ According to Pollak (1960:4), these changes indicated a movement 'from pauper relief to public assistance.'

Racial divides during these changing times were, however, exacerbated. In the context of social pensions, for example, the

South African Parliament agreed that 'natives' (Black people), Indians and all residents of Namibia (then the protectorate of South-West Africa), should be excluded from this coverage. This reflected the dominant view at the time that pensions were unnecessary for this segment of the population given the African tradition of maintaining the elderly and dependent persons. According to Kruger (1992), the motivation behind the further exclusion of Blacks from maintenance grants was along similar lines, claiming a reluctance to disrupt existing traditional forms of the care for children, women and the elderly. In addition, the state was concerned that the delivery of social assistance would attract further urbanisation of Blacks, which was considered undesirable.

In 1934, however, the Worker's Compensation Act was enacted to provide workers with: (i) an insurance arrangement in the event of injury; (ii) free medical aid on the premises of the employer for workers injured at work; (iii) free transport to the hospital if necessary; (iv) capped payment of medical expenses for injuries and diseases occurring off the employer's premises; and (v) the appointment of a Compensation Commissioner to administer the funds. The provisions were ground-breaking at the time since this reflected one of the few pieces of legislation where urban Black workers were included, notwithstanding ongoing discriminatory practices of differential benefits. The Native Affairs Department was responsible for administering the claims on behalf of Black beneficiaries.

Formalised social security continued to grow during this period. In 1929, the Pienaar Commission recommended the introduction of a compulsory unemployment insurance scheme for certain sectors and income groups. The legislation was delayed to 1937, at which point Parliament passed the Unemployment Benefit Act. The government also set up the Department of Labour and Welfare in 1937 to plan and coordinate the delivery of welfare services that sought to address the poor white problem, and rehabilitate the socially unadjusted or poorly adjusted individual or family (Olivier, 2011). This was largely based on the findings of the 1932 Carnegie Commission, which identified significant poverty escalation in South African communities (White and Black) and the gaps in the current system of relief. One of the most important recommendations of the Carnegie Report was the need to give attention to preventative measures within social security, over and above poor relief. The establishment of the Department of Labour in 1937 was thus a deliberate step to begin coordinating and formalising more sustainable social security measures. This Department took over the provision of poor relief in all provinces except Natal in 1940. It also administered the Children's Act of 1937 through which child welfare was prioritised as a state responsibility, second only to old age pensions, in the late 1930s.

From 1934 onwards, an increasing realisation of the need to cover the risks associated with a modern economy led to both political and economic considerations playing key roles in the formulation of social security policies. This brought about some extensions for Black groups, in order to maintain some form of economic and political stability within a modernising economy.

¹ The pensions applied to men above the age of 65 years old and women above the age of 60 years old.

The Blind Persons Act of 1936 provided income support to disabled and visually impaired White and Coloured persons. This changed in 1944 when the Act made non-statutory payments to Indians and Blacks respectively; in 1944, pensions for the aged, infirm and blind were legislatively extended to Indians and Africans, although benefit levels differed between the race groups, to the detriment of Black people, who were subject to more stringent means testing. There were also differentials with a higher rate paid to Black South Africans in urban areas compared with a lower rate in rural areas. In 1946, as a result of the Social Security Committee's more comprehensive social security proposals, the Unemployment Insurance Act was passed which sought to eliminate earlier restrictions, e.g. the exclusion of all Black workers earning less than R165 per year and the exclusion of agricultural, domestic and mineworkers. However, it continued to exclude people working in a number of sectors of the economy.

According to Iliffe (1987), these initiatives to include all racial groups in the provision of social security were primarily the work of Jan Hofmeyr, Minister of Social Welfare in 1937. Hofmeyr questioned the merits of restricting social welfare schemes to White people only and insisted on extending the Labour and Social Welfare Department's functions under the Children's Act to a small numbers of Blacks in 1940. This was an important step in the evolution of South Africa's social security model as it broke the tradition of services for Blacks being provided exclusively through the Native Affairs Department. Kruger (1992) further argues that by the late 1930s to early 1940s, the arguments that the state had used for limiting social security to Blacks were no longer viewed as valid within an increasingly modernising society, and there were disputes within the 1944 Social Security Committee over the misconception of the living standards within the Native Reserves and the ability of rural native communities to offer support to the vulnerable.

The Second World War brought about increased poverty and social disruption in South Africa. Voices within government and civil society organisations advocated and gained popular support for the provision of a comprehensive social security system (Dubow & Jeeves, 2005). Employers' complaints during the war about the costs of private insurance for workmen's compensation led to a reform of the Workmen's Compensation Act of 1941 and the subsequent establishment of a state fund to which all employers would contribute. According to Giliomee, the 'poor white problem', had de facto been eliminated by 1939 (Giliomee, 2003). This was achieved primarily through various laws (e.g. the 1925 Wage Act) that gave them preferential treatment in acquiring better paid jobs and the creation of a 'civilised labour policy' for Whites. This explains why few Whites claimed social pensions despite the very generous means tests. In 1943, take-up rates amongst the elderly for pensions were 40 per cent for Whites and 56 per cent for Coloureds. By that year, only 4 per cent of all social assistance spending was on Blacks and most of this was targeted relief for the destitute and pensions for the blind. But in 1944 the Smuts government extended social old-age pensions to Blacks, though benefit levels were less than one tenth of those for Whites and the means test was far more stringent (Posel, 2005). By 1958, Blacks already composed 60 percent of the 347 000 social old-age pensioners, although they only received 19 per cent of old-age pension spending (van der Berg, 1997).

In the midst of post-World War Two demands, the National Party set up a Committee of Inquiry that recommended the state to provide a more comprehensive social security system to combat growing poverty, albeit along racial lines. It seems that during and after the war, coverage for Blacks was being extended and the chief benefits recommended were old age pensions, family allowances, disability pensions and unemployment benefits. However, this was by no means an entirely positive transition. Means tests continued to be differentiated by racial and geographical means, and benefits for members of the Black groups were significantly lower. The proportions recommended by the Committee of Inquiry, for example, saw White people enjoying a 65 per cent share of the available social security benefits, Coloured and Asian people benefiting from 12 per cent, and Black people 23 per cent (Olivier, 2011). The Unemployment Insurance Act of 1947 further expanded social security coverage, with the removal of the minimum income restriction. However, it continued to exclude domestic, agricultural and mine workers, thereby limiting much of the Black population from accessing the insurance provision. The categories in the Children's Act of 1937 were extended in 1942. Despite this, accessibility was still blocked for many racial groups and by 1944, 13 276 White children were receiving maintenance at a maximum of R5.00, as opposed to only 5 816 Coloured children and 3 034 Indian children at a maximum of R1.70, and only 190 Black children at a maximum of R1.25 (Kruger, 1992).

Later, parliamentary criticism would cause the government to abandon the comprehensive scheme proposed by the Social Security committee (which was, at the time of its formation, applicable to all urbanised people and farm workers, regardless of race, although with continuing differentiated benefit levels). During this time, Hofmeyr, by then Finance Minister, managed to salvage the most important benefits for Blacks by including them in his budget, albeit at what can be considered a bare minimum. Yet, despite this perhaps notable shift to the inclusion of Black South Africans in social security schemes, such inclusion continued to be subject to stringent means testing, was racist and differential in terms of quality and quantity of provision. However, the political undercurrents of social security developments were to see an even more significant change (and initial decline) from 1946, one that Kruger (1992:173) labelled 'an attack on many of the schemes instituted in the previous decades.'

Social Security developments from 1946 to 1994

Social security developments from 1946 through to 1994 saw many dramatic changes, with a surge in apartheid policies, an increasing mass resistance, and the eventual dismantling of such racial divides with the democratic election of 1994.

The period from 1946 through to the late 1960s saw rapid regression in the extension of social security mechanisms for Blacks. In describing this period of social security development in South Africa, Bromberger (1982) refers to it as an era of retrenchment that led to significant regression of previous strides made in both the nature of state-rendered social

security provision, as well as racially discriminatory practices in the access to and benefit-levels of existing policies.

However, this regression was slow. In fact, from 1946 to 1948, there seemed to be a continuing commitment to social security extension. The recognition of the gaps in the social security system, as discussed above, initially led the government to make meaningful concessions, so as to comply with the Social Security Committee's recommendations. For example, the Disability social grant was extended to all groups in 1946, in terms of the Disability Grants Act, so that 27 264 Africans received disability grants, 21 864 received invalidity grants and 196 846 received old age pensions by 1948. Furthermore, various measures to alleviate family poverty and working poverty were implemented. These included the payment of family allowances to low income White, Coloured and Indian families, as well as the extension of the maintenance grants coverage to include all population groups (Olivier 2011). In August 1947, eight months after the 1946 Unemployment Insurance Act came into force, a Commission of Enquiry was appointed to address the issue of the inclusion of Africans and immigrants.

However, with the election of the National Party of DF Malan in 1949, the inclusion of Blacks in the newly established Unemployment Insurance Scheme was reversed in what was seen as an attempt to protect White workers (Olivier, 2011). Although the Unemployment Insurance Scheme was extended to provide for illness benefits in 1952, maternity benefits in 1954, and death or survivor's benefits in 1957, it was, by and large, inaccessible to Black population groups. In fact, as a result of the changed beneficiary categories, Meth & Piper (1984) concluded that the unemployment insurance available to Blacks was negligible by 1950. In addition, other social security measures that were initiated in the early 1940s, such as school feeding schemes and cost of living allowances, were virtually abolished. Black schools were excluded from registering for school feeding schemes and by 1949 rural Black children were excluded from the cost of living allowances combined with significant downsizing of the grant for urban Black children in the same year (Kruger, 1992). Furthermore, increasing discriminatory limitations were set in motion with social pensions, both in terms of means test categories and benefit levels. By 1962, while Whites were receiving a maximum monthly pension of R267.19, Blacks were allocated R25.57 (Kruger, 1992).

In 1948, steps began to be taken to move dependent Blacks to the homelands and in doing so, to transfer social security provision for Blacks to these areas (Kruger 1992). In keeping with these efforts, the 1950s saw the responsibility for social welfare for Blacks and Coloureds entirely transferred from the Department of Social Welfare to the Department of Bantu Administration and the Department of Coloured Affairs respectively. Benefits and associated means test

requirements were increasingly differentiated according to race and geographical location during this time. Thus, despite the recorded booming of the South African economy between 1949 and 1970 (Bromberger, 1982), the exclusion of Blacks from many social welfare schemes continued, and even intensified. The examples cited here offer an overview of these retrogressive steps but are not necessarily an exhaustive list.

However, despite this regression, with the constricting of the economy in the 1970s, and a rising global resistance to Apartheid, a need for policy adjustments was recognised, which led to what Bromberger (1982) calls 'showing signs of [a] thaw'. Bromberger notes that there was an 'increased real and per capita expenditure on social services and infrastructure for Blacks; a reduction of racial differentials in social pension benefits; and an increased awareness of poverty and the need for corrective policies' at this time (Bromberger, 1982, cited in Kruger, 1992:179). This began in the mid-1960s, but showed real signs of transition in the early 1970s. One of the first responses to this changing mind-set (amidst global and liberal pressures) was the abolishment of the exclusion of Blacks from unemployment insurance in the late 1970s (Olivier, 2011). Following this, transitions continued, with the abandonment of racial differentiations in the value of payments. The Unemployment Insurance Fund (UIF) lower income limit was abolished in 1979, thus making unemployment insurance available to poorer (predominantly Black) workers. Finally, this period saw the UIF further extended to include gold and coal miners in 1981, and agricultural workers in 1993. It should be noted here that South Africa has never developed a contributory public pension system. The government did however seek to regulate the many private pension funds that existed. The 1956 Pensions Fund Act was the primary mechanism for regulating private contributory schemes in a manner that did not disrupt the existing private funds (Olivier, 2011).

By 1980, 560 834 Africans were receiving old age pensions and 158 305 were receiving disability grants (Olivier, 2011). During this period pensions were the second largest source of rural cash income, after migrant remittances. However, changes over time were not necessarily all of noble intent. Iliffe suggests that the National Party Government possibly hoped to buy the compliance of Blacks in rural areas, in a time of increasing resistance, through the provision of social assistance to the elderly (Iliffe, 2011, cited in Olivier, 2011). The state maintenance grant, on the other hand, has been identified as a mechanism the Apartheid regime used to secure support from the Coloured population. The use of social assistance to help ensure electoral support is a phenomenon that many have argued continues today as a form of patronage spending (Bond, 2000).

The rationale for moving towards equality in social assistance in the late 1970s and early 1980s may be thought of as being an attempt by the Apartheid government to give the

homeland system and the three-chamber parliament political legitimacy.² This led to a rapid increase in the funds flowing to the homelands for social assistance, especially for the elderly, albeit insufficient given the extent of poverty, the large number of people who qualified in terms of the legislation and the budget provided. Both the coverage of the Black elderly population and the real value of the benefits paid increased markedly, and in 1993 there were almost twice as many Black pensioners inside the homelands as outside. This development however, must be seen against the backdrop of increased social unrest and popular protest against the Apartheid regime. This trajectory continued until the dissolution of the Apartheid regime, with the Nationalist government consolidating various provisions for social assistance under the Social Assistance Act of 1992. It was this Act that finally eliminated racial disparities in social grants and set out the framework that has formed the basis for the current social protection system. The timeliness of this Act indicates that South Africa is an interesting case as the legislation guiding post-Apartheid social security was passed before the promulgation of the new constitution, and spelled out the government's future obligations regarding social security. These commitments were largely based on a socialistic democratic model and marked the beginning of radical and praiseworthy developments regarding social security. However, challenges to implementing this social security system, as it developed post-1994, remain. There are contradictions between the capitalist and neoliberal commitments to the welfare state, as well as continuing apartheid-based inequalities that remain unaddressed.

Social Security developments post-1994

The previous sections highlight the historical precursors that influenced the formation of South Africa's contemporary social security system. The period from 1994 to the present is now explored under two themes: democratic social security reforms, and the contradictions of market-driven commitments, which influenced this transition. This period marked the dismantling of the Apartheid system and with it the racially discriminatory social security provisions and policies. It further saw the development of a social democratic transition to rights-based and developmental social welfare ideals, although, as the authors reveal, with some contradictions and limitations to authentic transition.

Democratic social security reforms

After April 1994, with the end of Apartheid and the establishment of the African National Congress as the democratically elected majority political party, the government took major steps to reform institutional arrangements within the social sector. The first was the separation of the welfare and health portfolios at the national level; the second was

the establishment of a National Department of Welfare (later the Department of Social Development); and the third was the incorporation of the welfare functions of the former Homelands and four Houses of Parliament into the national programme. The Chikane Committee for the Restructuring of the Social Security System was established in 1995 to identify and address challenges to the delivery of a comprehensive social security system. This period marks the point where social assistance surpassed social insurance as the branch of social security reaching the largest proportion of the South African population.

The post-1994 period was further characterised by significant policy developments on social assistance, which included the White Paper for Social Welfare of 1997, the Social Assistance Act of 2004 and the South African Social Security Agency Act of 2004. This was a noteworthy time of transition to the development of a social security system that has been globally praised for the extent of its assistance. The White Paper, for instance, outlined the government commitment to establishing a comprehensive social security policy and legislation (Makino, 2004). This commitment marked the first attempt to reform the social security system, because it recognised that the 1992 Social Assistance Act eliminated racial discrimination, but left the old system in place. One of the most remarkable successes in the transitioning of the social security system during this period was the undertaking of the Lund Committee. This Committee proposed the phasing out of the state maintenance grant for children and the introduction of an unconditional child support grant that reached a greater number of children. The Committee also proposed that the upper age for eligibility be adjusted progressively, from 7 years to 18 years of age, as a mechanism for containing the cost of this expanded programme. The Lund Committee exhibited the ideals of the Reconstruction and Development Programme (RDP), maintaining that welfare policy should not place too much store on job creation as a mechanism for improving living conditions, but should focus instead on meeting the basic needs of the poor. The child support grant was launched in 1998, allocating R100 for children younger than 7 years old whose caregivers passed the means test criterion.

In 2000, Cabinet approved the establishment of an Inter-ministerial Committee that would oversee the work of the Taylor Committee's Inquiry into the feasibility of introducing a Comprehensive Social Security System in South Africa. The Taylor Committee adopted the position that 'Comprehensive Social Protection' is better suited for a developing country, since it aims to 'provide the basic means for all people living in the country to effectively participate and advance in social and economic life, and in turn to contribute to social and economic development' (Makino, 2004:18). The Committee recommended that a Comprehensive Social Protection Package should be established consisting of measures to address income poverty (through the provision of social

² The Apartheid regime created a number of administrations (e.g. 10 homelands, and four provincial administrations for Blacks (Africans) outside the homelands and a separate administration under the three chamber parliament for each of the other three racial groups). These administrations had a fair amount of discretion to set rules and administrative procedures and decide which grants to provide and the benefit levels for their respective racial groups, but funding was determined by the central government, which restricted their agency.

grants), capability poverty (through the provision of healthcare, education, water and sanitation, transport, housing, access to jobs and skills), asset poverty (through the provision of land, credit, and infrastructure) and special needs (through disability and child support). The focus on tackling income poverty first was because income poverty can be addressed in the short term whilst asset and capability poverty only tend to be significantly altered in the medium to long term.

A key reform of the social security system was the creation of the South African Social Security Agency (SASSA) in 2004 but 'social assistance benefits were administrated by the provincial departments responsible for social development in each of the nine provinces' (Mpedi, 2008:16). This led to provincial-level differentials in the quality and reliability of services being delivered.

Social insurance reforms became topical after the establishment of the South African Social Security Agency, the national agency mandated to manage, administer and pay social security benefits. Cabinet set up an interdepartmental team after differences of policy became apparent between different government departments. After more than five years, a consolidated government document was developed presenting social insurance and social assistance reform proposals.

The contradictions of market-driven commitments

In reflecting on the development of the social security system post-1994, and the gaps which may be identified in further social security development today, it is necessary to contextualize the factors driving a comprehensive policy framework for the provision of social security in the wider policy debates that were taking place at the time. In particular, it is necessary to reflect on the shift from the 1994 Reconstruction and Development Programme (RDP) to the Growth, Employment and Redistribution (GEAR) Plan in 1996, which emphasised the importance of creating human capacities and the concept of developmental social welfare.

The RDP spelled out a vision for a new democratic South Africa in which people would be granted access to services upon a rights-based premise, and thus be enabled to participate in society. The driving rationale was equitable development, primarily through redistributive measures. The idea behind the RDP was to significantly increase spending on service provisions, as well as generate job creation, thereby tackling marginalisation, inequality and unemployment rendered under Apartheid rule. The approach was both people-centred and people-driven. This period also marked the beginning of rising advocacy from Civil Society Organisations (CSOs) and stakeholders for the greater coverage and benefit level of cash transfers. This advocacy is clearly identified by several outputs, including The 1997 White Paper for Social Welfare and the 1996 Report of the Lund Committee on Child and Family Support.

This focus on restructuring the state and drawing people into employment, as the primary redistributive mechanism differed, however, from the GEAR Plan of 1996, which replaced the RDP. This policy identified cash transfer as an effective mechanism for government to alleviate poverty and deliver on its constitutional obligations regarding social security (Brown and Neku, 2005) but doing away with many of the redistributive commitments of the RDP in favour of market-driven commitments, and elements of deregulation and decentralisation (Bond, 2000). Sampie Terreblanche (in Visser, 2004:9) put it this way:

'Perhaps the most important difference between the RDP and GEAR was that, while the former expected the state to conduct a people-oriented developmental policy, the latter saw South Africa's economic "salvation" in a high economic growth rate that would result from a sharp increase in private capital accumulation in an unbridled capitalistic system. The government's task in this was to refrain from economic intervention and to concentrate on the necessary adjustments that would create an optimal climate for private investment.'

Thus, GEAR, while retaining state commitment to social security measures through assistance grants that were equitable and far-reaching in scope, reintroduced elements of the 'deserving poor' concept and the idea of individual responsibility for well-being. However, despite these concerning contradictions within social policy development, South Africa's social security system had remarkable successes in later years and continued to transition and expand, particularly under the Committee of Inquiry into a Comprehensive System of Social Security, known as the Taylor Committee, of 2002. Thus, the authors do not argue that GEAR had a stifling effect on social security development, but rather that the ushering in of market-driven principles, keeping in step with global shifts of Thatcherism (Bond, 2002; Smith, 2014), held contradictions to the original commitments of post-1994 policies and may deserve further attention and exploration, against the backdrop of the country's colonial past; this is however outside of the remit of this chapter.

Conclusion

This chapter has offered an overview of the development of South Africa's social security system through reflections on four key periods. The authors considered the situation prior to 1919, when social security measures were largely philanthropic and church-based, with some formalisations; followed by 1919 to 1945, where social security began to be institutionalised, with significant racial divides. These divides were widened to include other non-White groups, however provision continued to be differential in terms of quality and quantity. The period 1946 to 1994 was then discussed; focusing on the nature of social security during Apartheid, and how this was influenced and changed with emerging Apartheid resistance. Finally, the social security system established post-1994 was reflected upon, in terms of both the successes of this system against the socialist democratic backdrop, as well as the continuing challenges and contradictions woven through capitalist and neoliberal advances.

To conclude on the state of social security in South Africa post-1994, it can be considered that despite necessary concerns with market-driven shifts in thinking, South Africa's social security system design and coverage post-apartheid has made it a leading example in the developing world. However, extensive gaps remain in the provision of social insurance and larger redistributive measures are still lacking. The inequality promoted by the neoliberal model underlying policies such as GEAR continue to hinder true transformation and until this is adequately addressed, it is possible that social security, albeit necessary and uplifting, will also serve to maintain an unfair status quo. The National Development Plan holds extensive promise in many of its commitments and aligns itself with the principles of the RDP. However, there are still undercurrents of market-driven dialogue that need to be critically assessed. Unpacking the colonial foundations of South Africa's social security system reminds one of the long histories of inequality that continue to leave their mark today, and encourages one to reflect on social security measures post-1994 with this understanding. The authors of this chapter caution that a commitment to Western ideals, such as neoliberalism, may contradict the great strides South Africa has taken to remove itself from its colonial past.

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3. SELECTED CONSTITUTIONAL AND LEGAL PERSPECTIVES ON SOCIAL SECURITY IN SOUTH AFRICA

Marius Olivier

Introduction

This chapter reflects on the impact of the Constitution of the Republic of South Africa, 1996 and related legal principles on the development of social security in South Africa. It provides conceptual clarification in relation to the notions of (contributory) social security, (non-contributory or budgetary-provided) social assistance and the wider concept of social protection; noting that, as indicated by the Committee of Inquiry into a Comprehensive System of Social Security for South Africa (RSA, 2002), there are several reasons why the traditional social security concept, based on employment-based social insurance and categorical and means-tested social assistance, is inappropriate in the South African context.

The chapter also considers, by way of background, the exclusionary nature of the current social security regime, the historically racially biased nature of the South African system, and takes steps to develop a more comprehensive system. It reflects on poverty, inequality and unemployment, indicating that those affected by these factors are often those who are excluded from the current fragmented social security system.

The chapter then deals with the constitutional framework supporting social security – with reference to the supreme status given to the Constitution and its entrenched Bill of Fundamental Rights, which includes the right to access to social security, including the right to access to appropriate social assistance, for those who are unable to support themselves and their dependants. The constitutional framework also includes several constitutional institutions other than the courts, including the South African Human Rights Commission, the Public Protector and the Public Service Commission.

The question of the right to access to social security is also addressed. The Constitutional Court has held that socio-economic rights are indeed enforceable. As is evident from, among others, the key judgment in the area of access to social assistance for permanent residents, the Court is prepared to review programmes and policies against constitutional prescripts, but stops short of ordering a specific distribution of financial and other resources.

All the rights contained in the Bill of Rights are interrelated and mutually supporting. Therefore, when developing the social security system, the state must ensure that all related constitutional values and rights, such as human dignity, freedom and equality, are supported. The Constitutional Court has repeatedly confirmed that there is a deliberate constitutional focus on vulnerable groups and provision has to be made for the most vulnerable and desperate in society.

South African courts have amply employed the constitutional and statutory principles, embedded in the notion of just administrative action, to intervene and assist particular social assistance applicants and beneficiaries, for example in the areas of delays in processing grant applications; the unilateral withdrawal and suspension of grants; and irrational decision-taking. The jurisprudence provides evidence of serious and systemic service delivery failures. It is also indicated that responsibility for social security implementation and service delivery is shared not only by state institutions but also by other agents within society, including individuals themselves. To the extent that non-state actors may be involved in the delivery of social security, they are bound by constitutional prescripts.

Other constitutional principles relate to the need to develop a policy-based programme and legislative implementation framework; the availability of a range of reasonable measures at the disposal of government and the legislature; and the requirement that the state must provide sufficient budgetary support to give effect to the constitutional right to access to social security.

In conclusion, it is suggested that this constitutional right is a major poverty-addressing instrument. It requires an adequate standard of living and a minimum level of support that should be available to those affected. Given the exclusionary nature of South African social security, there is a need to devise a comprehensive programme to deal with the plight of the large number of people who derive no protection from the South African social security system. The absence of proper policies in this regard would certainly leave the state exposed to major constitutional challenges.

Conceptual framework¹

Social security, social insurance and social assistance

Neither South African law nor the international literature provides a clear and consistent approach to the concept of social security. It has been suggested that social security is not a

¹ See Olivier M (2012) 'Social security: Framework' in J A Faris (ed) LAWSA (The Law of South Africa), second edition, Vol 13, Part 2, Durban: LexisNexis 34 et seq, for a more detailed discussion of the matters covered in this chapter. See also Olivier M (2003) 'Constitutional perspectives on the enforcement of socio-economic rights: recent South African experiences', in Victoria University of New Zealand Law Review, 33, 1, 117-151.

fixed concept (Berghman, 1991:9). Similarities exist with regard to the list of social contingencies or risks (for instance relating to health, unemployment, old age and employment injuries) considered which are often referred to as the core elements of social security. Most systems still rely on the traditional distinction between social insurance and social assistance embedded in the concept of social security (International Labour Organization [ILO], 1984; Pieters, 2006). 'Social insurance' denotes contributory and risk-based schemes giving rise to fixed benefit payments aimed at income maintenance, while 'social assistance' refers to tax-based benefit payments on a universal or targeted basis aimed at minimum income support. This distinction between social insurance and social assistance appears to be aligned with the constitutional approach in South Africa, because the 1996 Constitution uses 'social security' as an 'umbrella concept', encapsulating inter alia the notion of social assistance. The Constitution provides that everyone has the right to access to social security including, if they are unable to support themselves and their dependants, appropriate social assistance (Constitution, section 27(1)(c)).

International instruments, South African policy documents and academics provide different definitions of social security. Some of these approaches define social security with reference to a list of social risks,² while others define social security in terms of the involvement of the state,³ or in terms of the aims⁴ served by social security generally and/or particular schemes specifically.

In its first two annual Economic and Social Rights Reports (1997-1998 and 1998-1999) the South African Human Rights Commission stressed the need for a proper concept of social security in South Africa. It noted, inter alia, that the social assistance notion adopted for purposes of the then Social Assistance Act was too narrow from a constitutional perspective, as it restricted the term to the income replacement grants system.

Social protection

Social security has to be distinguished from the wider concept of 'social protection'. This concept is increasingly used internationally either alongside, or as an alternative or wider concept than social security. According to some commentators, social protection denotes a general system of basic social support which is no longer linked to the regular employment relationship, and which is founded on the conviction that society as a whole is responsible for its weaker members – in other words, a system of general welfare support and protection (Von Maydell, 1997).

It could be argued that the term 'social protection' also encapsulates elements and rights related and ancillary to social

security itself. When combined with social security the presence of these elements ensures adequate social protection. From a South African constitutional rights perspective it is clear that there is a close inter-relationship between the concept of social security and several other concepts which constitute the basis of specific fundamental rights, such as the right to have access to land, housing, healthcare services, and sufficient food and water (Constitution, sections 25(5), 26(1) and 27(1)). The inter-relatedness of these rights, particularly within the South African context, has been emphasised by the Constitutional Court which has affirmed that realising a particular socio-economic right, such as the right to access to housing, would require that other elements which at times form the basis of other socio-economic rights, such as access to land, must be in place as well. Together, these rights are mutually supportive and have a significant impact on the dignity of people and their quality of life.⁵ Compliance with the right to access to social security, and more particularly social assistance, could have an impact on the extent to or way in which the other rights have to be fulfilled. In *Government of the Republic of South Africa v Grootboom* (2000: par 36) the court remarked:

'The poor are particularly vulnerable and their needs require special attention. It is in this context that the relationship between sections 26 and 27 [of the Constitution] and the other socio-economic rights is most apparent. If under section 27 the state has in place programmes to provide adequate social assistance to those who are otherwise unable to support themselves and their dependants, that would be relevant to the state's obligations in respect of other socio-economic rights.'

Committee of Inquiry into a Comprehensive System of Social Security for South Africa (2002)

As noted by the *Committee of Inquiry into a Comprehensive System of Social Security for South Africa*, there are several reasons why the traditional limited social security concept, based on employment-based social insurance and categorical and means-tested social assistance, is inappropriate for the South African context (RSA, 2002). This follows from a range of factors, some of which South Africa shares with other developing countries: the extent of poverty and deprivation to which millions of those who live in South Africa are exposed and the exclusion presently of most of these people from the reach of the social security system; the rise in informal employment and the exclusion, likewise, of those so involved from the reach of the system; constitutional imperatives which grant social security entitlements on a non-discriminatory basis and aim at enhancing human dignity, citizenship and

² Such a list of social risks or contingencies is contained in ILO Social Security (Minimum Standards) Convention 102 of 1952. In addition, the South African White Paper for Social Welfare, Government Gazette 18166 GN 1108, 8 August 1997 defines 'social protection' as 'policies that ensure adequate economic and social protection during unemployment, ill-health, maternity, child rearing, widowhood, disability and old age' and 'social assistance' as dealing with old age, disability, child and family care and poverty relief

³ According to Barker FS and Holtzhausen M (1996:138) social security refers to 'a system of assistance guaranteed by the state'

⁴ The Welfare White Paper lists poverty prevention, poverty alleviation, social compensation and income reduction as the domains of social security (ch 7 par 1)

⁵ *Government of the RSA v Grootboom* 2000 11 BCLR 1169 (CC) par 35; 2001 1 SA 46 (CC).

societal participation (Constitution: sections 9, 10 and 27(1) (c)); the socio-economic imperatives of poverty reduction, increased access to adequate basic services; the creation of an environment for sustainable social and economic advancement of all people and the close interrelationship between and mutual reinforcing nature of these constitutional and socio-economic imperatives.⁶ To this one could add long-term unemployment which has become endemic, the absence of sufficient employment creation, and the tendency of private-sector and sometimes even occupational-based schemes to exclude lower-income and higher risk categories of people in order to maximise profit. For these reasons, then, according to the Committee it is necessary to adopt the wider multi-purpose notion of (comprehensive) social protection (CSP) (RSA, 2002: 37-39).

The Committee stresses that a broad conceptualisation of social protection has certain merits for South Africa, since it incorporates developmental strategies and programmes more appropriate to a developing country such as South Africa; provides a coherent framework for integrating economic and social policy interventions and could facilitate integrated private, public and community sector interventions and benefit systems. Such a system must be structured in a way which should enable it to address social exclusion at its core.⁷ There are certain core elements of the CSP basic platform that should be available to all South Africans and certain categories of non-citizens. In general, so the committee opines, these components need to be established as an as-universal-as-possible package of income transfers, services and access provided in a non work-related manner and whose availability is not primarily dependent on an ability to pay. A minimum level or measure of provision to everyone should be made available. As the final part of the package, the social insurance component, which is partly privately organised, would have to be reformed to ensure inclusivity, equity, consumer protection and efficiency of the benefit types.⁸

Much of the approach suggested by the Committee is also reflected in the current debate at the international level, with specific reference to the recently-initiated drive towards the establishment of a (global) social protection floor (SPF), and the adoption of ILO Recommendation 202 of 2012 (ILO, 2012) in this regard. The floor entails a basic level of social protection, implying access to essential services and social transfers for the poor and vulnerable. The SPF corresponds to a set of essential transfers, services and facilities that all citizens everywhere should enjoy to ensure the realisation of the rights embodied in human rights treaties (Cichon, 2010). The Social Protection Floor Initiative foresees that, in addition to and building upon

a basic level of protection for all, developing countries should be able to extend the scope, level and quality of benefits to the point of being able to ratify the main ILO instrument in the area of social security.⁹ Country-specific and context-specific approaches towards introducing and implementing social protection floor interventions are advocated.

Background

It has been said that South Africa's social security system is remarkably comprehensive by a middle-income developing country standard (Van der Bergh, 1997:481) but the system lacks a coherent social security approach. The system was racially skewed for a long time and although the formal racial distinctions and divisions have been removed, the exclusion of large groups of people who are mainly African, rural and female, and categories of migrant workers and their dependants, as well as the formal employment bias of a large part of the system, remain in place. This is reflected in the legal system which confirms these exclusionary tendencies. It restricts large parts of the contributory-based part of the system (i.e., social insurance schemes, such as the workmen's compensation schemes, the Unemployment Insurance Fund, and private retirement schemes) to the formal-employment sector. The system effectively excludes many from participation, and adopts a categorical and means-tested approach as far as the non-contributory part of the system (i.e., social assistance grants such as the old age, child support and disability grants) is concerned – only those who are poor and who belong to the categories specified in the Social Assistance Act, 2004, are entitled to receive the grant concerned.

A comprehensive overhaul of the social security system has been announced by government, following the recommendations made by the Taylor Committee (RSA, 2002). Substantial progress has been made to develop a framework for a comprehensive social security system (see, among others, Department of Social Development [DSD], 2008), although the process to implement concrete proposals has often stalled in recent years.

Exceptionally high levels of unemployment and poverty characterise the socio-economic profile of South Africa. The most recent unemployment figures put the official unemployment figure at 29.1 per cent (Statistics South Africa [Stats SA], 2020). In fact, South Africa's unemployment rate is significantly higher than those of other middle-income economies and impacts disproportionately on Africans, the youth and females (Bhorat, 2008; DSD, 2008). Also, informal employment participation, aimed at bare economic survival amongst the poor, is high.¹⁰

6 In *Government of the RSA v Grootboom* supra par 23 the court observed: 'Our Constitution entrenches both civil and political rights and social and economic rights. All the rights in our Bill of Rights are inter-related and mutually supporting. There can be no doubt that human dignity, freedom and equality, the foundational values of our society, are denied those who have no food, clothing or shelter. Affording socio-economic rights to all people therefore enables them to enjoy the other rights enshrined in Chapter 2 [of the Constitution].'

7 The following definition of the adopted concept of comprehensive social protection is suggested by the Committee: 'Comprehensive social protection for South Africa seeks to provide the basic means for all people living in the country to effectively participate and advance in social and economic life, and in turn to contribute to social and economic development.' (RSA, 2002: 40-41).

8 RSA, 2002: 41-43, 45, 47.

9 I.e. ILO Social Security (Minimum Standards) Convention 102 of 1952.

10 In 2008, it was estimated that about 26% of the economically active population were engaged in informal employment. See Leibbrandt M, Woolard I, McEwen H and Koep C (2010) 'Employment and Inequality Outcomes in South Africa: What Role for Labour Market and Social Policies?' Southern Africa Labour and Development Research Unit (SALDRU) and School of Economics Cape Town University of Cape Town, 16.

Poverty is again on the rise. As noted by Statistics South Africa (Stats SA, 2017: 14):

'Despite the general decline in poverty between 2006 and 2011, poverty levels in South Africa rose in 2015. When applying the upper-bound poverty line (R992 per person per month (pppm) in 2015 prices), we see that more than one out of every two South Africans were poor in 2015, with the poverty headcount increasing to 55,5% in 2011. This translates into over 30,4 million South Africans living in poverty in 2015.'

The categories of the poor and informally employed mentioned (in particular the rural poor) fall at the lower end of the income inequality spectrum, contributing significantly to a very high Gini co-efficient – estimated to be 0.68, calculated on the basis of income per capita. Still, the population group with the highest level of inequality is black Africans who experienced an increase in Gini coefficient from 0.64 in 2006 to 0.65 in 2015 (Stats SA, 2017).

The limited nature of social security protection in the South African system has affected the poor, as well as the informally employed and structurally unemployed amongst them, in particular. This is because the social insurance system, notably unemployment insurance and compensation for work injuries and diseases, does not generally provide coverage to those outside formal employment. Social assistance measures exclude sizeable categories of the poor and the informally employed amongst them. This follows from the targeted nature of both social services and programmes, and of the various social grants.

Although the government has had some success in enhancing access to resources such as housing, water, land and electricity, these initiatives are often not well co-ordinated, sometimes not comprehensive enough, and have partly failed to deliver as expected.¹¹

Constitutional framework supporting social security

Human rights abuses under the previous political dispensation in South Africa necessitated the adoption of a Constitution that would avoid a repetition of past injustices, and forge a new culture of accommodation, mutual respect, equality and freedom. In one of its first judgments, the Constitutional Court remarked that 'the Constitution introduces democracy and equality for the first time in South Africa. It acknowledges a past of intense suffering and injustice, and promises a future of reconciliation and reconstruction...'¹²

One of the hallmarks of the 1996 Constitution is therefore constitutionalism. Supreme status has been granted to the Constitution: it is the supreme law of the Republic. Any law or conduct inconsistent with it is invalid and the obligations imposed by it must be fulfilled (Constitution, section 2). Constitutional supremacy has effectively replaced the notion of parliamentary sovereignty, in terms of which Parliament could enact social security laws which discriminated against various people or groups of people on the basis of race or gender.

Alongside this, and supported by constitutional values such as human dignity and equality, a Bill of Rights has been enacted as part of the Constitution. The significance of the rights contained in the Bill of Rights has been enhanced by a special protection, which has been given to the Bill of Rights in the case of any attempted change to these rights.¹³ The state has been given a specific mandate to give effect to these rights – section 7(2) of the Constitution stipulates: 'The state must respect, protect, promote and fulfil the rights in the Bill of Rights.' Also, an obligation has been imposed upon the courts, tribunals and forums, entrusted with the interpretation of any legislation, to promote the spirit, purport and objects of the Bill of Rights (Constitution, section 39(2)).

In addition, other constitutional institutions have also been entrusted with upholding the Constitution, its values and fundamental rights. For example, the Constitution grants an important role to the *South African Human Rights Commission* (SAHRC) in the area of fundamental rights advocacy, promotion and monitoring.¹⁴ This constitutional role was specifically noted by the Constitutional Court in *Government of the Republic of South Africa v Grootboom* (2002: par 97) and entails the monitoring, assessment and observance of human rights, as well as the power to:

- a. investigate and to report on the observance of human rights; and
- b. take steps to secure appropriate redress where human rights have been violated. (Constitution: section 184(2) (a) & (b))

Also, according to section 182 of the Constitution, the Public Protector has the power, as regulated by national legislation, to:

- a. investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice;
- b. report on that conduct; and
- c. take appropriate remedial action.

11 E.g., in *Government of the RSA v Grootboom* 2000 11 BCLR 1169 (CC); 2001 1 SA 46 (CC) the court found that while the state's housing policy programme has had some successes, one of the most deprived groups, notably people who have no shelter at all, has effectively been side-lined by the programme.

12 *S v Mhlungu* 1995 3 SA 867 (CC); 1995 7 BCLR 793 (CC) par 111.

13 Section 74(2) signifies enhanced protection accorded to the Bill of Rights, by requiring comprehensive support for its amendment: the amending Bill must be passed by the National Assembly, with a supporting vote of at least two thirds of its members, while at least 6 provinces in the National Council of Provinces must cast a supporting vote.

14 Constitution, section 184(1). The SAHRC fulfils its constitutional mandate by undertaking research in order to produce protocols to organs of state; by submitting reports to Parliament and making them available to organs of state; by receiving individual complaints and involving itself in particular meritorious court actions (it intervened in *Government of the RSA v Grootboom* 2000 11 BCLR 1169 (CC); 2001 1 SA 46 (CC) as *amicus curiae*); and by monitoring compliance with an order of the Constitutional Court, e.g. when requested to do so by the court (as was the case in the *Grootboom* matter).

Finally, wide-ranging powers of an investigative and advisory nature are given to the *Public Service Commission*.¹⁵

For the first time in South Africa's history, the Constitution compels the state to ensure the 'progressive realisation' of social security. Section 27 of the Constitution clearly and unambiguously obliges the state to develop a comprehensive social security system. It affirms the universal right to access to social security, including appropriate social assistance for those unable to support themselves and their dependants (Constitution: section 27(1)(c)) and orders the state to take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of these rights (Constitution: section 27(2)). Other fundamental rights are also important to support the realisation and implementation of this constitutionally protected right to access to social security, as is discussed below. While these rights are not absolute, and are subject to 'reasonable and justifiable limitations',¹⁶ the cumulative effect of these rights is the extension of significant protection to those who stand to benefit from social security, while imposing stringent requirements on public and private providers of social security – as explained in the rest of this chapter.

Can courts of law enforce the right to access to social security?

Is the right to access to social security enforceable and justiciable? It is sometimes argued that social security rights, being so-called second-generation or socio-economic rights, have to be contrasted with so-called civil and political (or first-generation) rights that protect an individual against undue interference by the state, such as the right to life¹⁷ and political rights.¹⁸ It is often thought that, due to the peculiar nature of social security rights as socio-economic rights, they cannot be enforced by the courts without intruding upon the terrain of the legislature and/or the executive branch of government.

However, no reference is made in the Bill of Rights to this distinction. Social rights thus have exactly the same status as other civil and political rights. The lack of differentiation between

these apparent 'categories' emphasises the notion that the rights are inter-related, interdependent and indivisible.¹⁹

These rights are therefore capable of enforcement – as has happened in several constitutional cases; the legislature or executive can be ordered to take action or be required to consider and arrange for a more equal distribution of resources. For example, in *Khosa v Minister of Social Development; Mahlaule v Minister of Social Development*²⁰ government was ordered to make available certain social assistance grants to permanent residents, despite the fact that the legislation required (as a rule) that a person had to be a South African citizen in order to be eligible for these grants. The Constitutional Court is specifically empowered to decide that Parliament, or the President, has failed to comply with a constitutional duty.²¹ In addition, the remedies at the disposal of the courts, when they decide upon these issues, are extensive.

How far will the court go? It may require the state to review programmes and policies, but it is doubtful whether it would be prepared to order a specific distribution of financial and other resources. In certifying the draft text of the 1996 Constitution, the Constitutional Court stressed that the socio-economic rights contained in the Constitution are justiciable, even though the inclusion of the rights may have direct financial and budgetary implications.²² The Court remarked (par 77):

'It is true that the inclusion of socio-economic rights may result in the courts making orders which have direct implications for budgetary matters. However, even when a court enforces civil and political rights such as equality, freedom of speech and the right to a fair trial, the order it makes will often have such implications. A court may require the provision of legal aid, or the extension of state benefits to a class of people who formerly were not beneficiaries of such benefits. In our view it cannot be said that by including socio-economic rights within a bill of rights, a task is conferred upon the courts so different from that ordinarily conferred upon them by a bill of rights that it results in a breach of the separation of powers' (own emphasis).

¹⁵ These include the power to (Constitution: section 196(4)):

- (a) promote the constitutional values and principles throughout the public service;
- (b)
- (c) propose measures to ensure effective and efficient performance within the public service;
- (d)
- (e) report on its activities and the performance of its functions, and to provide an evaluation of the extent to which the constitutional values and principles are complied with; and
- (f) undertake certain specific investigative, monitoring and advisory functions of its own accord or on the receipt of a complaint.

¹⁶ According to section 36(1) of the Constitution, a fundamental right can be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including those specifically indicated in section 36.

¹⁷ Constitution of the Republic of SA, 1996: section 11.

¹⁸ Constitution of the Republic of SA, 1996: section 19.

¹⁹ See among others *Ex parte Chairperson of the Constitutional Assembly: In re Certification of the Constitution of the RSA*, 1996, 10 BCLR 1253 (CC).

²⁰ 2004 6 BCLR 569 (CC).

²¹ Section 167(4)(e). See also *Economic Freedom Fighters v Speaker of the National Assembly; Democratic Alliance v Speaker of the National Assembly* 2016 (5) BCLR 618 (CC); 2016 (3) SA 580 (CC).

²² *Ex parte Chairperson of the Constitutional Assembly: In re Certification of the Constitution of the RSA*, 1996 supra pars 76-78.

The Constitutional Court has subsequently affirmed this position.²³ It is clear, therefore, that the courts can enforce social security rights and can order state organs to act in a particular way (e.g., to extend social assistance grants to categories of persons who are excluded contrary to the requirements of the Constitution).

Where necessary, the court will also allow a class action to be brought before it, in order to protect the interests of the poor and vulnerable, in particular.²⁴ In *Permanent Secretary, Department of Welfare, Eastern Cape Provincial Government v Ngxuzo*²⁵ the court commented on the institution of a class action in circumstances where disability grants were suspended unilaterally by the responsible provincial government:

*'The situation seemed pattern-made for class proceedings. The class the applicants represent is drawn from the very poorest within our society – those in need of statutory social assistance. They also have the least chance of vindicating their rights through the legal process. Their individual claims are small: the value of the social assistance they receive – a few hundred rands every month – would secure them hardly a single hour's consultation at current rates with most urban lawyers. They are scattered throughout the Eastern Cape Province, many of them in small towns and remote rural areas. What they have in common is that they are victims of official excess, bureaucratic misdirection and unlawful administrative methods. It is the needs of such persons, who are most lacking in protective and assertive armour, that the Constitutional Court has repeatedly emphasised must animate our understanding of the Constitution's provisions.'*²⁶

In *Minister of Health v Treatment Action Campaign*²⁷ the question arose as to whether a mandatory order compelling government to take particular action, would infringe upon the separation of powers, and upon government's ability to pursue a particular policy. This case dealt with government's refusal to make available antiretroviral treatment comprehensively to pregnant women and their babies. The Constitutional Court indicated that, although the separation of powers should indeed be respected, this did not mean that the courts could not or should not make orders that have an impact on policy.²⁸ The court observed further that the primary duty of courts is to the Constitution and the law, 'which they

must apply impartially and without fear, favour or prejudice'. Where state policy is challenged as inconsistent with the Constitution, courts have to consider whether in formulating and implementing such policy the state has given effect to its constitutional obligations. If a court should hold that the state has failed to do so, it is obliged by the Constitution to say so even if it constitutes an intrusion into the domain of the executive, as it is an intrusion mandated by the Constitution itself.²⁹ As a result, the Court ordered government to undertake the country-wide roll-out of antiretroviral treatment to affected mothers and their babies.

Despite this, however, it must be recognised that the courts 'are ill-suited to adjudicate upon issues where court orders could have multiple social and economic consequences for the community'.³⁰ In light of this statement, the courts should exercise restraint. A court order may in fact have budgetary implications, but is not in itself directed at the rearranging of budgets. In this way, so the court held, the judicial, legislative and executive functions achieve the appropriate constitutional balance.³¹

Interrelated fundamental rights and the plight of the vulnerable

As mentioned, the Constitutional Court has affirmed that all the rights contained in the Bill of Rights are interrelated, indivisible and mutually supporting. Therefore, giving effect to one or some of these rights may have an impact on the extent to which or manner in which the state has to give effect to the other rights. As noted by the court in *Government of the Republic of South Africa v Grootboom*,³² if under section 27 '[t]he state has in place programmes to provide adequate social assistance to those who are otherwise unable to support themselves and their dependants, that would be relevant to the state's obligations in respect of other socio-economic rights'.³³

The impact of the interrelated nature of the fundamental rights contained in the South African Constitution in the area of social assistance has been clearly illustrated in the *Khosa* case, dealing with the exclusion of permanent residents from the purview of the South African social assistance system. The court stressed the importance of adopting a holistic approach which takes into account the fact that all rights are interrelated, interdependent and equally important.³⁴

23 *Government of the RSA v Grootboom* 2000 11 BCLR 1169 (CC); 2001 1 SA 46 (CC) par 20. At times though the court was relatively cautious in its approach to this issue. In *Soobramoney v Minister of Health, KwaZulu-Natal* 1997 12 BCLR 1696 (CC); [1998] 1 All SA 268 (CC); 1998 1 SA 765 (CC) the court opined (par 29): 'A court must be slow to interfere with rational decisions taken in good faith by the political organs and (medical) authorities whose responsibility it is to deal with such matters.' In this case the court upheld a decision by a state hospital not to provide kidney dialysis treatment to a patient because of the limited facilities available. These facilities had to be made available on a priority basis to patients who could still qualify for a kidney transplant, and not to somebody such as the applicant who was in an irreversible and final stage of chronic renal failure.

24 See section 38 of the Constitution.

25 2001 10 BCLR 1039 (A); 2001 4 SA 1184 (SCA).

26 See also *Mashavha v President of the RSA* 2004 12 BCLR 1243 (CC).

27 *Minister of Health v Treatment Action Campaign* 2002 10 BCLR 1033 (CC).

28 Par 98.

29 *Minister of Health v Treatment Action Campaign* supra par 99.

30 Par 38.

31 Ibid.

32 *Government of the RSA v Grootboom* 2000 11 BCLR 1169 (CC); 2001 1 SA 46 (CC).

33 Par 35.

34 *Khosa v Minister of Social Development; Mahlaule v Minister of Social Development* 2004 6 BCLR 569 (CC) paras 40, 43-44.

Having found that the constitutional entitlement to access to social security accruing to ‘everyone’ includes ‘all people in our country’,³⁵ the court reasoned, however, that to exclude permanent residents from entitlement to social assistance would fundamentally affect their human dignity (which is both a constitutional right (Constitution: section 10) and a constitutional value) and equality (which is likewise both a constitutional right (Constitution: section 9) and a constitutional value).³⁶ However, according to the Court, it might be reasonable to exclude citizens from other countries, visitors and illegal residents, who have only a tenuous link with the country, such as non-citizens in South Africa who are supported by sponsors who arranged their immigration. Temporary residents were, therefore, excluded from this case, the court found. Permanent residents who had been residing in South Africa for some time, had made South Africa their home, whose families might be with them and whose children might have been born in South Africa have a right to work and they owe a duty of allegiance to the state.³⁷

The court reiterated that non-citizens constituted a vulnerable group in society and that it needed to be determined whether excluding permanent residents from the social assistance system would amount to unfair discrimination.³⁸ If the exclusion were to be upheld, that would imply that permanent residents would become a burden on other members of the community – something which would impair their dignity and further marginalise them.³⁹ Taking into account the competing considerations and intersecting rights that were involved (i.e. the rights to equality, human dignity and access to social security), the court held that the statutory exclusion of permanent residents from the scheme for social assistance affected their dignity and equality in material respects. Sufficient reason for such invasive treatment of the rights of permanent residents had not been established. The exclusion could, therefore, not be justified under the Constitution.⁴⁰

There is, therefore, a specific constitutional focus on addressing the plight of the most vulnerable and desperate in society. In *Government of the Republic of South Africa v Grootboom*⁴¹ the Constitutional Court emphasised that regard must be had to the extent and impact of historical disadvantage, the need to ensure that basic necessities of life are available to all, and the importance of not neglecting particularly vulnerable groups.

In *Minister of Health v Treatment Action Campaign* the court stressed again that ‘[t]o be reasonable, measures cannot leave out of account the degree and extent of the denial of the right they endeavour to realise. Those whose needs are the most urgent and whose ability to enjoy all rights therefore is most in peril, must not be ignored by the measures aimed at achieving realisation of the right’.⁴²

Just administrative action, social security and welfare entitlements

Section 33(1) of the Constitution provides that everyone has the right to ‘lawful, reasonable and procedurally fair administration action’. Furthermore, in terms of section 33(2), everyone whose rights have been negatively affected by an administrative action has the right to be given written reasons. The Promotion of Administrative Justice Act (PAJA)⁴³ gives expression to the constitutional requirement that national legislation must be enacted to provide the details of the broad framework of administrative law rights enshrined in the Bill of Rights. Since the Act stipulates guidelines and benchmarks for administrative action and decisions, it is particularly relevant for the area of social security and especially welfare entitlements. The provisions of PAJA give effect to, mirror and expand upon the constitutional requirements of lawfulness, reasonableness, procedural fairness and written reasons, and have often been applied or referred to in court cases dealing with social security and, in particular, social assistance – as indicated in more detail below.

Also, section 195(1) of the Constitution sets out the basic values and principles governing public administration and the public service. Many of these principles are highly relevant to social assistance service delivery and have been referred to in some of the judgments dealing with the payment of social assistance grants. In *Njongi v MEC, Department of Welfare, Eastern Cape*,⁴⁴ the Constitutional Court noted that ‘when an organ of government invokes legal processes to impede the rightful claims of its citizens, it...defies the Constitution, which commands all organs of State to be loyal to the Constitution and requires that public administration be conducted on the basis that “people’s needs must be responded to”...’⁴⁵ It held further that ‘the Constitution in its preamble looks to the improvement

35 Paras 46-47.

36 The court also stressed the need to consider the availability of human and financial resources in determining whether the state has complied with the constitutional standard of reasonableness, and other factors that may be relevant in a given case. Where the state argued that resources were not available to pay benefits to everyone entitled thereto under section 27(1)(c), the criteria for excluding a specific group (in this case permanent residents) had to be consistent with the Bill of Rights as a whole (paras 43-45). Whatever differentiation was made had to be constitutionally valid and could not be arbitrary, irrational or manifest a naked preference (par 53).

37 Paras 58-59. The Court also remarked that to use the non-availability of social grants as a tool to regulate immigration, in the sense that this could be seen as part of the immigration policy of the state that aimed to exclude persons who could become a burden on the state and to encourage self-sufficiency, was of no avail. Instead, so the court argued, through careful immigration policies the state could ensure that those people who were admitted would not be a burden on the state. The court also noted that this case was concerned with the aged and children and they were unlikely to provide for themselves: the self-sufficiency argument did not hold up in such a case: par 65.

38 Par 42.

39 Paras 76-77, 80-81.

40 Paras 80, 83-84.

41 2000 11 BCLR 1169 (CC); 2001 1 SA 46 (CC) par 44.

42 2002 10 BCLR 1033 (CC) par 68.

43 Act 3 of 2000.

44 2008 6 BCLR 571 (CC); 2008 4 SA 237 (CC) par 20.

45 Par 15.

of the quality of life of all citizens'.⁴⁶ It is unacceptable for such an organ to conduct a case 'as though it were at war with its own citizens...'⁴⁷

The courts have not hesitated to intervene and assist applicants and beneficiaries where statutory entitlements to, for example, social insurance benefits and social assistance grants, as well as the principles of administrative law, have not been adhered to. The application of the administrative justice principles has been extensive. It is particularly in the area of social assistance that the administrative law principles of natural justice – underpinned by the constitutional imperative in this regard – have contributed significantly to the protection of the rights and interests of those dependent on state support against arbitrary and unlawful state action. The following serve as examples:

- **Procedural protection, dignity and respect:** An applicant for a social assistance grant under the relevant legislation generally has no substantive right to receive a grant unless he or she has satisfied the eligibility criteria for the grant and has submitted an application to this effect. However, section 27(1)(c) of the Constitution provides for a right to access to social security, including appropriate social assistance, if persons are unable to support themselves and their dependants. The effect of section 27(1)(c) is to protect an applicant's procedural interests: users of the social assistance system are entitled to be treated with dignity and respect.⁴⁸
- **Delays in processing grant applications:** The courts have often held that unreasonable delays in the processing of grant applications may constitute unlawful administrative action. In *Mbanga v MEC for Welfare*⁴⁹ the court held a delay of two and a half years to pay an older person's grant to be unlawful, while in *Mahambehla v MEC for Welfare Eastern Cape Provincial Government*⁵⁰ a delay of three months in taking a decision on a grant application was found to be unreasonable in the absence of special circumstances.⁵¹
- **Unilateral withdrawal of grants:** In other cases, the courts emphasised that the unilateral withdrawal or suspension

of grants - without proper adherence to the administrative law principles of natural justice and to the rights which had accrued in terms of statute - is unlawful and invalid.⁵²

- **Irrational decisions:** Irrational decisions taken by social security officials will fall foul of the administrative law prohibition in this regard. In *Sibuye v MEC for Health & Welfare, Northern Province*⁵³ the applicant was wrongly registered as deceased, and his grant lapsed automatically. He challenged the decision on the basis that the registration of his death was fraudulent. The court ordered that the applicant be reinstated as a beneficiary and directed the state to amend the regulations to allow for a hearing in such situations (see also De Villiers, 2006).
- **Suspension of grants:** Social assistance grants may only be suspended for the reasons and on the grounds provided for in the relevant legislation and the regulations. In *Maluleke v MEC for Health & Welfare, Northern Province*,⁵⁴ the provincial government decided to cancel almost 92 000 grants of those it deemed to be 'suspect beneficiaries', and to wait for those affected to come forward to enquire why their grants had been cancelled, obtaining current information on each beneficiary and re-instating the grants in appropriate cases. Southwood, J, held that the suspension of the applicant's pension because she was identified as a 'suspect beneficiary whose particulars needed to be checked' was 'unlawful because the enabling statute – the Social Assistance Act 7 of 1976 (Gazankulu) did not authorize suspension of a grant for such a purpose.'
- Furthermore, beneficiaries must be given an opportunity to make representations before a grant may be suspended and written reasons have to be furnished when it is decided to cancel or suspend a grant⁵⁵ and the affected person should be informed of his or her right to appeal.⁵⁶

Overall impression: It is clear that the number of social assistance grant cases, which reached the High Court, revealed apparent systemic and serious service delivery failures on the part of government.⁵⁷ In reaction, the High Court at times ordered that its judgments be served on the chairperson of the South African Human Rights Commission

46 Par 17.

47 Par 20.

48 The court remarked in *Sikutshwa v MEC for Social Development, Eastern Cape* [2005] JOL 14413 (Tk); 2009 3 SA 47 (Tk): 'The Applicant, like so many grant applicants is in dire circumstances. Whether he is entitled to social assistance or not, I cannot say. But he is certainly entitled to be treated with dignity and respect, and he is entitled to be informed of the reasons for the decision not to approve his grant application. He ought to have been given those reasons on request.'

49 2001 8 BCLR 821 (SE); 2002 1 SA 359 (SE).

50 2001 9 BCLR 899 (SE); 1998 1 SA 342 (SE).

51 See also *Vumazonke v MEC for Social Development, Eastern Cape & Three Similar Cases* [2004] JOL 13361 (SE); 2005 6 SA 229 (SE).

52 *Ngxuza v Permanent Secretary, Department of Welfare, Eastern Cape* 2000 12 BCLR 1322 (E), upheld in *Permanent Secretary, Department of Welfare, Eastern Cape Provincial Government v Ngxuza* 2001 10 BCLR 1039 (A); 2001 4 SA 1184 (SCA); *Bushula v Permanent Secretary, Department of Welfare, Eastern Cape* 2000 7 BCLR 728 (E); *Rangani v Superintendent-General, Department of Health & Welfare, Northern Province* [1999] JOL 5494 (T); 1999 4 SA 385 (T); *Ntame v MEC, Department of Social Development, Eastern Cape; Mnyaka v MEC, Department of Social Development, Eastern Cape; Mnyaka v MEC, Dept of Social Development, Eastern Cape* [2005] 2 All SA 535 (SE); 2005 6 SA 248 (SE).

53 Unreported TPD case no 17713/2003.

54 [1999] 4 All SA 407 (T); 1999 4 SA 367 (T). Emphasis added.

55 *Bushula v Permanent Secretary, Department of Welfare, Eastern Cape* supra.

56 *Njongi v MEC, Department of Welfare Eastern Cape* 2008 6 BCLR 571 (CC); 2008 4 SA 237 (CC).

57 See *Kate v MEC for the Department of Welfare, Eastern Cape* 2006 4 SA 478 (SCA); [2006] 2 All SA 455 (SCA); *MEC for the Province of Kwazulu-Natal Responsible for Social Welfare & Development v Machi* [2006] ZASCA 78.

and the chairperson of the Public Service Commission, so that they may consider initiating investigations into the responsible provincial department.⁵⁸

The role of state and non-state actors⁵⁹

The Bill of Rights has been made applicable to all law, and binds the executive, the judiciary and all organs of state (Constitution: section 8(1)), as well as natural or juristic persons, provided certain conditions have been met. According to section 8(2) of the Constitution, 'A provision of the Bill of Rights binds a natural or a juristic person if, and to the extent that, it is applicable, taking into account the nature of the right and the nature of any duty imposed by the right.' Two scenarios are highlighted – the obligation on certain private role-players to provide social security, and the constitutional obligations imposed on non-state institutions involved in social security service delivery.

- **Obligation on certain private role-players to provide social security:** Preventing deprivation and achieving the meaningful integration of the deprived into society is not the task of the state alone. The Constitutional Court has made it clear that both the state and non-state actors bear responsibility to give effect to the fundamental rights enshrined in the Constitution.

In fact, the state's duty to realise the right to access to social security may differ according to whether the *ability of those affected to realise the right is absent or not*. Where the ability to afford, for example, to pay for adequate housing exists, the state's primary obligation is not that of direct provider, but of 'unlocking the system, providing access to housing stock and a legislative framework to facilitate self-built houses through planning laws and access to finance.' For those who cannot afford to pay, issues of development and social welfare are raised.⁶⁰ The point is that state policy needs to address both these groups, and that the poor are particularly vulnerable and that their needs, therefore, require special attention.

This was forcefully brought home in another judgment, where the Constitutional Court assumed that flood victims left homeless have a constitutional right to be provided with access to housing. In *Minister of Public Works v Kyalami Ridge Environmental Association*⁶¹ the Court had to deal with the erection of temporary transit housing on state land for the victims. The court concluded:⁶²

'The provision of relief to the victims of natural disasters is an essential role of government in a democratic state, and government would have failed in its duty to the victims of the floods, if it had done nothing. There was no legislation that made adequate provision for such a situation, and it cannot be said that in acting as it did, government was avoiding a legislative framework prescribed by parliament for such purposes. Nor can it be said that government was acting arbitrarily or otherwise contrary to the rule of law. If regard is had to its constitutional obligations, to its rights as owner of the land, and to its executive power to implement policy decisions, its decision to establish a temporary transit camp for the victims of the flooding was lawful.'

The same principled approach has been adopted by the Constitutional Court as far as the *rights of children* are concerned. Section 28(1)(c) of the Constitution creates the right of children to basic nutrition, shelter, basic healthcare services and social services. However, unlike the right to have access to adequate housing or to social security, these rights have not been made subject to the 'reasonable measures', 'available resources' and 'progressive realisation' qualifiers mentioned. And yet the Constitutional Court was not prepared to find that the state bears the primary responsibility to give effect to children's rights. It noted that the section does not create separate and independent rights for children and their parents.⁶³ The state's obligations, emanating from its international obligations,⁶⁴ require the state to take steps to ensure that children's rights are observed. In order to attain this, the state does so by ensuring that there are *legal obligations to compel parents to fulfil their responsibilities in relation to their children*.⁶⁵

Hence, so the court argued, a proper construction of section 28 implies that:

'[A] child has the right to parental or family care in the first place, and the right to alternative appropriate care only where that is lacking. Through legislation and the common law, the obligation to provide shelter in subsection (1)(c) is imposed primarily on the parents or family and only alternatively on the state. The state thus incurs the obligation to provide shelter to those children, for example, who are removed from their families. It follows that section 28(1)(c) does not create any primary state obligation to provide shelter on demand to parents

⁵⁸ *Vumazonke v MEC for Social Development Eastern Cape & 3 Similar Cases Welfare* [2004] JOL 13361 (SE); 2005 6 SA 229 (SE).

⁵⁹ See Olivier (2010), on which this section is partly based.

⁶⁰ *Government of the RSA v Grootboom* 2000 11 BCLR 1169 (CC); 2001 1 SA 46 (CC) par 36.

⁶¹ 2001 7 BCLR 652 (CC); 2001 3 SA 1151 (CC).

⁶² Par 52.

⁶³ *Government of the RSA v Grootboom* supra par 74.

⁶⁴ In terms of the UN Convention on the Rights of the Child (General Assembly Resolution 44/25 of 20 November 1989). The Convention entered into force on 2 September 1990, was signed by South Africa on 29 January 1993 and ratified on 15 December 1995.

⁶⁵ *Government of the RSA v Grootboom* supra par 75.

and their children if children are being cared for by their parents or families'.⁶⁶

- **Constitutional obligations imposed on non-state institutions involved in social security service delivery:**

This issue has attracted the attention of the Constitutional Court in relation to social assistance grants payment systems. These systems have posed a number of administrative and other challenges, including irregular procurement measures. The Constitutional Court ordered the appointment of a new paymaster and held the private sector provider bound to the overarching constitutional framework, pending the said appointment. The Court held that both the institution legally entrusted with the obligation to provide social assistance in South Africa, i.e. the South African Social Security Agency (SASSA), and the provider, i.e. Cash Paymaster Services (Pty) Ltd, are under a constitutional obligation to ensure payment of social grants to grant beneficiaries until another entity would be able to do so.⁶⁷ As has been remarked, it shows that 'where a company assumes constitutional powers and obligations, the Court may step into the commercial arrangement and order fulfilment of those obligations, notwithstanding the company's commercial interests. More specifically, the company will be liable for costs for which it may not have budgeted and, as is the case here, there may be no certainty regarding price escalation.'⁶⁸

- All the rights contained in the Bill of Rights are interrelated and mutually supporting. Therefore, when developing the social security system, the state must ensure that all related constitutional values and rights, such as human dignity, freedom and equality are given effect to.

- The responsibility in the areas of social security implementation and service delivery is shared not only by state institutions at the various levels, but also by other agents within society, including individuals themselves.

- The Constitutional Court has repeatedly confirmed that there is a deliberate constitutional focus on vulnerable groups. Provision has to be made for the most vulnerable and desperate in society.⁷⁰ The courts may or may not be hesitant to grant relief where individuals assert their constitutional rights. However, where communities are negatively affected, and the right infringed is fundamental to the well-being of categories of people, such as a right to access to adequate housing, or the right to access to social security, the Constitutional Court appears to be more willing to intervene. This is in particular the case where the communities have historically been marginalised and/or excluded or appear to be particularly vulnerable. Statistical progress may not be enough and the needs that are the most urgent must be addressed; it is not only the state that is responsible for the provision of, for example, houses, but it may be held responsible if no other provision has been made or exists.⁷¹

Other constitutional principles⁶⁹

From the discussion thus far, it is clear that:

- The courts have the power to enforce socio-economic rights and, in particular, the right to access to social security and other social security-related rights. Wide-ranging remedies are at the disposal of the courts in this regard. Among others, the courts have used their constitutional powers, as supported by statutory powers and even the common-law provisions in relation to just administrative requirements, to enforce welfare-related entitlements.

In addition to the above, the following set of three guiding principles seems to inform the approach of the courts in relation to the implementation of socio-economic rights, also within the context of social security and social protection:

- **The need for a policy-based programme and legislative implementation:** The Constitution requires, within the resources available, the devising, formulation, funding and implementing, as well as the constant review, of a comprehensive and co-ordinated programme with well-targeted policies. These policies have to be reasonable

⁶⁶ *Government of the RSA v Grootboom* supra par 77. The court went to great lengths in explaining what the duties of the state are where children are cared for by their parents and families: 'This does not mean, however, that the state incurs no obligation in relation to children who are being cared for by their parents or families. In the first place, the state must provide the legal and administrative infrastructure necessary to ensure that children are accorded the protection contemplated by section 28. This obligation would normally be fulfilled by passing laws and creating enforcement mechanisms for the maintenance of children, their protection from maltreatment, abuse, neglect or degradation, and the prevention of other forms of abuse of children mentioned in section 28. In addition, the state is required to fulfil its obligations to provide families with access to land in terms of section 25, access to adequate housing in terms of section 26 as well as access to healthcare, food, water and social security in terms of section 27. It follows from this judgment that sections 25 and 27 require the state to provide access on a programmatic and coordinated basis, subject to available resources. One of the ways in which the state would meet its section 27 obligations would be through a social welfare programme providing maintenance grants and other material assistance to families in need in defined circumstances': par 78.

⁶⁷ See *Black Sash Trust v Minister of Social Development and Others* (Freedom Under Law NPC Intervening) 2017 (5) BCLR 543 (CC); 2017 (3) SA 335 (CC).

⁶⁸ See Egypt L, McGibbon S, van Leeve Y (2017) 'A contract whether you like it or not' in Dispute Resolution Alert, March 17, 2017, <https://www.cliffedekkerhofmeyr.com/en/news/publications/2017/dispute/dispute-resolution-alert-17-march-administrative-and-public-law-a-contract-whether-you-like-it-or-not.html>, site accessed on 17 September 2017: 'It is crucial to bear in mind that where a private company is awarded a tender in which it will perform public functions under a public power – such as the payment of social grants or the supply of prepaid electricity meters (*City Power v Grinpal Energy Management Services*) – it will be treated as an organ of state in respect of those functions and powers.' This principle expressed in the Black Sash Trust judgment had indeed been formulated in several preceding Constitutional Court judgments: see *AAA Investments (Proprietary) Limited v Micro Finance Regulatory Council and Another* 2006 (11) BCLR 1255 (CC); 2007 (1) SA 343 (CC) par [41]; *AllPay Consolidated Investment Holdings (Pty) Ltd and Others v Chief Executive Officer of the South African Social Security Agency and Others (No 2)* 2014 (4) SA 179 (CC); 2014 (6) BCLR 641 (CC); *City Power (Pty) Ltd v Grinpal Energy Management Services (Pty) Ltd and Others* 2015 (6) BCLR 660 (CC); [2015] 8 BLLR (CC).

⁶⁹ See also Olivier (2003)

⁷⁰ See *Government of the RSA v Grootboom* 2000 11 BCLR 1169 (CC); 2001 1 SA 46 (CC) pars 52 69 where the failure to make express provision to facilitate access to temporary housing relief for people who had no access to land, no roof over their heads or who lived in intolerable conditions was found to fall short of the obligation set by s 26(2) in the Constitution of the Republic of SA, 1996. See also *Soobramoney v Minister of Health, KwaZulu Natal* [1998] 1 All SA 268 (CC); 1997 12 BCLR 1696 (CC); 1998 1 SA 765 (CC) par 31.

⁷¹ *Government of the RSA v Grootboom* supra par 35.

both in their conception and their implementation, and must indeed be implemented by the executive and through legislative intervention.⁷² Provided that the measures adopted are reasonable, the Constitutional Court will, generally speaking, uphold a social security programme which provides for the roll-out of social security (such as the social assistance grant system).

- **A range of reasonable measures at the disposal of government and the legislature:** As long as the measures aimed at developing the social security system are reasonable in their conception and implementation, the courts will not consider whether other more desirable or favourable measures could have been adopted or whether public money could have been better spent.⁷³ A wide range of available options may, therefore, be considered and adopted by the state. The measures adopted may differentiate on the basis of past exclusion and disadvantage, and on the basis of socio-economic status and social realities, as long as they do not infringe the right to equality. A good example of this was the adoption of the child support grant, which effectively replaced the then state maintenance grant. It provided for the grant to be available in respect of an unlimited number of biological children, and to be paid to the primary care-giver, and not necessarily the parent or legal guardian of the child.
- **Sufficient budgetary support required:** While courts will be hesitant to interfere in budgetary provision in the area of social security, the Constitutional Court indicated in its certification judgment, as noted above, that courts may grant orders which may have budgetary implications. In *Government of the Republic of South Africa v Grootboom* the court stressed that – within the context of the right to access to housing – effective implementation requires at least adequate budgetary support by national government.⁷⁴ The court emphasised that it is essential that a reasonable part of the national (housing) budget be devoted to granting relief to those in desperate need, but that the precise allocation is for national government to decide in the first instance.⁷⁵

Conclusions⁷⁶

The relevance of the social security debate in South Africa has been significantly enhanced by the constitutional entrenchment of social security rights. This flows from the introduction of the constitutionally entrenched right to access to social security,

including, if somebody is unable to care for his or her dependants, the right to appropriate social assistance, as well as other social security-related rights, such as the right to access to adequate housing.⁷⁷ The state is constitutionally compelled to give effect to these fundamental rights,⁷⁸ and the courts, including the Constitutional Court, have made it clear that, where and when appropriate, they will grant orders which will force the state to ensure that these rights are properly realised.⁷⁹

Several consequences flow from the particular approach by the South African Constitution.⁸⁰ Firstly, together with the other related constitutional rights the right to access to social security can be said to ensure, from a constitutional and human rights perspective, adequate social protection, and an adequate standard of living.

Secondly, the role that this right (together with the other related rights) has to play as a major poverty-addressing instrument must be recognised. This flows from the constitutional emphasis on redressing imbalances of the past and on empowering the historically disadvantaged, the poor and the vulnerable. It follows, and this appears to be of crucial importance in informing the interpretation and application of the welfare-related rights in the Constitution, that there is a specific constitutional focus on addressing the plight of the most vulnerable and desperate in society.⁸¹

Thirdly, it is necessary to again highlight the exclusionary nature of South African social assistance and the unavailability of social insurance and social assistance to millions of vulnerable people living in South Africa. It could, in the light of the relevant constitutional provisions and developing jurisprudence discussed above, constitutionally be expected of government to roll out some kind of comprehensive programme to deal effectively with the plight of the large number of people who derive no protection from the South African social security system. The absence of proper policies in this regard would certainly leave the state exposed to major constitutional challenges.

Realising the right to access to appropriate social assistance and the other related constitutional rights may require the adoption of a particular baseline or package approach. The minimum level of support approach, and its relationship with social security, was endorsed by the Constitutional Court in *Khosa v Minister of Social Development*; *Mahlaule v Minister of Social Development*,⁸² where the court remarked:⁸³

⁷² *Ibid* par 42.

⁷³ *Ibid* par 41.

⁷⁴ *Ibid* par 68.

⁷⁵ *Ibid* par 66.

⁷⁶ See among others Olivier (2012: par 13).

⁷⁷ Constitution: section 26(1).

⁷⁸ Section 7(2) read with s 27(2).

⁷⁹ See, *inter alia*, *Soobramoney v Minister of Health, KwaZulu-Natal* [1998] 1 All SA 268 (CC); 1997 12 BCLR 1696 (CC); 1998 1 SA 765 (CC); *Government of the RSA v Grootboom* 2000 11 BCLR 1169 (CC); 2001 1 SA 46 (CC); *Minister of Health v Treatment Action Campaign* 2002 10 BCLR 1033 (CC); *Khosa v Minister of Social Development*; *Mahlaule v Minister of Social Development* 2004 6 BCLR 569 (CC); *Mashavha v President of the RSA* 2004 12 BCLR 1243 (CC); *Njongi v MEC, Department of Welfare, Eastern Cape* 2008 6 BCLR 571 (CC); 2008 4 SA 237 (CC).

⁸⁰ See Olivier (2012: par 178).

⁸¹ See *Government of the Republic of South Africa v Grootboom* 2000 11 BCLR 1169 (CC) par 35; as well as *Minister of Health v Treatment Action Campaign* 2002 10 BCLR 1033 (CC).

⁸² 2004 6 BCLR 569 (CC).

⁸³ *Khosa v Minister of Social Development*; *Mahlaule v Minister of Social Development* par 573A.

'A society had to attempt to ensure that the basic necessities of life were accessible to all if it was to be a society in which human dignity, freedom and equality were foundational. The right of access to social security, including social assistance, for those unable to support themselves and their dependants was entrenched because society in the RSA valued human beings and wanted to ensure that people were afforded their basic needs.'

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Marius served as a member of the Cabinet-appointed Committee of Inquiry into a Comprehensive Social Security System for South Africa (2000-2002) and has developed several policies for the South African government and social security institutions. He was the final editor of the Code on Social Security in SADC, and was tasked by SADC with reviewing and revising the Protocol on Employment and Labour, adopted in 2014. He is currently the co-drafter of the new AU Protocol on the Rights of Citizens to Social Protection and Social Security. Email: olivier@isl-p.org

Availability
MINIMUM STANDARDS
Disability
based approach to
Normative principles
Transformative
Child and family support
ICESCR
Maternity
Benefits
Human Rights
Framework
ILO Convention
102 Social Security
Adequacy
Accessability
Pensions
Guiding principles
Health care access
Universal Declaration of
Human Rights

4. SOUTH AFRICAN SOCIAL SECURITY POLICY AND THE HUMAN RIGHTS BASED APPROACH: A REVIEW.

Isobel Sarah Frye

Introduction

In late November 2016, South Africa embarked on a process to review its entire social protection system through a process at the National Economic Development and Labour Council (NEDLAC). While South Africa has been hailed for its social security system, which is the most extensive in the region, this chapter will argue that the policy architecture was located in an Apartheid period, focused on income replacement for a family structure constructed around a white employed male breadwinner (Brockerhoff, 2013). It was not developed with a view to covering the majority of South Africans, millions of whom are not formally employed.

In addition, the South African social security system is clearly informed by the minimalist approach embedded in the 1952 Convention 102 Social Security (Minimum Standards) of the International Labour Organisation (ILO) and has not been adapted to absorb the transformative aspects of the more recent Human Rights Based Approach (HRBA) conceptual framework for social security, despite the constitutional right to social security.

In this chapter, I begin by setting out the human rights basis of social security in South Africa. Then I trace the development of this approach as it applies to social security specifically, as developed by the ILO and the United Nations (UN) Committee on Economic, Social and Cultural Rights (CESCR). This is followed by a review of the nature and identity of the shortcomings of the South African social security system when compared with the guiding principles set down by the CESCR in their General Comment 19 on Article 9 of the United Nations' 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR). I conclude with recommendations regarding the optimal development of South Africa's social security system for a transformative policy instrument that would address both people's human rights and advance their economic development.

The Rights Basis to Social Security in South Africa

The right of access to social security is contained in Section 27 (1)(c) of the South African Constitution. The full right and its internal limitation of progressive realisation are set out as follows:

'Everyone has the right of access to social security, including if they are unable to support themselves and their dependents, appropriate social assistance. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of (this right)' (Act 108 of 1996).'

In addition to this justiciable constitutional right to social security, the right is also contained in the ICESCR, which South Africa ratified on 12 January 2015 (C.N.23.2015.TREATIES-IV.3). Article 9 of the ICESCR commits states parties to 'recognise the right of everyone to social security, including social insurance' (ICESCR, 1966).

To assist states in their implementation and reporting obligations of the ICESCR, the CESCR issues General Comments from time to time. In 2008, General Comment 19 was issued, arising from the 39th session of the CESR in 2007 (E/C.12/GC/19). General comments are used to define and set out the contents of both the rights of rights-holders and the obligations on duty-bearers. Given the various different definitions of social security, the full definition contained in General Comment 19 is of relevance:

'The right to social security encompasses the right to access and maintain benefits, whether in cash or in kind, without discrimination in order to secure protection, inter alia, from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependants' (E/C.12/GC/19:2).

The General Comment provides guidance on the substantive or normative elements of the right to social security, as well as on roles and responsibilities, and on remedial aspects (ibid).

From Minimum Standards to a Human Rights Based Framework.

In 1952, the ILO adopted Convention 102 Social Security (Minimum Standards) (ILO, 1952). As its title suggests, the Convention seeks to set out the minimum standards that states signatory to the Convention should provide for their people. Frequently indexed against the average wage of a skilled male manual worker, the Convention provides for income replacement against a set list of contingencies, namely healthcare, sickness, old age, unemployment, employment

injury, family and child support, maternity, disability and survivors and orphans (ILO, 1952). By 2008, however, the understanding of social security had developed significantly, causing the CESR to state in Paragraph 10 of General Comment 19, that 'social security should be treated as a social good, and not primarily as a mere instrument of economic or financial policy' (E/C.12.GC/19:4).

I argue that the journey from a minimalist to a rights-based transformative approach to social security is evidenced by the subsequent content and guidance set out in Recommendation 202 Social Protection Floors Recommendation 2012 of the ILO from their 100th session in 2011 (R202). Whilst past social security standards of the ILO are affirmed in R202, specific reference is made to the rights basis of social security. In addition, the challenge of informality and structural poverty and exclusions is specifically addressed in these recommendations. This is indeed a reflection of the shifts in societies and the labour market with the recognition of the challenges in developing as well as developed countries.

The rights basis of the shift has led to the addition of human rights standards to the minimum standards of before (Sepulveda and Nyst, 2012). According to the UN Research Institute for Social Development (UNRISD) (2016), an HRBA framework demands three interlinking requirements. Firstly, the fulfilment of human rights should be the main aim of all policies and programmes (UN, 2003). This clearly is a radical departure from the past approach that sought to firmly separate economic (hard) and social (soft) policies. Secondly, an HRBA requires that the roles and responsibilities of both the rights-holders and the duty-bearers need to be firmly set out and understood, but in addition to that, the capacities of both groups need to be strengthened to enable them to fulfil their respective roles. Finally, the human rights standards contained in international treaties need to be dynamic standards used by national governments to guide their policy making decisions and help design their instruments.

The HRBA is open to a variety of understandings and applications. In order to align these, the UN Development Group adopted a 'Statement of Common Understanding' of HRBA principles in 2003 (UNDP, 2006). This statement specified three guiding principles: all policies and programmes should advance the UN Universal Declaration of Human Rights (UDHR) and other international human rights instruments; the human rights standards contained in the UDHR should be met throughout all phases of planning and implementation of UN work; and finally, that this approach emphasises the capacitation of both rights-holders and duty-bearers to enable them to respectively claim their rights and to meet their obligations (UN, 2003). This applies to all phases of programming, from an initial needs assessment and analysis, to the programme design and setting of objectives, to the implementation of the programme, and finally to the monitoring and evaluation of the programme (ibid). The Common Understanding set out six guiding human rights principles drawn from the UDHR, as well as other international human rights treaties. These are (UN, 2003):

- Human rights are universal and inalienable and apply equally everywhere in the world;
- Human rights themselves are indivisible, and hence there is no prioritisation between civil, political, social and economic rights;
- Human rights are interdependent and interrelated;
- Human rights are based on the principles of equality and non-discrimination and affirm the inherent dignity of every person;
- Human rights affirm the importance of participation and inclusion; and
- Human rights affirm accountability of all actors and the rule of law.

The statement further asserts that people are actors in their own development, not just recipients of goods and services. Participation must be seen as a means and a goal throughout the process. All development must be locally owned, and finally, both bottom up and top down approaches must be used in development processes (UN, 2003).

Given the development of these principles and standards, it is interesting to note that Sepulveda and Nyst (2012) reflect a concern about the absence of human rights in social protection policy discussions. This suggests that the HRBA principles are not mainstreamed in practice. Could it be that the post-2008, financial crisis-based, austerity cuts that many ICESCR signatories made to their social protection policies might not have succeeded, had there been greater mainstreaming in practice?

Obligations of the State arising from the ICESCR

General Comment 3 (CESCR, 1990) provides useful guidance on the obligations on states arising from ratification of the ICESCR. The comment distinguishes between both obligations of 'conduct' and obligations of 'result' (CESCR, 1990:1). In other words, it is not sufficient to adopt standards of process (conduct), but the substantive impact (result) needs to be part of the policy standards. Both these obligations can be seen within the five normative principles on social security contained in General Comment 19 set out below. General Comment 3 also sets out the principles inherent in the obligation on ratifying states to progressively realise their obligations within their available resources. Thus, the Comment emphasises that this does not exonerate a state from its obligation to universally recognise the right. It further states that certain rights must receive immediate realisation. Furthermore it highlights the importance, due to the principle of progressive realisation, for all states to adopt a 'minimum core' of enjoyment of each of the Covenant rights. Highly relevant to this chapter is the recommendation in the General Comment of the provision of justiciable remedies at a national level in the event of a state's failure to meet its Covenant obligations.

Normative Principles of Social Security

To enable us to determine the extent to which South African social security policy meets the guidelines of the CESC General Comment 19, it is necessary to set out at length the five main normative principles contained in the General Comment. The five principles, which reflect the HRBA, are Availability, Cover, Adequacy, Accessibility and Relationship to other Rights. These are now examined.

Availability

To meet the core obligation of Availability, a state is required to provide a social security system established through national legislation. In South Africa, the state inherited a system of social security made up of both legislated social insurance and social assistance provisions from the previous regime. In other words, despite the adoption of the Constitution that guaranteed social security, including social assistance, as a justiciable right in 1996, availability of social assistance, until 2004, was provided for through the Apartheid Social Assistance Act (59 of

1992). The current Social Assistance Act (SAA), Act 13 of 2004, differed minimally in the substantive categorisation of available rights. The main difference was the centralisation of the distribution of social assistance grants with the establishment of the South African Social Security Agency (SASSA), through the South African Social Security Agency Act, Act 9 of 2004. By virtue of this act, social insurance is provided for and regulated through a combination of numerous public and private institutions. The comprehensive South African social security system is provided for in a patchwork of statutes and regulations as shown in Table 1.

Cover

General Comment 19 (CESCR, 2008) states that a social security system must provide cover for at least nine aspects of social security, which draw on the requirements of ILO Convention 102 (1952) on Social Security (Minimum Standards). These are health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability and survivors and orphans. Table 1 ascribes the provisions that exist in South Africa on these 9 aspects.

Table 1 South Africa's provisioning for the 9 Aspects of Social Security set out in ILO Convention 102 (1952) on Social Security (Minimum Standards)

Contingency/ Risk ¹	Directives	South African provisioning
Healthcare	Adequate health services.	Access to state health care.
Sickness	Access to cash benefits to cover loss of earnings.	Unemployment Insurance Fund (UIF) for contributing members under the Unemployment Insurance Act 63 of 2001.
Old Age	This should be provided for under a domesticated law with an appropriate retirement age.	State old age pension – a social assistance cash transfer for eligible persons over 60 years and regulated by the SAA.
Unemployment	Adequate benefits for a loss or a lack of earnings, including for informal and atypical workers. This includes access to adequate social protection beyond any formal scheme.	Access to Unemployment Insurance for a limited number of days according to contribution only. No social assistance for people of working age beyond this.
Employment injury	Cover for medical costs, loss of earnings and support for dependents on the loss of a breadwinner. This should not be dependent on contributions.	Contribution-related benefits under the Compensation for Occupational Injuries and Diseases Act 130 of 1993. Contributions are paid by the employer and not employees.
Family and Child Support	Including cash benefits and social services, providing adequate food, clothing, housing, water and sanitation.	Child Support Grant under the Social Assistance Act. (Very limited value compared to need).
Maternity	Income supplement, including for atypically employed women.	UIF for contributing women only.
Disability	Income replacement, which provides for the special needs occasioned by the disability and the costs of care, including by family and other informal carers.	Disability grant for adults and a care dependency grant for children under 18 in terms of the Social Assistance Act.
Survivors and Orphans		Non-contributory Foster Care Grant under the Social Assistance Act.

Source: Author

¹ Paragraphs 13-21, General Comment 19.

According to Liebenberg (2007:70):

'The new democratic government ... inherited a social security system that was fragmented, inequitable and administratively inefficient. In addition, the apartheid social security system was premised on high levels of coverage by social insurance schemes in formal employment, with social assistance forming a residual "safety net" for targeted categories of vulnerable groups living in poverty, primarily, persons with disabilities, children and the aged'.

As at 31 May 2017, the following grants, which make up the main social assistance grants, were being accessed. Of a total of 17.2 million grantees, just over 3.3 million were old age pension recipients; just over 1.06 million were Disability Grants; slightly more than 140 000 grants were for Care Dependency; a further 454 000 were Foster Care Grants and there were just over 12 million Child Support Grants (SASSA, 2017).

Given the very high levels of poverty and formal unemployment,² it is clear that cover premised on the apartheid-based assumptions, cannot provide an adequate standard of cover in South Africa today, specifically due to the failure of the system to provide any cover to people between the ages of 18 and 59 who lack adequate income, despite their justiciable rights of access. This clearly fails the requirement to provide for both unemployment risk and family benefits as required by the ILO. In its recently released 2012 discussion document (Inter-departmental Task Team on Social Security and Retirement Reform [IDTTSSRR], 2012) the South African government appears to continue to believe that adult poverty should be addressed by increases in employment,³ despite the empirical evidence of the unemployment figures referred to above.

No mention of the lack of social assistance for unemployed people between 18 and 59 is made in South Africa's 2017 initial report to the CESC, nor to any plans to progressively realise cover for this age group (Republic of South Africa, 2017). This is a serious shortcoming by the state and fails to meet both international obligations and those to the people of South Africa.

Adequacy

According to the Committee, benefits, whether in kind or in cash, need to be sufficient to meet an adequate standard of living that also respects the principles of human dignity. The General Comment also requires that this level should be regularly monitored to maintain its adequacy (CESC, 2008). Statistics South Africa has developed three official poverty lines over the last few years: a food poverty line, which is described as an 'unambiguous threshold of absolute deprivation' (Statistics

South Africa, 2015), of 2 100 calories, which was R335 per person per month in 2015 prices, or R11 per person per day; a lower bound poverty line of R501 per person per month, or R16.58 per person per day; and an upper bound poverty line of R779 per person per month, or R25.50 per person per day. According to an article that appeared in the Mail and Guardian (Laura Grant, Infographic: Poverty in South Africa', Mail and Guardian, February 5, 2015) regarding the January 2015 re-weighting of the poverty lines by Statistics South Africa, 54.6 per cent of South Africans were living below the upper bound poverty line, which they described as constituting an existence of 'barely managing'. Table 2 sets out the current values of social assistance grants for the 2017/18 financial year.

Table 2 Current values of social assistance grants with effect from April 2017

Grant	Value - Per beneficiary per month.
Child Support Grant	R380
Foster Child Grant	R920
Old Age Grant, Disability and Care Dependency Grants	R1 600

Source: Nicola Mawson '#Budget2017: inflationary increases for welfare grants' Business Report February 22, 2017.

As indicated in the previous section, the vast majority (12 million out of 17 million) of recipients of social security benefits are in receipt of the Child Support Grant (CSG). Using data from Statistics South Africa, the amount of the CSG amounted to a monthly value of R5 below the threshold indicative of absolute deprivation.

The Pietermaritzburg Association for Community Social Action (PACSA) recently costed the requirements for raising a child between the ages of 3 and 9 years, less the value of the social wage (i.e. discounting for an imputed value for free school fees, health care, etc.) at R524 per month.⁴ During the same period, the value of a monthly Child Support Grant (social assistance cash transfer) was R330 per child per month. Clearly the values of the cash transfers for children are not sufficient to meet the basic requirements as required by the ICESC.

PACSA has also constructed a variety of household budgets, based on basic energy requirements in terms of food for various ages and levels of activity. These estimates do not include any expenditures other than basic food. Table 3 sets out what these household budgets are, and, based on entitlement to social assistance grants, what the income from state social assistance could amount to.

² Just over 6,2 million people were unemployed, with an additional 2,2 million 'discouraged workseekers' in the first quarter of 2017 (Statistics South Africa: 2017).

³ 'Employment creation, training and improved access to new job opportunities are the most important vehicles for support to this target group.' (IDTTSSRR: 19). However, employment is steadily declining.

⁴ PACSA January 2016 Media Statement.

Table 3 Household budgets and required state social assistance

	Household One	Household Two	Household Three
Household composition	One very active male and one very active female. Two children between 3 and 9 years.	One very active male and one very active female. One child between 3 and 9 years. One child between the 10 and 13 years. One elderly person.	One very active male and one very active female. Two children between 3 and 9 years. One child between the ages of 10 and 13 years. One elderly person.
Total Household Food costs	R2 336.58	R2 955.75	R4 092.10
Possible Grant income per month	2 x Child Support Grants (2 x R330) R660	2 x Child Support Grants 1 x Old Age Pension (R660 + R1420) R2 080	3 x Child Support Grants 1 x Old Age Pension (R990 + R1420) R2 410
Shortfall	R 1 676.58	R 875.75	R 1 682.10

Source: PACSA January 2016 Media Statement and Author's own calculations.

Of course, own income should be added to grant income and the effects of the complex entwinement of poverty and unemployment on household incomes can be seen from the dependency of households on social grant income, and also begs the question of adequacy of coverage. According to the 2014 General Household Survey (StatsSA, 2015), 65.4 per cent of households reported that salaries were one of the sources of income in their household, with 42.3 per cent of households including social grants as a source of income. More tellingly perhaps of the need for social grants, while 57.5 per cent of households reported that salaries or wages were the main source of income for the household, a staggering 21.5 per cent, or over one fifth of households, indicated that social cash transfers were their main source of income.

Accessibility

According to General Comment 19, accessibility is a function of coverage. To comply with the Committee's guidelines, should a country attach conditions to eligibility, all criteria must be clear, transparent and rational, and well known to actual and potential beneficiaries. Membership must be affordable if contributions are required. Physical access to the scheme must be ensured, and finally, the scheme must encourage participation and provide information to beneficiaries.

In South Africa, although there is widespread knowledge of the grant system, there is quite a lot of ignorance about eligibility criteria, especially regarding the means test, which is worked out according to a formula which depends on the amount of the grant. This can result in errors of exclusion. In addition, the requirement of an Identify Document for the beneficiary and, in the case of grants for children, also their care givers, can be a further barrier. Another challenge is that of child-headed households. Until the Children's Act of 2005 and the 2010 regulations, a care giver had to be over the age of 18 in order to

receive a grant and thus many child-headed households were excluded from access to this grant. That has now changed and care givers can qualify from the age of 16 (Glynnis Underhill, 'The trials of child – headed families', Mail and Guardian, January 30 2015).

According to General Comment 19, a social security system would have to satisfy reasonable thresholds under the following dimensions:

- Coverage;
- Eligibility;
- Affordability;
- Participation and information; and
- Physical access.

The primary concern of this chapter lies in the domain of 'participation and information'. Public participation in the conceptualisation of policy design, by poor people directly affected by the eligibility threshold of social assistance, is generally limited and especially so in this case. Section 195 (1) (c) of the Constitution of South Africa provides that 'People's needs must be responded to, and the public must be encouraged to participate in policy-making'.

In South Africa, a statutory social dialogue institute, NEDLAC, was established under the National Economic Development and Labour Council Act 35 of 1994. Sections 5(1)(a) to (e) of the Act set out the statutory obligations of the Council as follows:

'The Council shall-

- (a) strive to promote the goals of economic growth, participation in economic decision making and social equity;
- (b) seek to reach consensus and conclude agreements on matters pertaining to social and economic policy;

- (c) consider all proposed labour legislation relating to labour market policy before it is introduced in Parliament;
- (d) consider all significant changes to social and economic policy before it is implemented or introduced in Parliament; and
- (e) encourage and promote the formulation of co-ordinated policy on social and economic matters.’

Four social partners belong to NEDLAC – Government, Business, Labour and Community Constituency. Although it includes six members who represent various interests in civil society,⁵ it is clear that these four groups cannot be said to represent the ‘public’ in its entirety. Accordingly, the state must be obligated to reach beyond this Council in order to effectively discharge its constitutional and other legal obligations to consult and facilitate broad participation in the conceptualisation, implementation and monitoring of social assistance policies. There has also been an eight year delay in the state introducing the current Comprehensive Social Security Discussion Document to NEDLAC, which was finally released in 2016.

Public participation requires that people are informed and consulted. It is recommended that the state embarks on a series of educational workshops regarding the nature of the right to social security and the various options that exist for its progressive realisation. The possible modalities for the implementation of the various programmes should be presented to elicit feedback, specifically from potential beneficiaries, to reduce errors of exclusion and reduce the costs for applicants/beneficiaries. Methods of providing for community monitoring of the implementation of programmes should also be established, with clear lines of accountability where officials are found to be violating human rights based standards in the delivery of programmes.

Relationship to other rights

General Comment 19 advises that rights are indivisible and a social security scheme must enable the realisation of the other rights (CESCR, 2008). Thus the right to social security plays a critical role in the realisation of other rights, and vice versa (Darooka, 2016; Sepulveda and Nyst, 2012; General Comment 19). It is important to note the point made in General Comment 19 (CESCR, 2008: Paragraph 28), namely that ‘the adoption of measures to realize other rights in the Covenant will not in itself act as a substitute for the creation of social security schemes.’ The lack of clear guidelines for administrative justice, despite its inclusion in Section 33 of the Constitution (Act 108 of 1996), and an enactment of a national law (the Promotion of Administrative Justice Act [Act 3 of 2000]), leads to many violations in the application process, including the provision of adequate written reasons for an adverse administrative action within 90 days (Section 5(1)) and notice of the rights to review the state’s decision (Section 6).

Recommendations

The earlier sections, exploring the principles of the Human Rights Based Approach and the guidelines contained in General Comment 19 provide a sufficient set of standards that should inform the architecture of a transformative comprehensive social security system in South Africa. The internal limitation clause, in Section 27, that introduces the principle of progressive realisation should not be used as an excuse to limit the universal enjoyment of the right of access to social security. There are a number of review processes that contain recommendations for the design of an inclusive social security system, including the Committee of Inquiry into a Comprehensive Social Security System and the more recent review of the 1997 White Paper for Social Welfare (Republic of South Africa, 2016). These include recommendations for the introduction of a Basic Income Grant to ensure universal coverage for the unemployed, as well as the introduction of a National Social Security Fund to expand access to contributory social insurance as well as to reduce the fees currently being levied by private pension and provident fund providers. These recommendations should form the basis for the educational workshops referred to above. In order to address the issue of adequacy of programme benefits, the state should adopt a Decent Standard of Living Index against which the value of benefits is benchmarked on an annual basis. Where economic issues dictate against an annual inflation-related increase in terms of this index, the state would be required to provide adequate reasons for this in an open and accessible manner. Finally, in terms of the intersection with other rights, access to social security should not be subject to trade-offs with other rights in a minimalist manner, but ways should be found through which the realisation of rights can supplement each other, such as through single point registration of eligibility for access to all appropriate socio-economic rights.

Conclusion

Access to social security for all in South Africa is a right guaranteed both in the Constitution and in the ICESCR. While the current social security system is frequently lauded for its reach, in a country in which human and economic development are stunted by poverty, unemployment and unsustainable levels of inequality, I have argued that the former minimalist approach to social security as contained in Convention 102 of the ILO is neither adequate nor appropriate. The exclusion of working age people between the ages of 18 and 59, and the very low levels of benefits of the existing means tested grants are glaring failures in terms of the guidance of the CESCR General Comment 19. The absence of consultation and participation by beneficiaries in the processes of the design, implementation and monitoring of the programmes, as well as the poor performance of the state in terms of administrative justice, also require critical attention and redress. I have argued in this chapter that there is sufficient international guidance as well as nationally produced

⁵ National Women’s Coalition, Disabled People South Africa, South African National Civics Organisation, South African Youth Council, the Financial Sector Campaigns Coalition and the South African National Cooperatives.

reviews and recommendations to provide for a comprehensive redesign of the social security system. While the activation of the long-delayed policy negotiating process at NEDLAC is to be welcomed, I have argued that this is too narrow a process to meet the test of meaningful engagement. I have recommended that in addition to this, the state should proceed to roll out a series of workshops nationally with the aim of both educating people about the nature and content of their right to social security, and to elicit informed input by beneficiaries prior to the finalisation of any policy redesign. It is time that the right to social security in South Africa finally becomes a human rights based reality.

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5. UNIVERSALISATION VS TARGETING: POLICY CONSIDERATIONS

Michael Samson

Introduction

Policy enthusiasm for social protection as a set of instruments for inclusive social development and equitable economic growth is expanding globally, and many developing nations look to South Africa's experience with social grants as a role model. With one of the world's most generous, comprehensive and best-performing systems, South Africa demonstrates what the transition from a heavily targeted social assistance programme to a more universal system can achieve. Since 1998, South Africa has progressively eased its initial targeting approach, achieving today one of the highest social assistance coverage rates in the world.

Impact assessments commissioned by the Department of Social Development, SASSA, and UNICEF, as well as numerous independent evaluations, have identified important social and economic impacts from South Africa's social grants (Samson et al, 2004; Handa, Devereux, and Webb, 2010; DSD, SASSA and UNICEF, 2012; Heinrich, Hoddinott, and Samson, 2017; Agüero, Carter, and Woolard, 2007). Many of these attributable outcomes result from the design features that manage the trade-off between targeting and universalism. No programme in the world is perfectly targeted, nor are any national social grant programmes truly universal. The balance depends on vital policy considerations that determine equity, efficiency and developmental impact. This chapter briefly explores these primary policy considerations. This paper aims to further add to such exploration and evaluation for both the South African and global context, reflecting on fundamental policy and design considerations within the targeted versus universalism debate, and offering up considerations for policy development.

The trade-off between targeting and universalism depends on an interrelated set of political, economic, fiscal and institutional factors. Ultimately, the decision is fundamentally a political choice, but the driving political will depends on policy-makers' understanding of the social and economic factors, as well as, in the immediate term, the available fiscal space. Increasingly, across the developing world, the choice depends on linkages between economic growth and fiscal sustainability. Fortunately, an established evidence base now thoroughly documents the relationship between social grants, inclusive social development

and equitable economic growth, with vital implications for fiscal sustainability (Organisation for Economic Co-Operation and Development, 2009).¹ The progressive transition from a highly exclusionary and heavily targeted means testing process to a more universal light-touch targeting approach has supported deepening developmental impacts of South Africa's social grant system, and supplied highly visible and influential lessons for the rest of the world.²

Targeting, in the context of social protection programmes, can be defined as the attempt to direct social protection benefits to either individuals or households (and sometimes to communities) consistent with government policy priorities, usually based on poverty or vulnerability, but sometimes on other public objectives. The effectiveness of this targeting depends on a wide variety of factors, including both the design and implementation of the programme, as well as the social, institutional and policy context of the environment in which the programme is implemented.

The targeting decision raises complex questions and determines the success or failure of the social protection programmes. Badly designed or implemented targeting mechanisms can exclude the poorest, generate substantial cost overruns, and create distortions and perverse incentives, with potentially crippling consequences for the programme. The major choices for targeting usually involve one or more of the following options:¹

Individual or household assessments involve testing a person's or household's means for survival, usually with a procedure which verifies an individual's or household's assets. Although,³ The major choices for targeting usually involve one or more of the following options:⁴

- **Individual or household assessments** involve testing a person's or household's means for survival, usually with a procedure which verifies an individual's or household's assets. Though means tests are, in theory, relatively accurate, in practice however, especially in low- and middle-income countries, they are expensive and prone to failure due to a lack of information challenges. The poor sometimes know who they are, but programme officials do not,⁵ and accurate verification of reported means is often nearly impossible.
- **Proxy means tests** employ easily observed indicators that are, in theory, correlated with poverty and yet not easily

1 For more details on these targeting approaches, see Samson, van Niekerk and Mac Quene (2012) as well as Samson (2017) and Devereux et al (2017).

manipulated by potential beneficiaries. For example, a proxy means test might target households without piped water. More sophisticated versions require statistical analysis of large numbers of indicators to identify a formula for determining eligibility. Proxy means tests, however, often lack transparency, and are difficult for many people to understand. This can increase the perceived arbitrariness of the targeting process and often generates high targeting errors.

- **Self-targeting** results when one of the characteristics of the benefit is sufficiently unattractive to the non-poor, such that they voluntarily choose not to receive it. These traits sometimes include the costs of participating (queues, documentation requirements, travel costs), the stigma society creates, or the conditionalities imposed by the programme (work or other requirements). Many of the costs of self-targeting, particularly the psycho-social impact of stigma, are invisible to policymakers but nevertheless erode the effectiveness of the mechanism. When the purpose of social protection is to promote dignity and help households to lift themselves out of poverty, the negative consequences of the self-targeting mechanism can prove counter-productive.
- **Community-based targeting** is the delegation of responsibility for the identification of beneficiaries to community groups or agents. Community representatives are frequently in a better position to assess poverty in their local context than outsiders, and they frequently have access to better information about the poor with whom they live. Community targeting also involves greater local participation in the process, potentially strengthening a sense of programme ownership. However, local elites may skew the allocation of transfers away from the poorest. Community-based targeting frequently fails in communities divided by ethnicity or caste.
- **Categorical targeting** relies on easily observed traits, usually demographic or geographic, that are associated with a higher incidence of poverty. For example, social pensions and child support grants are examples of categorically targeted programmes. Nepal has successfully implemented a social pension using a universal categorical approach. The costs of categorical targeting are usually lower than other approaches, and the transparency of the process is fairly high.
- **Geographical targeting** is a form of categorical targeting that determines eligibility for benefits, at least in part, based on the location of the beneficiary's residence. One of the primary advantages of geographical targeting is its potential simplicity. Particularly in cases of acute emergency, geographical targeting provides a mechanism for immediate

delivery to the hardest hit areas. Often, pilots incorporate a combination of geographical targeting and other approaches.

These various targeting options have different potential costs and benefits, which vary depending on the social, institutional and policy context of their design and implementation. Categorical targeting lends itself best to ex-ante analysis using household survey data. That is, with categorical approaches using largely demographic characteristics, it is fairly simple to assess how effectively different targeting approaches will reach, or fail to reach, the poor.

The main benefit of targeting the poor is that it potentially saves money by reducing the inclusion error of universal programmes, i.e. the distribution of transfers to people who are not poor. Effective targeting aims to allocate scarce resources to those who need them most.

Universal categorical programmes provide benefits to everyone within a certain category (older people, children, people with disabilities, all citizens), while targeted programmes aim to identify the poorest within these groups. Economists often argue that targeting should be evaluated relative to a comparably-funded universal programme. Which approach to delivering cash transfers will reduce poverty more: benefits targeted to the poor or transfers provided universally? The answer depends on the direct and indirect costs of targeting, which in turn are determined by political, social, administrative, and economic factors. The direct cost is the administrative expense incurred in implementing and complying with the targeting mechanisms, both by the government, the beneficiaries and third parties. Indirect costs include political, economic, and social losses, including:

- **Private costs** that potential beneficiaries incur in order to demonstrate their eligibility, including expenses for transportation to apply for benefits, time expended in transit and in queues (with the associated loss of income or other foregone opportunities) and the fees for obtaining necessary documentation (including "informal" fees in some cases);
- **Decision-based costs** that arise when beneficiaries change their behaviour in order to become eligible for the grant, which can trap households in poverty with the most distortionary targeting processes;⁶
- **Social costs** that include stigma, the possible deterioration of community cohesiveness and the potential erosion of informal support networks; and

- **Political costs** that arise from eliminating middle class beneficiaries who could lend their support to social transfers. Amartya Sen has famously pointed out: “Benefits meant exclusively for the poor often end up being poor benefits” (Sen, 1995:14).²”³ In the United Kingdom, the Conservative Party adopted the strategy of means-testing the universal child benefit in order to erode middle-class support for the popular benefit.

All targeting processes are imperfect – any attempt to direct social protection to the poor is likely to entail two types of error:

Inclusion error is the mistake of providing the social transfer to someone in a household that is not poor; and **exclusion error** is the failure to provide a social protection benefit to a household that is poor. The reduction of inclusion error is the potential benefit of targeting, exclusion error is part of the cost. Inclusion and exclusion errors are not easily comparable. An unwarranted social transfer (inclusion error) is, at best, an inadvertent tax rebate and, at worst, a waste of money. On the other hand, depriving poor households of a source of social investment (exclusion error) can trap generations in poverty, with a social cost many times the unutilised fiscal expenditure.

The most thorough analysis of targeting performance considers both inclusion errors and exclusion errors separately. This can be represented with a matrix (Table 1) determined by two questions applied to each household (or individual): (1) Is the household poor? (2) Is the person or household targeted for the social protection benefit given the criteria? The first question requires the specification of a poverty line or other process by which poverty status can be determined.

Successful targeting is represented by consistent answers to both questions: eligible households (or individuals, depending on the targeting criteria) are poor, and non-eligible households (or individuals) are not. Inclusion error results when non-poor households (or individuals) are targeted, and is measured as the number of non-poor targeted households (or individuals) as a percentage of all targeted households (or individuals). Exclusion error results when poor households (or individuals) are not targeted, and is measured as the number of non-targeted poor households (or individuals) expressed as a percentage of all poor households (or individuals). It is useful to note that the base for the percentage is different in both cases, all those targeted, for inclusion error, and all the poor, for exclusion error.

Table 1. Evaluating targeting: the two types of error

Success/Error Evaluation Matrix		Are the Households Poor?	
		Yes	No
Are the Households Targeted	Yes	Success	Inclusion
	No	Exclusion Error	Success

International policy trends

Governments and development partners around the world are demonstrating an increasing commitment to exploring universal approaches as an alternative to poverty targeting. The International Labour Organisation and the World Bank issued a joint statement on 30 June 2015 that specifically identified universal social protection as a global development priority, signalling a major shift in the thinking of Bretton Woods institutions from a narrowly targeted safety nets approach. The consensus understanding defines ‘universal social protection’ as “the integrated set of policies designed to ensure income security and support to all people across the life cycle, paying particular attention to the poor and the vulnerable.”³ This view suggests that universal approaches may offer the best pathways for effectively delivering social rights and developmental opportunities to poor households.

“Since the 2000s, universality has re-entered the development agenda. First it was education: universal primary education became a Millennium Development Goal in 2000. Then it was health: in December 2013, the World Bank and WHO committed to universal health coverage. Now it is time for universal social protection. For the World Bank and the ILO, universal social protection refers to the integrated set of policies designed to ensure income security and support to all people across the life cycle – paying particular attention to the poor and the vulnerable. Anyone who needs social protection should be able to access it.”⁴

International organisations such as UNICEF and the ILO have long been committed to integrated and holistic social protection approaches that are not limited by narrow targeting, and continue to promote progressive exploration of approaches that can best enable equitable and sustainable growth. UNICEF outlines their dedication to “providing technical and financial assistance to national governments and counterparts in the development of integrated social protection strategies”, yet indicates clearly that within this approach, it “supports the progressive realization of

² See Samson (2017) and Devereux et al (2017) for further discussion on the costs of targeting.

³ World Bank Group President Jim Yong Kim and ILO Director General Guy Rider issued the statement in Geneva. <http://www.worldbank.org/en/news/feature/2015/07/27/wbg-and-ilo-co-launch-a-joint-plan-of-action-on-universal-social-protection>

⁴ http://www.ilo.org/global/topics/social-security/WCMS_378991/lang-en/index.htm

universal social protection coverage and encourages nationally led and defined social strategies that are responsive to local contexts.”⁵ The ILO has been actively advocating for the universal expansion of social protection, as demonstrated by the 2015 joint statement, and their continual lobbying for the development of a basic set of social protection benefits, and a global “social floor”. Both international organisations share a long and continuous focus on social protection’s policy priority and frequently lead donor groups in developing countries focused on expanding social protection initiatives.⁶

This growing global development partner consensus on universal social protection accompanies ambitious unprecedented shifts towards truly universal social protection benefits in economically strong countries. Increasing interest in universal income programmes (“Basic Income”) worldwide can be seen through the piloting of such policies in many European countries and represents a shift from poverty targeting. In November 2015, for example, the Government of Finland proposed a universal basic income of €800 a month (about R12 500 in 2019) to all adults. This marked the first commitment to Basic Income piloting from a European country; beyond this, it represented the first experimental implementation of this kind within a developed nation since the 1970s (Upton, 2015; Clegg, 2016). Finland implemented a randomised controlled trial between January 2017 and December 2018 with 2000 unemployed people. The trial concluded at the end of 2018 and is to be evaluated during 2019.

The Government of Switzerland’s 2016 referendum on universal benefits for all citizens, despite its lack of success, represents the first of its kind and reiterated the growing exploration of alternative social protection means.⁷ The Liberal Party in Canada adopted Policy Resolution 100, Creating a Basic Annual Income to be Designed and Implemented for a Fair Economy, which states, “That the Liberal Party of Canada, in consultation with the provinces, develop a poverty reduction strategy aimed at providing a minimum guaranteed income”⁸; a pilot approach was rolled-out by the provincial government of Ontario in 2017.⁹ The Dutch city of Utrecht also launched a Basic Income pilot project in 2017.¹⁰ Prominent parties like Podemos in Spain and D66 in

the Netherlands have further advocated for Basic Income policies. The Royal Society for the encouragement of Arts, Manufactures and Commerce (RSA) published a report in 2015 on a Universal Basic Income model for the United Kingdom (Painter and Thoung, 2015).

This shift in thinking is not only represented by a political periphery but is supported by individuals, with a 2016 poll indicating 68 per cent of individuals across 28 EU member states would consider voting for a universal basic income initiative.¹¹

The shifting mosaic of international policy transitions encompasses developing countries as well. In March 2013, Mexico introduced a new social pension aiming to expand coverage to all people 65 years and older.¹² Middle Eastern and Northern African countries have also demonstrated a willingness to expand social protection initiatives towards more universal coverage; the food subsidy programmes in Egypt, Tunisia, Jordan, Sudan, and Iraq offer such examples (International Monetary Fund, 2014). Universal income trials in India, Namibia, and Brazil demonstrate positive results in terms of improved economic performance, health, and housing (Upton, 2015).

India launched two Basic Income pilots in 2011, with the support of UNICEF and SEWA, whereby a universal, unconditional, and individual monthly grant was given to every adult and child in selected villages, as a randomised controlled trial, and with in-depth case studies. Analysis of the impact of the pilot programmes over 18 months were largely positive, demonstrating improvements (Schjoedt, 2016) in housing and infrastructure; nutrition standards; financial liquidity; school attendance and performance; positive equity outcomes (particularly for disadvantaged groups, such as lower-caste families, women, and those with disabilities); increase in small-scale investments; increase in labour and work status; and reduction in bonded labour.¹³ These results were presented to leading government officials and stakeholders at a conference in Delhi in 2013. The results demonstrated that basic income would work most optimally alongside adequate service provision and social investment, whereby “the vulnerable have institutional representation” (Standing, 2016). In March 2013,

5 https://www.unicef.org/socialpolicy/index_socialprotection.html

6 In Cambodia UNICEF and the ILO coordinate the social protection donor group. In Nepal, the two organisations historically chaired the social protection donor group.

7 Switzerland’s voters reject basic income plan (2016 June 5) Retrieved from BBC News: <http://www.bbc.com/news/world-europe-36454060>

8 Policy Resolutions. Poverty Reduction: Minimum Income, 2016

9 Kassam, A. (2016, October 28). Ontario pilot project puts universal basic income to the test. Retrieved from The Guardian: <https://www.theguardian.com/world/2016/oct/28/universal-basic-income-ontario-poverty-pilot-project-canada>

10 Hamilton T B (2016 June 21) The Netherlands’ Upcoming Money-for-Nothing Experiment, Retrieved from The Atlantic: <http://www.theatlantic.com/business/archive/2016/06/netherlands-utrecht-universal-basic-income-experiment/487883/>

11 Oltermann P (2016 June 2) State handouts for all? Europe set to pilot universal basic incomes Retrieved from The Guardian: <https://www.theguardian.com/world/2016/jun/02/state-handouts-for-all-europe-set-to-pilot-universal-basic-incomes>

12 U.S. Social Security Administration (2013) International Update. http://www.ssa.gov/policy/docs/progdesc/intl_update/2013-04/index.html

13 The reduction in bonded labour such as naukar and gwalla has positive implications for local development and equity (Standing, 2016)

India expanded coverage of its social pension and made policy commitments towards more universal delivery.¹⁴

Similar results were recognised from Namibia's Basic Income pilot in Otjivero from 2008 to 2010, which documented positive impacts in terms of nutrition, access to transportation, savings behaviour and entrepreneurship over the two-year period (Haarmann and Haarmann, 2012): engagement in income generating activities increased from 44-55 per cent during the course of the pilot, and there was a significant increase in small business start-ups within the community.¹⁵ Brazil has been formally exploring Basic Income models since 2001, with the passing of a law which mandated for the progressive institution of a national and universal basic income, making Brazil the first country to pass such a law. This was sanctioned in 2004 and is gradually being implemented, beginning with households identified as most vulnerable; the model is being implemented through Brazil's Bolsa Familia social protection programme.¹⁶

*"If we really want to eradicate absolute poverty, provide dignity and freedom to all and build a civilised and just society, a common-sense solution would be to institute a basic income."*¹⁷

This initiative is also largely being taken up by local communities, NGOs, and independent institutions, under the Brazilian Network for Basic Income. One such NGO, ReCivitas, started a privately funded basic income pilot in Quantiga Velho, whereby members of the community are provided a monthly unconditional income.¹⁸

In Rwanda, the government has made universal coverage of the social health insurance scheme a top priority, valuing the national solidarity the programme fosters, along with the direct impact of improved health. ILO reports indicate that community-based health insurance schemes have increased health coverage in Rwanda to 96 per cent (ILO, 2014).

After a targeting study identified families with very young children as the nation's poorest,¹⁹ the Government of Nepal implemented a universal child benefit for households with young children in the country's poorest districts. The high social cost of excluding young children from such a developmental benefit outweighed the small financial savings from targeting, particularly when considering the social cohesion and solidarity outputs promoted

by rights-based benefits (Samson and Miller, 2012). This impact is significant in a country afflicted by a conflict estimated to have cost nearly two per cent of foregone economic growth annually.²⁰ In Bolivia, a universal pension (Renta Dignidad) and a child benefit (Bono Juancito Pinto) contributed to a 15 per cent decline in extreme poverty from 2007 to 2009 (Gonzales, 2011), in a global environment of rising poverty (McCord, 2009; Habib, Narayan, Olivieri and Sanchez, 2010).²¹ Zambia's Social Cash Transfer programme, which has focused on strict poverty targeting approaches, has piloted universal benefits including child grants and social pensions, based on consultative process evaluations that have guided policy reforms. Repeated evaluations have identified strong positive impacts in terms of poverty reduction and pro-poor economic growth (Samson et al, 2013).²²

Beyond such initiatives, important pilots around the world are also strengthening the evidence base on targeting. This is in response to both the promise offered by universal rights-based approaches, as highlighted above, and the gaps supporting evidence-informed policy design and implementation. Kenya's Hunger Safety Net Programme, for example, innovatively evaluated three different targeting approaches, employing a multi-treatment randomised control trial, and pilots in Indonesia have iteratively tested the sequencing of complementary targeting approaches (World Bank, 2011). Thus there is a growing awareness worldwide of the challenges of targeting, which is opening the door to a greater role for evidence in the appropriate design and effective implementation of social protection programmes. Development partners increasingly recognise the global public good nature of this evidence and support evidence-building and rigorous evaluation initiatives. This chapter aims to further add to such exploration and evaluation, reflecting on fundamental policy and design considerations within the targeted versus universalism debate, and offering up considerations for policy development.

General policy considerations on the universalisation/targeting trade-off

There are two main policy considerations when evaluating the trade-off between universalisation and targeting. The first is targeting performance: targeting almost always excludes a substantial proportion of the poorest and most vulnerable.⁸

14 Minister for Rural Development Jairam Ramesh, Speech outside of Parliament on 7 March 2013, reported by The Hindu newspaper, 8 March 2013. <http://www.thehindu.com>

15 Desk for Social Development (DfSD) and Labour Resource and Research Institute (LaPRI), 2009

16 Growing Support for BI Worldwide, 2012

17 Brazilian senator, Eduardo Matarazzo Suplicy

18 Growing Support for BI Worldwide, 2012

19 Samson, 2008 - Cited by Mariana Stirbu at the UNICEF International Conference "Child Poverty and Disparities: Public Policies for Social Justice", Cairo, Egypt, 19-20 January 2009.

20 Asian Development Bank growth impact estimate.

21 For example, the World Bank has estimated a four per cent increase in Mexico's poverty rate from 2008 to 2010 attributed to the global financial crisis.

22 See Samson et al (2013) for a review of studies documenting evidence of social protection's growth impacts in Zambia since 2008.

Universal provision reduces this exclusion error, but at the cost of extending benefits to the entire categorically eligible group.

The second set of considerations is more complex, reflecting a range of public, private, and indirect costs that the targeting of social protection programmes on the basis of poverty status imposes. Targeting breeds opportunities for corruption, cultivates a flourishing environment for “ghost beneficiaries”, may generate potentially perverse incentives, and can undermine social cohesion and political support for the programme.⁹

Means tests generally require complex documentation that complicates the application process and can create barriers to access, particularly for qualified applicants in the low-income deciles. Perverse incentives may also arise under means-tested systems that threaten programme credibility and effectiveness. If beneficiaries must fall below a particular income threshold to qualify for a grant, there may be motivation for potential recipients to keep their earnings below that mark in order to receive the benefit. Interviews with Child Support Grant beneficiaries in the Eastern Cape revealed a common misconception that the grant is only available to unemployed caregivers, creating a mindset that potentially discouraged labour force participation. This compounds the stigma that discourages households from receiving the grant. Historically, research has documented negative discourses arising around means-tested social assistance in which “receiving welfare benefits is looked down on and stigmatised (Hochfeld and Plagerson, 2011:2).”

Numerous studies suggest that targeting can be divisive within communities and cause tension between those who qualify for the grant and those who do not. Since many households within a community may straddle the threshold to qualify for the grant, the selection of who receives the benefit may seem arbitrary or preferential if the qualifications for the grant are not transparent and well-understood. Ha et al (2010) found that targeting creates a clear division between beneficiary and non-beneficiary households, potentially increasing social tension and reducing cooperative behaviour. This is similar to findings reported by Adato (2000) who found that poverty targeting produces envy and division, with non-beneficiaries self-excluding themselves from participation in community activities more generally because of their exclusion. South Africa's social grant targeting involves a process for registering means test documents which is sometimes humiliating and applicants with missing documents are sometimes treated poorly and sent home.¹⁰ Universal provision reduces the opportunities for corruption that often intensify when officials are charged with interpreting means testing criteria. Universal provision also reduces the risk of graft and fraud by making the existence of ghost beneficiaries, people receiving the grants who do not actually exist, less likely and easier to detect since the

beneficiary populations will align more closely with census figures than the eligibility list under a means-test.

Universalism reduces exclusion by strengthening a rights-based approach that can fundamentally change the risk of fraud or manipulation. Poor households can more effectively claim their entitlements because universalism better protects delivery from risks of political manipulation and corruption. Universalism provides benefits as a human right, and thus has the potential to reduce stigma and promote dignity.

International evidence suggests that universal programmes have lower social and political costs, and generate fewer incentive costs. Research has found that universal programmes are market neutral and do not distort incentives (Hochfeld and Plagerson, 2011; Standing, 2007) and minimise the risk of dependency (Hodges et al, 2007). By strengthening inclusive growth impacts that expand fiscal space, universal provision reinforces the sustainability of social protection systems.

Universalism further strengthens political support for social protection. In Mongolia, the political costs of targeting severely undermined the Child Money Programmes (Hodges et al, 2007). The electorate perceived the exclusion of some children as unfair, creating pressure for a universal distribution of benefits which began in mid-2006. Other articles lend support to the claim that poverty targeting can erode political support (e.g. Benfield, 2007). By incorporating those taxpayers who ordinarily would not have received the benefit, the programme may secure greater longevity and sustainability, as those individuals are the ones funding the programme through the taxes they pay to the state. Universal provision also incorporates low-income potential taxpayers outside the tax/benefit system, with income too low to be captured in the income tax net, but too high to qualify for a heavily targeted grant. By expanding the tax/benefit net, universalism promotes the gradual transition to tax-paying status. The universal benefit, by enabling the government to more visibly share public benefits, may also improve tax morality. In any event, a move to heavier targeting may backfire. In Mauritius, a short-lived government attempted to reverse universal provision of the nation's social pension. After the resulting electoral loss, the new government quickly restored universal provision.¹¹

Specific policy considerations based on South Africa's experience

The Government of South Africa has actively built an impressive evidence base on the potential for universal delivery to improve its social protection system. In 2011, the National Treasury assessed the universal provision of the nation's social grants pension,

characterizing the system's means tests as mechanisms "intended to ensure that support is provided to beneficiaries who need it and that social assistance is both fair and financially sustainable." The review enumerated four decisive drawbacks: their complicated institutional arrangements; their distortions around the means test threshold (which unfairly exclude poor households who just barely do not qualify); the high administrative costs; and the risk of perverse incentives. The Government of South Africa reported its expectation that future relaxations of the means tests would gradually enable all older people below the income tax threshold to access the social pension, expanding equitable coverage and reducing administrative complexity.²³

South Africa's Child Support Grant represents a further illuminating case study. In 2002, only one in ten eligible poor children benefitted from the Child Support Grant (CSG), mainly due to impediments created by the targeting system. A study by the Economic Policy Research Institute, conducted in the Mount Frere district, one of poorest areas in South Africa, found that only five per cent of caregivers of the poorest children could navigate the bureaucratic hurdles and successfully qualify for the grant. By 2017, exclusion errors within the grant programme had been reduced by three-quarters, through a concerted effort by the Department of Social Development (DSD) and the South African Social Security Agency (SASSA), to relax the cumbersome targeting procedures, and shift to a greater focus on the social security rights guaranteed by the Constitution (Samson et al, 2015). Surprisingly, relaxations of the initially strict targeting requirements reduced both inclusion and exclusion errors.

A subsequent study commissioned by the Department of Social Development identified the benefits of a universal Child Support Grant. South Africa's children, as a percentage of the total population, are falling from approximately 35 per cent in 2010, to an estimated 26 per cent in 2050 (from approximately 17 million in 2010 to about 13 million in 2050). South Africa has the opportunity to make its Child Support Grant gradually universal, eliminating all costs of targeting, while actually reducing fiscal expenditure as a percentage of national income (as measured by GDP).¹² The ageing of the South African population and falling fertility leads to a gradually falling child population, and a more rapidly falling proportion of children, make universal provision increasingly affordable. A study commissioned by the Department of Social Development simulated the long-term economic and demographic trends that hold the potential to reduce social grant spending over time while improve generosity.¹³

Universal provision of the Child Support Grant will substantially increase the likelihood that vital development benefits will reach all poor children, many of which the grant currently excludes.

According to the National Income Dynamics Survey (2015), an estimated 3.3 million poor children are not receiving the Child Support Grant, in part because caregivers often find the means test documentation requirements too daunting. SASSA cited the means test requirements as a barrier to the in-hospital registration of new-borns, one of the most promising options for reducing exclusion of South Africa's youngest children.

Universal provision transforms the Child Support Grant into a concrete manifestation of the government's commitment to all people in South Africa. This strengthens the bond between the State and its people, improving political stability and social cohesion. In addition, with the arbitrary means test threshold removed, poor households have greater incentives to lift themselves out of poverty. The Department of Social Development's 2012 report found that "the universal provision of the Child Support Grant is affordable, feasible and low-risk, and offers the potential to substantially expand the positive social and economic impact of the programme" (DSD, SASSA and UNICEF, 2012).

Conclusions

The question of targeting represents the most contentious design feature and most severe implementation challenge in the social protection sector (as well as in many other areas of social policy). The bias towards poverty targeting, rooted in ideology,¹⁴ unrealistic optimism about the effectiveness of targeting mechanisms, and a superficial appreciation of the true costs,¹⁵ is giving way around the world to a more profound understanding of the effectiveness of more universal approaches in both assuring human rights, delivering inclusive social development and equitable economic growth.

Evidence over the past two decades, from nations that have successfully achieved the Millennium Development Goals, documents the effectiveness of rights-based approaches in reaching poor households, while minimising public and private costs, and reducing social, economic, and political distortions. This evidence has informed an overarching universal character for the new Sustainable Development Goals, in line with the global shift from poverty-targeted approaches.

Resource constraints, however, still often dictate more limited coverage, which requires some compromise. Policy-makers that weigh the most important policy considerations, reaching all of the vulnerable, while ensuring efficiency, increasingly adopt more rights-based targeting approaches. Combinations of geographical and categorical targeting involve no distortionary household or individual testing and support dignity and rights. Progressively realised,¹⁶ they require the same fiscal expenditure

²³ Government of South Africa, Budget Review 2011, chapter 7.

as more severe targeting approaches, but they contribute more effectively to inclusive social development and equitable economic growth. Importantly, they scale up to universal rights-based social protection systems.

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Social Solidarity

Non contributory Reduction in vulnerability
ILO benefits
Social Security Floor
Sustainable development goals
Social Wage
Fiscal Space
Ratification
Basket of goods and services
Taylor Committee

SOCIAL security standards

Decent standard of living

Convention 102
Social Justice
Cross subsidisation
National Development Plan
Policy Space for Social security
Social protection Gap
ILO Recommendation 202

6. THE RIGHT TO SOCIAL SECURITY AND ITS IMPLEMENTATION: WHAT ROLE CAN ILO SOCIAL SECURITY STANDARDS PLAY?

Krzysztof Hagemeyer

Introduction

What does the right to social security¹ mean if the majority of the world's population still lives in overwhelming insecurity? What is the significance and role of international social security standards, developed by the International Labour Organization (ILO²) over decades? What are the economic, labour market and political factors determining differences between countries with respect to population coverage by social security schemes and systems? How can past and recent experiences of countries in the Global North and in the Global South be used to expand social security coverage, and what role can be played by the new standard in this area – the ILO Social Protection Floors Recommendation 202, adopted in 2012?

These questions are subject to ongoing debates among social security experts, policy makers at the national and international level, and civil society. Finding answers is even more important now, when the Sustainable Development Goals, adopted by the international community, include targets of substantially increased social security coverage by 2030. This paper intends to add to the current debates and to facilitate the search for answers to the above questions.

Establishing the right to social security

The Declaration of Philadelphia, adopted more than 70 years ago and part of the Constitution of the ILO, obliged member countries:

'to further among the nations of the world programmes which will achieve...the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care' (ILO, 1919-1944, Annex: Declaration concerning the aims and purposes of the International Labour Organisation, section III).

At the same time, ILO member countries adopted two Recommendations (67 concerning Income Security - ILO, 1944a, and 69 concerning Medical Care - ILO, 1944b) specifying how the above objective could be achieved.

Both 1944 Recommendations refer directly to the Atlantic Charter, the document signed on 14 August 1941 by President

F D Roosevelt and Prime Minister W Churchill (endorsed by the 1941 International Labour Conference [ILC]), and particularly to its fifth principle announcing:

'the fullest collaboration between all nations in the economic field with the object of securing, for all, improved labour standards, economic advancement and social security' (NATO, 1941, point 5).

Human rights and related international standards are usually formulated because of the recognition of their necessity for peace and sustainable development. The experiences of the First World War and the subsequent revolutionary wave that spread across Europe, resulted in the signing the Treaty of Versailles, which declared that '...universal and lasting peace can be established only if it is based upon social justice'. This clause was included in the first sentence of the Constitution of the ILO, established in 1919 by this Treaty (ILO, 1919-1944, Preamble). Similarly, at the end of the Second World War, world leaders had no doubts that 'poverty anywhere constitutes a danger to prosperity everywhere' (ILO, 1919-1944, Annex, section Ic) and that social security is one of the conditions for eliminating poverty as it threatens global peace.

After 1944, the right to social security was embedded in the Universal Declaration of Human Rights (United Nations, 1948, articles 22 and 25) and then in a number of ILO Conventions and Recommendations.

ILO Conventions and Recommendations constitute a body of international labour standards,³ a set of legal instruments, drawn-up by ILO tripartite representations (governments, workers and employers) of ILO member countries, establishing basic principles and rights in the world of work. These standards are either Conventions (legally binding international treaties which may be ratified by ILO member countries) or Recommendations, which serve as non-binding guidelines.

Once a standard – Convention or Recommendation – is adopted by the ILC, governments of ILO member countries are required to submit it to their parliaments for consideration (normally with information about the extent to which legislation in the country complies with the provisions of the new standard). In the case of Conventions, this has implications for the country should it ratify the Convention.

¹ Social security is defined here as a set of contributory and non-contributory programmes providing income security and access to health care, to those covered, in the event of certain life contingencies and social risks. Following the ILO and European tradition, this term can be used interchangeably with the term 'social protection'.

² The acronym ILO may mean, depending on the context, either International Labour Organization or its secretariat, International Labour Office.

³ For more details see ILO (2014).

If a country ratifies a Convention, it commits itself to apply the Convention in national law and practice and to reporting (to the independent Committee of Experts on the Application of Conventions and Recommendations - CEACR) on its application at regular intervals. However, under article 19 of the ILO Constitution (ILO, 1944), member countries are also periodically required by the ILO Governing Body to report on compliance of their legislation and practice with selected Conventions (even if not ratified) and Recommendations. Results of the analysis of such reports by the CEACR are then published as General Surveys of member countries' national laws and practice in a selected area. Publication of a General Survey of selected social security Conventions and Recommendations in 2011 preceded adoption of Recommendation 202 in 2012. And in 2017, the ILO Governing Body decided to request all ILO member countries to report on compliance of their law and practice with the requirements of Recommendation 202. A report on this General Survey will be published and presented to the ILC in 2019.

Convention 102, concerning Minimum Standards in Social Security (ILO, 1952), translated principles of Recommendations 67 and 69 from 1944 into the requirements to be followed by ratifying countries and opened the so-called second generation of ILO social security standards.⁴ This Convention sets guidelines concerning adequacy, governance and financing of national social security systems and its components, providing protection in case of specific contingencies and social risks.⁵ It is included in the current list of ILO standards (see ILO, 2014a for a recent list of ILO standards) and new countries continue to ratify it. In recent years Convention 102 was ratified by Chad, Togo, Jordan, St Vincent and Grenadines, and Ukraine.

The Republic of South Africa has not ratified the Convention but the ILO report presenting the analysis of South African social security (ILO, 2014b), done at the request of the Department of Labour, found that the country's legislation and practice fully comply with the requirements for four of the Convention's parts: old-age benefits (on the basis of the Older Persons Grant), family benefits (on the basis of the Child Support Grant and the Care Dependency Grant), invalidity benefits (on the basis of the Disability Grant) and employment injury benefit (Part VI) on the basis of the Compensation for Occupational Injuries and Diseases Act 130 of 1993. The report thus concludes that South Africa can ratify the Convention and accept the respective obligations included in these four parts. In addition, the report found that South Africa could also accept three other parts of the Convention, namely those related to sickness, unemployment and maternity benefits, subject to parametric adjustments to the Unemployment Insurance Act, concerning levels of unemployment benefits, the qualifying period for sickness and maternity benefits, and duration and

waiting periods for unemployment and sickness benefits. The report also states that compliance with the medical care and survivors' benefit parts of the Convention would require more systemic reforms leading to reduced co-payments in health care and establishing survivors' pensions as long-term periodical benefits.

The above findings are important, as they show that a country can comply with the requirements of Convention 102, including its general principles and specific provisions, and be in a position to ratify even if its social security system is mainly based on non-contributory social assistance. It provides an example for all countries with a large informal economy, where it is not possible to reach sufficient coverage through contributory social insurance.

Adoption by the ILC, in 1952, of Convention 102 was followed by the adoption of a series of Conventions dealing with specific branches of social security: employment injury benefits (Convention 121, ILO, 1964); old-age, invalidity and survivors' benefits (Convention 128, ILO, 1967); medical care and sickness benefits (Convention 130, ILO, 1969); unemployment benefits and labour market policies (Convention 168, ILO, 1988); and maternity benefits and other forms of maternity protection (Convention 183, with the most recent revision in ILO, 2000). The Conventions are all accompanied by associated Recommendations, which include additional guidelines for social security policies.⁶

The most important policy message coming from the ILO social security standards is that social security should be a comprehensive and consistent set of complementary policies and measures providing income security and affordable access to medical care. To conform to international labour standards, national policies should thus build a basic set of provisions and then – along with continual economic and social development – progressively expand coverage and increase levels of protection. Also, contrary to the first generation of social security standards focussing only on social insurance, the second generation of ILO social security standards allows ratifying countries flexibility in terms of which policy instruments they select to provide protection – it can be contributory social insurance benefits, universal benefits with entitlements based solely on residence and some other categorical criteria (like age), or income-based means tested social assistance benefits – as is the case of South Africa.

Adoption of the ILO social security standards has also been followed by development of equivalent regional legal instruments. One example is the European Code of Social Security (Council of Europe, 1964, Nickless, 2003) which includes nearly identical provisions to ILO Convention 102.

⁴ First generation being Conventions adopted between 1919 and 1939 and dealing with social insurance in different sectors of the economy.

⁵ Benefits providing protection in case of different contingencies and social risks covered by Convention 102 include: medical care (Part II), sickness benefits (Part III), unemployment benefits (Part IV), old-age benefits (Part V), employment injury benefits (part VI), family benefits (Part VII), maternity benefits (Part VIII), invalidity benefits (Part IX) and survivors' benefits (Part X). When ratifying Convention 102, a country has to specify at least three of these parts which it accepts as obligations of the Convention. Among the selected parts there has to be at least one of the following: unemployment benefits, old-age benefits, invalidity benefits or survivors' benefits.

⁶ There is an exhaustive literature devoted to social security standards. In this chapter there is insufficient space for an extended literature review but the reader is referred to comprehensive overviews and critique, included, for example in Humblet and Silva (2002), Kulke (2007), Van Langendock (2007), Pennings 2006 and 2007, and Olivier 1999 and 2013.

Another example is the Southern African Development Community (SADC) which adopted its own Code of Social Security which

‘intends to give SADC Member States strategic direction and guidelines in the development and improvement of social security schemes, in order to enhance the welfare of the people of the SADC region’ (SADC, 2008).

As mentioned before, the ILO has a mandate to review existing legal solutions, practice and experience in implementing the right to social security in the member countries. As a result of such reviews, the ILO also considers whether the most effective existing solutions can be codified in the form of a revised or new Convention or Recommendation. Such review processes led to the new Recommendation 202, concerning national floors of social protection, adopted unanimously by ILO member countries in 2012 (ILO, 2012). Development and adoption of this new instrument was preceded by careful reviews of the impact of the existing standards and the reasons why social security coverage gaps persist in many lower income countries.

The right unfulfilled

By 2012/13, several decades after the main international social security standards were adopted by the ILO member countries, access to a full, comprehensive social security system, including all its contingencies and social risks, was only available to 27 per cent of the world’s population (see ILO, 2014c, for extensive analysis of global and regional coverage gaps). The remaining 73 per cent was covered partially or not at all. In most of Europe and in some developed countries such as Australia, Canada, Japan, New Zealand, and the United States of America, the majority of the population is covered by various forms of social insurance or equivalent social security programmes. These countries spend, on average, about one-fifth of their Gross Domestic Product (GDP) on various forms of social security. Between 2010 and 2011 the figures for various developed regions in the Global North were as follows: Western European countries 26.7 per cent; North American countries 19.4 per cent; and Central and Eastern European countries 17.6 per cent (ILO, 2014c: 297). Conversely, in the Global South, expenditure on social security sometimes constitutes only a few per cent of the GDP. During 2010-2011, countries in Sub-Saharan Africa spent, on average, 4.2 per cent; Asia and the Pacific 5.3 per cent; Middle-East 8.7 per cent; North Africa 9.0 per cent; and Latin America and the Caribbean 13.2 per cent (ILO, 2014c: 297). Lower income countries in these regions can only afford to cover the minority of the population with their social security schemes. This coverage is usually limited to the provision of security in old age and in the event of an accident at work. In Sub-Saharan Africa and many Asian countries, most of these funds are spent on financing public health rather than on cash social benefits. Such coverage gaps are because many countries of the Global South only have contributory social security schemes, which only provide effective coverage for those who are formally employed, and in many Sub Saharan African countries formal employment applies to only 5 to 10

per cent of the labour force (see International Labour Office 2010, Chapter 2).

Contributory schemes are favoured by policy makers for a simple reason: design of these schemes provides the revenue necessary to finance them. Entitlements to benefits are conditional on payment of contributions and – if the design is adequate and schemes are governed properly – revenue from these contributions should be sufficient to fund the scheme. Contributory schemes thus create the additional ‘fiscal space’ necessary to finance them. At the same time, they promise contributors (mainly employees and employers) that the additional fiscal burden resulting from payment of contributions will, by virtue of the scheme’s design, be compensated through entitlements to future benefits. By comparison, the creation of non-contributory schemes must necessarily be accompanied by a more difficult political process where both policy makers and taxpayers must be convinced that the necessary increase in taxation, introduction of new taxes or reallocation of resources from other publicly funded programmes, will benefit society as a whole, even though future beneficiaries of these schemes will not necessarily be those who pay higher taxes.

Trust in government and other public institutions is a necessary condition behind successful contributory and non-contributory programmes. However, design principles of contributory programmes do provide some safeguards, potentially helping to create and maintain such trust. These safeguards are very clearly spelled out in ILO social security standards: there has to be overall equivalence between contributions and benefits; financing has to be equitable; and participation of those covered in a supervisory mechanism has to be ensured. These principles apply equally to non-contributory schemes but in this case such trust can be built only when the whole process of determining public budgets is democratic and participatory, involving all components of society, including minorities.

Limited coverage by social security is thus often explained on the grounds of affordability – that is lack of resources or lack of adequate ‘fiscal space’, whereas the explanation lies arguably in a lack of sufficient ‘policy space’ for social security in many of those countries. ‘Fiscal space’ can be defined, according to Heller (2005: 3), as: ‘room in a government’s budget that allows it to provide resources for a desired purpose without jeopardizing the sustainability of its financial position or the stability of the economy’. ‘Policy space’ is understood as room in national policy debates (which in the end shape decisions made by parliaments and government administrations) for specific policy options regarding different publicly funded programmes (see Ortiz et al, 2015).

Social security instruments – both contributory and non-contributory – are mainly redistributive mechanisms through which society, by means of general taxation and social security contributions, finances the benefits and services for those who – according to nationally predefined entitlement conditions – need them. The maximum scale of possible redistribution is determined in the first place by the size of publicly available resources, which can be collected through taxes and

contributions in the shorter and longer term. But the size of this 'fiscal envelope' is determined ultimately by 'policy space' - the willingness of the society to pay taxes and contributions and then to use these resources to fund public benefits and services programmes.

In the case of non-contributory benefits having poverty reduction as a main goal, such 'policy space' depends on the attitudes prevailing in society towards redistribution and the poor. Also, it depends on the design of the benefit programme and whether these programmes enjoy support from those who pay most of the taxes and contributions, namely the middle class. Programmes that are designed to offer universal protection, including for the middle class, may achieve greater support than programmes narrowly directed at the poorest (depending also on whom these poorer groups are and who is perceived to be the main taxpayer).⁷ Contributory programmes often create the illusion that they can cover everybody while the reality is that for countries in which informal employment dominates they cover only the relatively better-off minority, while excluding the majority, which is unemployed or informally employed.

The role of external actors in shaping the policy space is crucial. For example, at the beginning of this century, social security debates in Sub-Saharan African countries were limited to contributory schemes and the opportunities to expand them effectively beyond those in formal employment. The International Monetary Fund (IMF) and the World Bank, following their 'Washington consensus'⁸ last century discouraged African countries from increasing social spending, except that directed to primary education and primary health. However, during the first decade of this century the World Bank started to actively promote its 'social risk management' concept (see Holzmann and Jorgensen, 1999) and 'safety nets' or 'social protection' (understood as non-contributory, mainly means-tested, social assistance) in all African countries. At the same time, the ILO, in coalition with some bilateral donors (e.g. United Kingdom Department for International Development and development agencies of Germany and Finland) and international non-governmental organisations (NGOs) (in particular HelpAge International) intensified efforts to put expansion of non-contributory social security on the national policy agendas and on the policy agenda of the African Union. The 2006 inter-governmental conference on social protection (understood here more broadly and covering both contributory and non-contributory social security interventions), organised under the auspices of the government of Zambia and the African Union, with the support of this international coalition, adopted the 'Livingstone call for action' (International Policy Centre [IPC], 2006). This subsequently had an important impact on national

social security debates in many African countries. However, it is the domestic actors - governments, social partners and civil society - who should and in the end play a dominant role in shaping the policy space for social security and in the design, implementation, monitoring, and evaluation of social security policies.

A change in approach originating in the Global South

In recent decades, a growing number of countries took important steps towards the development of their social security systems, so that benefits could reach those most in need. This sought to include those who could not benefit from existing social insurance provisions which covered only those in the formal economy. An important common feature of these countries was the relative independence from international loans and thus from the 'Washington consensus' conditions of the international financial institutions. Brazil implemented its Bolsa Familia programme in 2003, providing at least basic social protection to many poor families with children. China started an ambitious expansion of coverage for health care and old-age pensions. India adopted an employment guarantee scheme aiming to provide income support to unemployed or underemployed poor people in rural areas.⁹ South Africa, through a system of non-contributory old age, child and disability grants, achieved broad scope, extent and levels of social security coverage¹⁰ that fully complies with the requirements of the ILO Convention 102 concerning minimum standards in social security, which would thus enable the country to ratify this Convention.

As noted earlier, the ILO Convention 102 was designed in the early 1950s, as a very flexible instrument that allows countries to comply with its provisions regarding adequacy of benefits and the scope and extent of coverage, not only through social insurance, but also with universal or categorical non-contributory benefits or even with means-tested social assistance. Unfortunately, for many years this Convention was mainly interpreted - by the countries and experts helping them¹¹ - as a social insurance Convention and this interpretation pushed many countries to develop their social security systems through adoption of social insurance schemes rather than non-contributory forms of social security. The example of South Africa and a growing number of examples from other countries of the Global South show that policies other than social insurance can be - within the environment of largely informal labour markets - more effective in achieving international standards in social security coverage and benefit

7 See, for example, analysis of the differences between European and United States' (US) anti-poverty programmes by Alesina and Glaeser (2004), indicating that the much smaller scale of redistribution in the US, compared with that prevailing in Europe, arises largely from different attitudes towards the origins of poverty as well as from ethnic heterogeneity of the poor population.

8 The term 'Washington consensus' was coined by Williamson (1989) to summarize commonly shared themes of policy advice to developing countries by Washington-based institutions which included strict fiscal discipline, limiting direct transfers and subsidies, privatization, and deregulation.

9 Cases of successful coverage extension in these and other countries are described in UN Development Program [UNDP] (2011) and International Social Security Association [ISSA] (2013).

10 Detailed data on coverage, costs and levels of benefits of the South African system of social grants can be found in annual Budget Reviews published by the National Treasury (for example: Republic of South Africa (2017:59-60).

11 See Hickey and Seekings (2017) for a very interesting and critical analysis of the history of development of social security in Africa and the role of international development agencies (section 3: 'Transnational actors and social protection in Africa across the twentieth century').

adequacy. However, these examples also show that success in such policies requires adequate policy space and fiscal space - strong and lasting commitment to allocate budgetary resources to make the right to social security a reality.

The development of social policy in the wealthier countries of the global South (Brazil, China and India) has had various positive effects on the poorest countries. There is probably now no country in Africa or Asia, without at least an on-going debate over the introduction of social protection programmes. In a number of countries (for example, Kenya, Mozambique, Tanzania and Zambia in Africa, and Nepal, Thailand and Vietnam in Asia) such programmes are being established as inherent components of the social security system, and are going beyond pilot or temporary projects funded by donors and delivered by international NGOs.

Several examples from countries of the Global South showing that the extension of social security can be effective in poverty alleviation or prevention and simultaneously affordable, started to convince a growing number of countries to adopt similar policies. These examples also provided evidence to international organisations and bilateral donors that even in the poorest countries it is possible to establish at least a basic level of social security.

The global social protection debate 2001-2012: towards the Social Protection Floors Recommendation

In 2001, the International Labour Conference started a process which aimed to reach a 'new consensus' that social security is not just for those in the formal economy and called for a global campaign for social security for all (ILO, 2001). As a follow-up, the ILO Social Security Department, in cooperation with other multilateral organisations and some bilateral donors, undertook intensive research on new policies in developing countries, the opportunities for financing basic social security in poorer countries, on strategies to provide at least basic social security for all and gradually build comprehensive social security systems in accordance with the requirements of the existing ILO social security standards and, in particular, Convention 102. The concept of basic social security guarantees was born (originally identified as social security 'floors' – see Cichon and Hagemeyer, 2007) in which countries, in order to effectively reduce poverty, should prioritize establishing these universal basic guarantees of minimum income security and access to essential health care, instead of further improving coverage by contributory schemes that targeted narrow groups in the formal economy.

Concerns were voiced, in particular by the representatives of the trade unions (in particular those from Latin American countries, where coverage by contributory social security is often relatively generous), that the new basic guarantees for all could become a pretext for a reduction in the level of contributory social security, to which only formal sector employees are entitled. An effort was therefore made to prevent an interpretation of the 'floor',

which could make the minimum guaranteed security a maximum one, where the floor could become a 'ceiling'. Thus the two-dimensional concept of social security extension was born. Hence the introduction of the basic guarantees to all in need, regardless of their status in the labour market, is supposed to be only one of the two essential dimensions of national strategies for the development of social security. The second dimension was to ensure and then maintain such a scope and level of social security, which will be considered by the people of the country concerned as appropriate, and at least consistent with the requirements of the Convention 102 or with other ILO social security Conventions that provide for a higher level of protection.

The harsh consequences of the global financial and economic crisis of 2008 resulted in increased support for social protection policies. Discussions held at different fora led to a broad consensus on the need for a new ILO standard in the form of a Recommendation that would complement Convention 102. Final agreement on the wording was reached during two International Labour Conferences in 2011 and 2012.

The aim of Recommendation 202 is to provide guidance to ILO member countries on how to build a set of basic social security guarantees (or social protection floors) into their social security systems. It urges member countries to adopt national strategies and policies which should, on the one hand, achieve and maintain this set of basic guarantees as a priority, while at the same time continue to ensure higher levels of social security to the widest possible number of residents. Social protection floors are defined by each country, by setting minimum social security guarantees aimed at prevention or at least alleviation of poverty and social exclusion, as well as the reduction of vulnerability.

The Recommendation also introduces fundamental principles, which should guide the social security policies. Although many of these principles have been codified by earlier ILO standards, this is the first time they have appeared in such a clear and full form. Therefore, Recommendation 202 gives the countries full responsibility for the implementation of its provisions, and requires adherence to, *inter alia*, the following principles:

- social security should be universal and based on social solidarity;
- entitlements to individual benefits should be defined by law;
- benefits should be adequate and predictable; and
- rules for granting benefits should respect the rights and dignity of persons protected, foster social inclusion and should not discriminate against anyone; i.e. ensure equal treatment, but at the same time take into account the specific needs of different groups.

Currently, the practice of implementing programmes based on Recommendation 202 differs from the above principles. Many of the programmes are pilot programmes whose main purpose is to study their economic and social impact rather than the provision of social security. Examples include the early stages of the Zambian cash transfer scheme and similar programmes in Malawi, Uganda, Kenya and Ethiopia. Other programmes

are planned for a limited period, with no intention to scale-up (as was the case in Zambia when gradual and unplanned traction resulted in scaling-up), and are not enforceable by law but are merely internal arrangements that govern entitlements to benefits. The rights and dignity of the actual and potential beneficiaries are often not fully respected by the applicable procedures for targeting benefits. Such is the case in some developing countries but also occasionally in developed ones (see Walker et al, 2012).

Recommendation 202 encourages countries to establish the basic guarantees defined by each country as soon as possible and as a priority. They should ensure that during their life cycle every person in need has access at least to essential health care and basic income security. Guarantees defined at country level should provide as a minimum:

- availability and accessibility of essential health care services;
- minimum income security for children;
- minimum income security for the unemployed and those who cannot work because of sickness, disability, maternity, and so forth; and
- minimum income security for older persons.

The Recommendation states that these guarantees should be ensured at least for all residents of the country and to all children, in accordance with international commitments of the country and national law. This provision is not quite clear and is a trade-off outcome based on the complex debate about the extent to which immigrants of varying legal status, including refugees, should be covered by these basic guarantees. The phrase 'all children' expresses the intention that all children in the area are the responsibility of the government of a given country and as such they should be covered by the basic social security guarantees, irrespective of their legal status (including, for example, children of refugees and illegal migrants).

While it is necessary for laws and regulations to define the basic social security guarantees, at the same time, the institutions, mechanisms and specific types of benefits, through which these guarantees are implemented, may be chosen by each country in accordance with their preferences, circumstances and means. When it comes to defining the desired level of guarantees, the Recommendation leaves this to individual countries. However, it requires, among other things, that the financial consequences of using essential health care services do not increase the risk of poverty, and that the level of minimum income guarantees a life in dignity. The financing should come from national resources but countries without sufficient economic and fiscal capacities should be able to count on international cooperation and support.

The latter provision disappointed some supporters of global solidarity and social policy such as Bob Deacon (2013). In his view, Recommendation 202 should include provisions committing the international community to continually increase the scale of aid for the development of social security in the poorest countries. However, this criticism fails to understand the nature of the Conventions and the Recommendations of the ILO, which always refer to national regulations and institutions and cannot prescribe to international community. Calls for greater and more systematic participation of the international

community in financing basic social security guarantees can be found both in the report of the group of experts under the direction of Michele Bachelet (United Nations [UN] Social Protection Floor Initiative, 2011), as well as the appeal by the UN special rapporteurs on human rights for extreme poverty and the right to food security, for the establishment of a global fund to assist social security in the poorest countries (De Schutter and Sepulveda, 2012). Both documents were released just after adoption of Recommendation 202 and complement it.

Recommendation 202 stresses the importance of regular and inclusive monitoring of social security systems by government and its social partners. The monitoring issue is of major importance but the main obstacle in many countries is a lack of regularly collected administrative and survey data which would allow measurement of social security coverage in all its dimensions: scope of benefits and services provided; extent of access to those benefits and services; as well as levels of benefits and quality of services available. Moreover, there are no internationally accepted statistical standards and indicators in this area. This lack of data practically blocks the adoption of clear social protection targets as part of the post-2015 sustainable development framework and goals, as it is very difficult to define adequate indicators that could be effectively analysed across all countries. The work on improving available statistics and developing feasible indicators continues (see for example the recent study by Bierbaum et al, 2016).

Conclusions: Towards global social policy protection and universal health care

The ILO launched its global campaign on social security for all in 2003 and then initiated extensive research into affordability of a 'social security floor' in low-income countries. In 2009, the UN Chief Executives Board launched the UN Social Protection Floor Initiative, which was then followed by the Bachelet report (UN, 2011). In the same year, ILO member countries unanimously adopted a new international labour standard: Recommendation 202 concerning national floors of social protection. Several international organisations (e.g. Organisation for Economic Cooperation and Development [OECD], World Bank and UNICEF), as well as major bilateral donors (including Europe Aid) published key documents setting out their social protection strategies in their development assistance work. There seems to be consensus that gradually building comprehensive social protection systems, with priority being given to providing protection to those most vulnerable, should be an inherent part of development policies. The call from the Group of 20 (G20) Development Group for more coordination between multilateral and bilateral development agencies in their social protection work resulted in establishing the Social Protection Interagency Board (SPIAC-B). The ILO, World Health Organization and the World Bank, joined by other organisations, agreed in 2015 to promote universal social protection.

Better social protection coverage is among the targets of the post-2015 Sustainable Development Goals adopted by the UN General Assembly in September 2015. One of the targets under Goal 1 - ending poverty in all its forms everywhere by

2030 - is: 'Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable'. The target of substantial coverage by 2030 is rather moderate compared to the universal coverage objective promoted by the joint initiative of the World Bank and the ILO. Also, the question remains, how do we measure 'coverage of the poor and vulnerable'? As the two main objectives of social security systems and its social protection floors are to (1) prevent and (2) reduce poverty and vulnerability, the proper measure should be the assessment of how much poverty and vulnerability was reduced among those who are covered by social security programmes. Unfortunately, the indicators usually proposed are confined to the assessment of what percentage of the poor and vulnerable receive benefits (but despite receiving benefits are still poor and vulnerable).

Although there is some consensus between different development agencies on the importance of social security in development, when it comes to policy and implementation details there are important differences. Two of the axes along which views differ are the extent of the universality of the right to social security; and applicability to the Global South of the experience of countries in the Global North, which have well-developed comprehensive social security systems that have played an important role in the development of those countries over the last century. Fortunately, there is also increasing evidence from the Global South which demonstrates how social security policies support growth and sustainable development. There is a need for more research on measuring impact of policies extending social security coverage; there is a need for efforts improving national and international social security statistics and indicators (which will support not only research but, more generally, good governance of social security schemes and systems). Some gaps in our knowledge of coverage and impacts of social security systems in general and developments of social protection floors in particular, as guided by Recommendation 202, will probably be filled very soon. The ILO undertakes to survey all its member countries on implementation of Recommendation 202 and the results will be published in the report of the Committee of Experts on Application of ILO Conventions and Recommendations in 2018 and then debated at the International Labour Conference in June 2019 (see ILO, 2017).

Recommendation 202 can be used by experts, policy makers and civil society as a tool which helps to implement improved social protection policies that realize the right to social security in a way perceived by the society of any country as the most appropriate option or form.

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7. A SOCIAL PROTECTION FLOOR – A SOUTH AFRICAN APPROACH FOR SOCIAL JUSTICE

Vivienne Taylor

Introduction

Social protection, both as a concept and as measures to address extreme poverty and vulnerability, has gained increasing prominence in Africa (Taylor, 2008). This prominence can, in part, be attributed to the report on The Inquiry into Comprehensive Social Security in South Africa that was submitted to the South African Cabinet in 2002 (Republic of South Africa [RSA] – The Taylor Report, 2002). The Report proposed that social security be reconceptualised within a social protection framework using a developmental approach to progressively tackle the social and economic needs of citizens in the country and prioritise the needs of the poorest. According to the Report (RSA, 2002) a social protection approach is more appropriate for South Africa because it responds to vulnerability, protects people from falling into deeper poverty and could provide development strategies that enable the poorest people to break out of the poverty trap. The underlying philosophy of South Africa's comprehensive social protection approach to poverty, inequality and vulnerability is one that links the attainment of human rights to the development of human and institutional capabilities and resonates with Amartya Sen's thinking (Sen, 1999). Such an approach has the potential to provide the means to collectively overcome structural inequalities arising from institutionalised systems of exploitation that especially affected the black African majority.

The emergence of a South African approach to a social protection floor is evident in the statement that reinforces the use of a combination of measures that achieve a balance in reducing income poverty through cash transfers, addressing service deprivation through the provision of free basic services (mainly water, sanitation and electricity) and enhancing individual capabilities through access to health and education. As a starting point, the Taylor Report (RSA, 2002:41) recommended that a basic but comprehensive basket of goods and services be available to all in South Africa on a universal basis. This basket of goods and services would form the basis for a social minimum and would constitute the standards for a social floor that could be achieved over a period of time using a progressive and developmental approach. This is achieved primarily through social transfers including cash grants. Debates and advocacy as to how all those who live in South Africa can achieve a decent standard of life and access social security are now part of mainstream social policy discourse both within and outside government.

Such debates have been reinforced by research and policy analysis over the years and were highlighted in 2010 in the policy analysis of the National Planning Commission (NPC, 2011a). The NPC highlighted the significance of social protection and the need for a social protection floor that would address poverty and growing inequalities and ensure that every citizen is able to achieve a decent standard of life (NPC, 2011b). The NPC went further and proposed in Chapter 11 of the National Development Plan (NDP) (NPC, 2011b) that a social floor should be determined with social partners to be progressively realised by 2030. A social protection floor is understood as an essential pre-requisite in reducing chronic structurally based poverty and inequality in South Africa. In addition, the National Development Plan proposed that to ensure a decent standard of life for low income and working class households it is also necessary to reduce the cost of living. Such strategies fit with a social protection approach to poverty and inequality. Chapter 11 of the National Development Plan (2011a:341) notes that:

'Concepts such as a social wage and social floor have been used in South African debates to adjust crude distributional indicators to reflect a more balanced picture of distributional fairness. It is generally recognized that there is a need to identify a crucial "package" of social benefits capable of generating levels of social inclusiveness to radically transform economic development in South Africa. South Africa needs to work towards defining a social floor below which no one should fall.'

This understanding fits well with that of the Taylor Report (RSA, 2002:41) which states:

'Comprehensive social protection for South Africa [that] seeks to provide the basic means for all people living in the country to effectively participate and advance in social and economic life and in turn to contribute to social and economic development.'

There is conceptual and policy continuity in the thinking that underpins Chapter 11 of the NDP (NPC, 2011b) and the Taylor Report (RSA, 2002:41 - 42). This continuity is also evident in the statement that refers to some of the elements that constitute an acceptable minimum standard which states 'Comprehensive social protection...incorporates developmental strategies and programmes designed to ensure, collectively, at least a minimum acceptable living standard for all citizens' (RSA, 2002:41).

Table 1 Comprehensive social protection package and components

Response to:	Application	Key components
Income Poverty	Universal (a)	<ul style="list-style-type: none"> • Basic Income Grant • Child Support Grant • Maintain state Old Age Grant
Capability Poverty	Universal/Eligibility criteria (b)	<ul style="list-style-type: none"> • Free and adequate publicly- provided healthcare • Free primary and secondary education • Free water and sanitation (lifeline) • Free electricity (lifeline) • Accessible and affordable public transport • Access to affordable and adequate housing • Access to jobs and skills training
Asset poverty	Universal/Eligibility criteria (c)	<ul style="list-style-type: none"> • Access to productive and income-generating assets such as land and credit • Access to social assets such as community infrastructure
Special needs	Eligibility criteria (d)	<ul style="list-style-type: none"> • Reformed and improved Disability Grant, Foster Care Grant, Child /Care Dependence Grant, Special Pensions for Veterans
Risk and Contingencies over the life cycle - Social insurance	Eligibility (e)	<ul style="list-style-type: none"> • Cover for Old Age, Survivors', Disability, Unemployment, and Health needs

Source: Adapted from Committee of Inquiry into a Comprehensive Social Security System for South Africa (Taylor Report), (RSA, 2002:42).

Table 1 provides a clear indication of the components that contribute to a social protection 'package' or floor. These are necessary to address long term structural conditions and risks and vulnerabilities experienced by people over the life cycle. In the following sections of this chapter I discuss three factors that are required in a South African approach to a social protection floor. Addressing these three factors through a social protection floor could provide a comprehensive response to structural, racially and class-based causes of poverty and social inequalities as well as vulnerabilities and risk arising from neoliberal economic globalisation. These factors are firstly a political and constitutional imperative that demands a human rights approach to achieve social justice. Secondly, the social and economic context of structurally based poverty and the inequalities and gaps in social provision continue to exclude the poorest, including the working poor, because of selective targeting and means tests. Such selective targeting reproduces features of South Africa's apartheid political economy and also reinforces the consequences of distorted race-based development patterns. Third, the international policy context and commitments made in relation to the International Labour Organisation's (ILO, 2012) recommendations for a social protection floor and the NDP's approach to social protection, including a response to the gaps in social protection, is a factor that cannot be ignored. The concluding section provides a social justice perspective and discusses the linkages among principles of social justice and the imperative to achieve a social protection floor to provide redress to the masses who were victims of state-based violence and brutal discrimination and who remain economically and socially alienated in the post-1994 dispensation.

The political and constitutional imperatives for a social protection floor

In the period between 1990 and 1994 the democratic movement under the leadership of the African National Congress (ANC) assembled a wide range of policies as part of a programme of reconstruction and development of the country. In the social and economic policy arena, consultations on social welfare and social security included progressive women's organisations, youth and civic movements and trade unions. Arising from these processes both social welfare and social security were redefined to include wider developmental strategies to address structural inequities arising from racial capitalism under apartheid. These South African definitions of the two policy concepts are contained in the National Social Welfare and Development Plan (ANC, 1994a) that was developed to put forward the role of social welfare and social security in a democratic state. The Plan included the values and principles that would inform social service provision and the restructuring of the entire social welfare system including social security. The aims of the National Social Welfare and Development Plan were to ensure that within a future democratic society, a social welfare system is developed that has its basis in values and principles such as 'equity, social justice and the protection of human rights and fundamental freedoms' of all South Africans (Taylor, 1994:ii cited in the ANC National Social Welfare and Development Plan, 1994a). In 1994, the ANC campaigned for political power under an election manifesto that included 'welfare rights for all.' In addition, the Reconstruction and

Development Programme policy framework of the tripartite alliance,¹ launched in the same year (ANC, 1994b), identified a primary goal of a developmental social welfare programme as being:

'the attainment of basic social welfare rights for all South Africans, irrespective of race, colour, religion, gender and physical disability, through the establishment of a democratically-determined, just and effective social delivery system' (ANC, 1994b:52).

The values and principles adopted by the democratic government and that influenced changes in social security were also made explicit in the first State of the Nation address by President Nelson Mandela when he said:

'My Government's commitment to create a people-centred society of liberty binds us to the pursuit of the goals of freedom from want, freedom from hunger, freedom from deprivation, freedom from ignorance, freedom from suppression and freedom from fear. These freedoms are fundamental to the guarantee of human dignity. They will therefore constitute part of the centrepiece of what this government will seek to achieve, the focal point on which our attention will be continuously focussed' (Mandela, 1994:10).

The political imperative to address structurally embedded inequities expressed in the statement by Mandela (1994) is reflected in other policy documents. The founding provisions of the Republic of South Africa Constitution of 1996 (Act 108) specifically focus on the importance of values of human dignity, the achievement of equality and the advancement of human rights and freedoms as well as non-racialism and non-sexism. The supremacy of the Constitution is explicit and all laws or conduct inconsistent with the Constitution are invalid. Chapter 2 of the Constitution lays out the Bill of Rights and in section 7(2) the role of the state is that it 'must respect, protect, promote and fulfil the rights in the Bill of Rights'. This clause reflects the intention of a strong role for the state in protecting and promoting the rights of citizens.

Social and economic rights in South Africa are justiciable and they have the same status as civil and political rights. Importantly, the South African Constitution mandates the right of access to healthcare, food, water and social security in Chapter 2 of the Bill of Rights. More precisely, Section 27(1)(c) states that everyone has the right of access to social security, including, if they are unable to support themselves and their dependents, 'appropriate social assistance'. Subsection 27(2) states that: 'The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights' (RSA, 1996:13). The progressive realisation of socio economic rights contained in the Constitution distinguishes South Africa as a developmental state. The notion of 'developmental' is one that reflects the aim of systematically advancing a rights agenda

over time with a predetermined plan that gives programmatic effect to the realisation of human rights. The Constitution provides the policy framework that ensures the realisation of the political mandate for the attainment of social and economic rights in South Africa.

South Africa's social and economic context and the social protection gap

The reality for many people who live in situations of intolerable conditions and deprivation is that political democracy, post 1994, has not yet resulted in significant changes or improvements in their daily lives. Poverty and social fragmentation are not sudden occurrences in society. The roots are complex and intertwined. Poverty and social fragmentation in South Africa, primarily resulting from a racially- and class-divided society, continue to have a determining impact on the country's human development status and growth prospects. Apartheid influenced human development in many negative ways for black South Africans. The institutional and psychological costs are evident in human development indicators and in the breakdown of social institutions of society. A migrant labour system and a system of labour reserves in homelands, usually far from urban centres, destroyed family life, eroding the social institution of the family and the social support systems of black people. As a consequence, family and community systems of support that typify societies were broken down and could not provide the usual forms of mutual aid and support that characterise modern societies. In part, this is the reason poverty reduction was embedded in the policies, strategies and programmes which framed debates on the transformation of the social protection system.

Despite the inscribing of poverty in post-1994 social protection policies, the evidence shows that income for poor households has declined in real terms since then. Indices reflect a decrease in per capita income over the past two decades with the poorest 40 per cent accounting for less than 6 per cent of national income and the wealthiest 10 per cent for more than 50 per cent. An important feature of this trend is that a third of households, consisting of 18 million people, are estimated to live in poverty and 54 per cent of the poorest are children. Households in rural areas and former homelands are the worst affected by poverty (Statistics South Africa, 2014). At an aggregate level, gross domestic product (GDP) per capita increased every year from 1997 to 2010, with the exceptions of 1998 and 2009 which was a consequence of the severe effects of the global financial crises (Statistics South Africa, 2015). Since 2010, a noticeable downward trend is evident which affects poor people's expenditure and consumption patterns. In 2010/2011, for example, the poorest 20 per cent made up less than 5 per cent of all expenditure. The wealthiest 20 per cent accounted for over 61 per cent of expenditure (Statistics South Africa, 2014). If the lower bound poverty line (R434 per person per month) is used, 32.3 per cent of the population, or close to 16.3 million people, live below this threshold and

¹ The tripartite alliance at the time included the African National Congress, the South African Communist Party and the Congress of South African Trade Unions. On specific issues this alliance included the South African National Civic Organisation and Women's Organisations in various forums.

are in extreme deprivation. At the most basic level of the food poverty line (set at R321 per person per month) the number of people living below this threshold increased to 15.8 million in 2009 from 12.6 million in 2006 but dropped again to 10.2 million by 2011. This correlates with self-reported hunger being at 30 per cent in 2002 and dropping to below 15 per cent by 2011 (Statistics South Africa, 2014). Approximately 54 per cent of South Africans are estimated to live below the upper-bound poverty line (R779 per person per month). By any measure, race, gender, age and geographical inequalities remain (Fukuda-Parr and Taylor, 2015). The social protection measures currently in place are diluted in their impact because of a combination of structural conditions and exposure to new risks and vulnerabilities that arise from neoliberal economic globalisation.

Markers of structural inequities are especially evident in the level of economic participation by the majority of the population and the racial dimensions of such participation rates. While overall participation rates declined between 2001 to 2010 by 6.2 per cent, as a result of recession and other factors, black African participation rates were much lower than other race groups. Low participation rates by black people, especially women, in the economy mirror patterns of unemployment which, according to the wide definition, is estimated at close to 36 per cent (Development Bank of Southern Africa [DBSA], 2011). Unemployment rates are particularly high among women and also amongst rural people, young people, and black people in general. In the formal sector, there is a decreasing need for semi-skilled or low skilled workers. By 2015, unemployment, narrowly defined, was at 26 per cent with 24 per cent for men and 29 per cent for women. In urban areas the estimate was 26 per cent while in former homeland and rural areas the estimates were 31 per cent. Racial inequalities in access to employment remain a feature of unemployment among Africans where it was 30 per cent, while for whites it was 7 per cent. The main cause of unemployment is not simply inadequate education but much more the result of the economy not creating much needed jobs (Statistics South Africa, 2015).

Among the employed, many are located in informal employment, in part reflecting changing employment practices through outsourcing, sub-contracting and the use of labour brokers. The agriculture and mining sectors have lost large numbers of jobs adding to an increasing number of unemployed. Statistics South Africa found that 29 per cent of South Africans (15.6 million people) live in households with no employed people and 23 per cent of people aged 18-59 years (7.2 million people) are in this situation (Statistics South Africa, 2015). The impacts of unemployment, under-employment and poverty are multidimensional and intergenerational. These effects can be reduced through comprehensive social protection measures that provide the means for inclusion in labour markets and society. The NDP reinforces such a comprehensive social protection approach and explicitly states that social protection 'should enable and support participation in the labour market by narrowing the gap between wages and the cost of living for those employed in low wage jobs' (NPC, 2011b:327). It further clarifies that the type and level of support required for

everyone to have a decent life above a minimum threshold must be determined and agreed as a priority (NPC, 2011b:327). The support necessary for individuals and households to achieve a decent standard of life includes access to both health and education. The NDP recognizes that health and education are instrumental to building the capabilities of people, reducing inequality and eradicating poverty, especially for poor people. Research reveals that, in 2015, having a degree increased a person's chance of employment by 25 per cent, compared to someone with a National Senior Certificate (NSC or matric), while matric boosts the chance of employment by 18 per cent compared to those with less education (Makgetla, 2016). Tragically, recent evidence shows that access to education remains highly unequal and is among the main reasons driving race- and class-based inequality. For example, the richest 20 per cent of households accounted for almost 60 per cent of university students in 2015. The cost of education at all levels rose faster than overall inflation, although poor households did not pay for primary and secondary education (Makgetla, 2016).

Furthermore, education outcomes in relation to critical areas such as mathematics and science reveal that 62.5 per cent of white grade 6 learners can achieve adequately in mathematics compared to only 0.1 per cent of black grade 6 learners. Race based inequalities in learning outcomes are particularly prevalent at higher education levels, especially at universities. Black student enrolments have increased since 1994 because access to education is widening but the successful completion rate of black students is far lower than white students because of the social and economic hardships that the majority still experience. As a research report states: 'Of the entire cohort of black children entering school in any one year, the education system can only convey approximately 5 per cent to graduation – from Grade 1 to the completion of an undergraduate degree' (DBSA, 2011:27). The life chances of black children therefore contrast sharply with those of white children who have a 60 per cent chance of graduating from higher education institutions. Such inequalities point to the need for adequate social protection measures that are responsive to the initial social and economic conditions in poor communities. Social infrastructure and essential social services, including books and other equipment that enable school learners to study, is generally not available in poor communities. These factors compromise poor people's integration into labour markets and their integration into society.

Poverty affects health outcomes in the most direct way. Low-income households have substantially worse health outcomes than richer ones. The 2011 Income and Expenditure Survey found that health was both a larger cost and more inequitably distributed between households than education. The share of total health expenditure rose from 2.7 per cent for the poorest 40 per cent to 9.1 per cent for the richest 20 per cent. But the share of health insurance was 1.3 per cent for the most marginalised 40 per cent, 3.4 per cent for the next 40 per cent, and 7.7 per cent for the richest quintile. Out-of-pocket hospital expenses also reflect similar spending for all three groups. The inability to pay for health care and the increasing burden of diseases experienced by the poorest households not only

impact on the quality of life but also highlight the need for a comprehensive approach to social protection. This includes the need for access to quality health care for all through an adequately resourced public health system.

Despite significant policy and legislative changes that widen access to education, to health and to essential services, the life chances for black citizens are far from just and equitable. An important feature of the social and economic landscape is that workers living in poverty, particularly those who are structurally unemployed and who are vulnerable and at risk and therefore not covered by government's social assistance provision, remain excluded and marginalised. For example, in early 2011 only 5 per cent of unemployed people were able to access Unemployment Insurance Funds (UIF). This is because 55 per cent of the unemployed report that they have never worked and have not contributed to the UIF and thus do not qualify to receive such benefits. It is also instructive to note that 44 per cent of unemployed people who have previous work experience have been unemployed for more than a year and if they contributed to the UIF they would have exhausted their benefits within 6 months. This begs the question of what happens to those working age individuals who live in poverty and are without income or livelihood support. Public employment programmes offer a limited option of waged work but these programmes only provide work for 3 to 6 per cent of the unemployed. Social insurance coverage is not available for people working in the informal sector and most people working in public employment programmes are without UIF. The gaps in social protection, especially for black people who were historically excluded and remain trapped in multi-dimensional poverty, amplify the policy distance between the intentions in the Constitution, their social and economic realities and the vision in the NDP.

Other social protection gaps show that even in one of the government's most successful programmes of social cash grants, poor people are excluded from income support because they do not meet the criteria used for means testing, or because they do not fit the designated category in terms of age, or simply because the grant administrative system is inefficient and corrupt. As an example, out of a population with disabilities of 5.6 million (10.5 per cent), there are 1.7 million (3.1 per cent) who are severely disabled, yet only 1.1 million receive a Disability Grant. It cannot be assumed that the other 2 million severely disabled and unable to work are able to access support from non-state sources. Approximately 2.4 million individuals between the age 18 and 59 years are disabled and remain outside the social protection system. South Africa has 4.5 million people who are older than 60 years of whom 3.1 million receive an Older Persons Grant. South Africa has 21.4 million children under 18 years and, of these, 13.7 million are estimated to be income poor. However, only 11.2 million children are Child Support Grant beneficiaries and 0.5 million are receiving Foster Care grants (Department of Social Development, 2016).

A combination of poor social delivery and lack of implementation as well as selective criteria that targets only the poorest

individuals for basic social protection leaves millions of people without employment and human development processes. For these individuals and their families, the democratic dividend has yet to be translated into social and economic protections that give effect to the Constitution. Despite social protection policies that target certain categories of people, the benefits do not get to the poorest (Makgetla, 2016). Moreover, the transmission mechanisms and transactional agreements within and outside government for delivery of health services, education and social assistance are open to corruption and greed that is fuelled by competitive procurement processes.

The 'Social Protection Floors Recommendation 202', the National Development Plan and South Africa's proposal for a Social Floor.

South Africa is a signatory to the Universal Declaration of Human Rights (1948), and as such is obliged to ensure access to social and economic rights for its citizens. The South African government has a firm historical base, political mandate, and constitutional and normative imperatives to develop and progressively realize a social protection system that is responsive to peoples' needs, and which is grounded in human rights and achieves social justice. The international and national policy imperative to deliver social protection is also strongly influenced by recent developments such as Recommendation 202 of the ILO and the NDP.

The ILO (2012) expresses its approach to a social protection floor by affirming that social security is a human right. It recommends that member countries should, 'in accordance with national circumstances, establish as quickly as possible and maintain their social protection floors comprising basic social security guarantees. The guarantees should ensure at a minimum that, over the life cycle, all in need have access to essential health care and to basic income security which together secure effective access to goods and services defined as necessary at the national level' (ILO, 2012). Recommendation 202 proceeds to spell out in detail what should be included in social security guarantees. These include essential healthcare that meets the criteria of availability, accessibility, acceptability and quality; basic income support for children, at a nationally defined minimum level; access to nutrition, education, and any other necessary goods and services; basic income support at a nationally defined minimum level, for persons in the age group still able to work but who are unable to earn sufficient income; and basic income support for older persons.

According to Recommendation 202, nationally defined minimum levels of income may be in keeping with a monetary value of a set of necessary goods and services, national poverty lines, income thresholds for social assistance or other comparable thresholds established by national law or practice. The ILO further states that the levels of basic social security guarantees should be regularly reviewed through a transparent procedure that is established by national laws, regulations or

practice, as appropriate. It also recommends that the review of the levels of guarantees include tripartite participation with representative organisations of employers and workers, as well as through consultation with other relevant and representative organisations.

The NDP (NPC, 2011b:325-348) provides an analysis of the post-1994 social protection system in South Africa and elaborates on a comprehensive vision that would result in a comprehensive social protection floor by 2030. It highlights five main functions that social protection performs in society that would address poverty, unemployment, inequality risk and vulnerability. These five functions provide normative guidelines on what could be achieved through social protection systems within a social floor to build individual and institutional resilience and capabilities for development. They are:

- A protective function when policy measures are used to save lives and reduce levels of deprivation.
- A preventive function that promotes economic stability and enables people to avoid falling into deeper poverty because of natural disasters, such as droughts, floods, fires, accidents, crop failures and illness.
- A function that promotes the development of capabilities of individuals, communities and institutions so that structural inequalities can be overcome and people can participate in all spheres of social and economic activity.
- Developmental and generative functions when income support measures are used to enable poor individuals and households to increase their consumption patterns, promote local economic development and social opportunities.
- Transformative functions of social protection are those that address inequities and vulnerabilities through changes in policies, laws, institutions, budgetary allocations and other redistributive measures (NPC, 2011b:327-328).

Policy measures for a Social Protection Floor

Given the historical and contemporary policy impetus for a social protection floor that takes account of both domestic and international normative policy guidelines, how does South Africa perform? The country's existing social protection system or social wage includes a range of measures that together form the basis of what could constitute a minimum social protection floor. These measures include income support through social assistance cash grants (such as Child Support Grants, Social Old Age Pensions, Disability Grants), social insurance (such as the Unemployment Insurance Fund), free basic services in the form of stipulated quantities of water and units of electricity, free housing for those earning below R3500 per month (called RDP houses) and the provision of subsidized housing for those earning between R3500 and R7000 per month. Free education is provided in 60 per cent of schools in poor communities and a school nutrition programme also ensures that school children have access to at least one school meal a day (NDC, 2011a).

Free health care is currently provided for pregnant women and children under six years of age. In addition, free primary health care should be available to all who need it. These measures align with the five functions of social protection discussed earlier and the ILO Floors Recommendation 202. However, these policy interventions are not universal in their application – the interventions are means tested according to criteria that make it especially difficult for those who live in rural, peri-urban and informal areas to access such benefits and services. In many of the areas where the poorest people live, access to piped water, electricity, transport, housing and education is not available. The social infrastructure either does not exist to provide such services or the administrative barriers are such that many people are unable to acquire birth and identity documents which are necessary for making claims. Means testing before benefits are allocated can mean that those who need them the most are often denied access. Thus structurally embedded inequities make it difficult for the poorest and most indigent to access such social provision and race- and class-based inequalities are perpetuated.

In advancing a social protection floor approach the NDP affirms a constitutional and human rights basis as an essential requirement for the implementation of measures to achieve Vision 2030 (NPC, 2011b). The progressive realisation of a social protection floor in South Africa thus requires careful identification of all those who are currently excluded by the system and an analysis of the measures required to ensure a socially just distribution of provisions. It also requires a clear process through which the country can reach agreement or reach a social accord on whose needs to prioritise and the fiscal and institutional arrangements that need to be put into place to achieve the priorities in the NDP Vision 2030. Given the wider social and economic context, the next section proposes that a social protection floor that goes beyond a narrow residual safety net to a comprehensive, universally applicable system, contained in a social protection floor, is a matter of social justice for South Africa (Taylor, 2013).

A Social Protection Floor as a prerequisite for social justice

The distribution of goods and services to provide a social protection floor requires more than Constitutional, policy and legislative mandates. It requires an understanding of how principles of social justice can be applied through policy measures to achieve socially just outcomes for the most deprived peoples as well as ensuring social inclusion of the black majority. Achieving a social protection floor may be particularly complex and difficult in times of acute economic and social stress such as that in contemporary South Africa. Amartya Sen (1997) urges the need to recognise that deprivation is not just the absolute lowness of income, but includes what he calls 'unfreedoms', varying from hunger and prevalence of preventable or curable illness (and even premature mortality) to social exclusion, economic insecurity, and the denial of political liberty. The ability of the economically marginalised to participate in economic growth activity depends on a variety of enabling social conditions. As has been established in empirical

studies, these conditions include education, epidemiology, land reform, microcredit facilities, appropriate legal protections, and other means of empowerment (Drèze and Sen, 2002). Countries that have put in place minimum guarantees and public finances to access economic opportunities, education, health care and cash transfers can achieve significant results in the expansion of human capabilities and development (Sen, 1997) even with relatively low income and limited resources.

Responding to conditions that prevent people from achieving fulfilling lives and a decent standard of living is essentially about how policymakers understand how to make social justice a practical reality. Social justice has philosophical, religious, moral, and political origins. Some theorists and philosophers argue that as a concept it can be somewhat abstractionist in that it focuses attention on an ideal of what a society or state ought to be (Rawls, 1971). Others contend that social justice has a relativist aspect that takes into account the variability and differences among human beings and which grounds principles of justice in the discourse and traditions of actual communities (O'Neill, 1993). Another strand argues that discourses on social justice cannot be delinked from the contextual realities in which people live (Nussbaum and Sen, 1993). South Africa's proposal for a social floor is consistent with the thinking that such a floor is a policy instrument to achieve social justice given the contextual realities that keep people trapped in poverty.

Social justice is reinforced by values of universal human rights. Some principles are common across many of the discourses on the varying conceptions of social justice. These include principles of equality, distribution (and therefore also redistribution), solidarity, subsidiarity, inclusion, fairness, equity and the notion of nation-building. This poses the question as to why there are such divergent concerns and issues in the determination of whose needs should be prioritised when it comes to social protection provision in South Africa. Is it due to the delinking of the social from the economic, political, and environmental spheres of activity? Theories of justice provide for how policymakers can work towards achieving a social protection floor in order to achieve redress and equity. By ignoring the wider attributes of social equality forms of exclusion can be reproduced that will continue to privilege some citizens over others. This would not focus on what is socially just and fair in terms of the distribution of benefits to all in South Africa. It is important in the design of a social floor to focus on the two distinct dimensions of what constitutes the 'social' component. Firstly the term 'social' focuses attention on society-wide concerns rather than concerns related simply to individual well-being. The second dimension to 'social' is that it can refer to more than one form of injustice. It is important to note this in the context of the post-1994 South African state. When, for example, questions of equality and inequality are discussed, the automatic assumption is that equality and inequality are measured primarily through income measures, such as the Gini coefficient. Such a focus, while important in identifying economic or class-based inequalities, ignores significant social inequalities associated with race, ethnicity, gender, language, age, religion, and other factors, such as land ownership, that keep people in poverty. Reclaiming

and understanding the term social in operationalising policy functions to achieve a social floor provides a way of giving practical effect to universal human rights as an intrinsic characteristic of social justice.

This understanding of the links between achieving a social floor and social justice fundamentally shifts the emphasis from a residual safety net approach to people's welfare towards a new infrastructure of comprehensive social protection addressing systemic conditions of poverty and inequality. South Africa's current approach to social provision is closer to that of a residual approach because it is selective, categorical and means tested and does not provide protection for the millions of working poor and unemployed. Many complex issues can influence the choices that people make and the environment in which such choices are made. Nussbaum (2004) highlights some of these aspects in her analysis of what should constitute a full human life based on dignity and human needs and underpinned by a social minimum. She argues that humanity has a shared obligation to provide certain needs in order for people to live full human lives. The prerequisites for living a fully human life, worthy of the dignity of a human being rather than a sub-human life, include the need to live in cooperation with others. Nussbaum stresses that 'a fundamental part of the good of each and every human being will be to cooperate together for the fulfilment of human needs and the realisation of fully human lives' (Nussbaum, 2004:13). This level of cooperation fits with the issue of ensuring that a social contract is agreed with all parts of society to ensure that the elements of a social floor are in place and universally applied. An important clarification in Nussbaum's exploration of justice and entitlements relates to the question 'Who has the duty to provide people with what they need to live fully human lives?' In answering this question, the responsibility is placed on all of society with the state having to assume a primary role when citizens are unable to do so. She asserts, 'Humanity is under a collective obligation to find ways of living and co-operating together so that all human beings have decent lives' (Nussbaum, 2004:13).

Using a social justice lens to underpin a social protection floor allows South Africa the space to address problems created by social differentiation along lines of race, class, ethnicity, gender, and other social upheavals that arise or which are unresolved. Issues that must inform the design of a social protection floor so that social justice becomes a reality in South Africa include distributive justice, equity, increasingly constrained democracy, problems of corruption, unaccountable state and private sector institutions, and the various ways in which forms of exclusion are produced and reproduced.

The significance of a social protection floor for South Africa

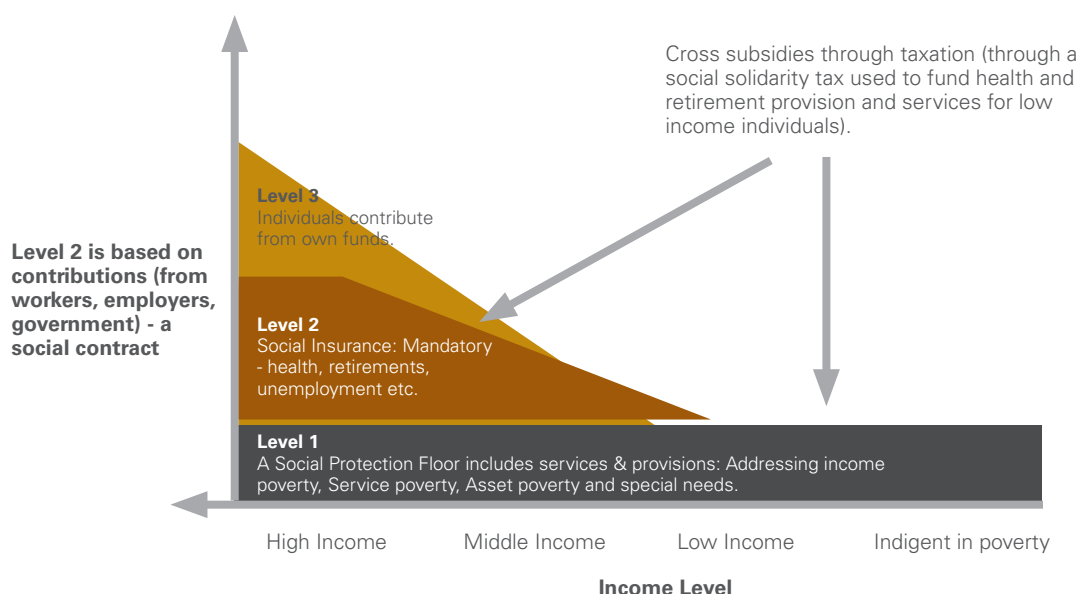
A number of principles inform a deliberative policy agenda to advance social justice through a social protection floor. In this section, two principles are illustrated in Figure 1. These include the principle of social solidarity, which is essential for systems of social insurance that rely on intergenerational contributions, and cross subsidisation.

Social Solidarity and Cross Subsidisation

In many parts of South Africa intergenerational solidarity to sustain social protection is being eroded. Factors that contribute to the absence of solidarity systems include the impacts of migrant labour, diseases such as HIV/AIDS and tuberculosis, labour market trends with new, mainly younger, entrants unable to find formal waged work, and changes in the production patterns as a result of globalising processes. The increasing interdependence of societies and countries has meant that social solidarity and subsidiarity as principles assume wider relevance. These principles could require governments, the private sector and individual citizens to uphold values of cross-subsidies and subsidiarity across income categories, as well as across race and ethnic categories, gender, age and other divides in order to promote social solidarity and social equity.

The principle of subsidiarity has a normative aspect in ensuring all who need social protection are able to access it. It also has an operational or institutional dimension that ensures cross-subsidies from the rich to the poor, both within countries as well as between countries. Social solidarity beyond its use as an insurance vehicle is important in ensuring that individuals and corporations contribute through the tax system for social protection with a clear understanding that such public revenue is used to address race, class and gender inequalities. Figure 1 illustrates how a social protection floor could be achieved within a mixed state and private approach that allows choice in a comprehensive system and that relies on solidarity and subsidiarity. The principle of subsidiarity gives effect to Nussbaum's argument that ultimately the state has responsibility for providing guarantees for the protection of all citizens, especially in a constitutional democracy. The state should contribute through subsidies to shore up a social protection floor

Figure 1 Achieving a Social Protection Floor as a basis for Social Justice and Inclusion



to enable universal access to goods and services. Achieving a social floor using human rights principles as a framework makes a qualitative contribution to existing initiatives to reduce poverty and inequality. It also adds value to the implementation of the Sustainable Development Goals. Other policy instruments that reinforce a South African approach to social protection include the African Charter on Human Rights and the Universal Declaration of Human Rights, of which Article 22 enshrines the right to social security. The International Covenant on Economic, Social and Cultural Rights incorporates this right in Article 9² and

the Convention on the Rights of the Child, Article 26,³ places explicit emphasis on the right of children to social security. Together, these offer a multi-dimensional approach to social protection and the achievement of a social minimum. Most significantly, South Africa's Constitution (RSA, 1996), the National Development Plan: Vision 2030 (NPC, 2011b) and related legislation also require that practical steps be taken to advance a social protection floor that removes poverty and reduces inequalities.

Legislation and regulations for the design, implementation

2 Articles 22 and 25 of the Universal Declaration of Human Rights ('Everyone, as a member of society, has the right to social security'), the Convention on the Rights of the Child (Art 26), the ILO Convention No. 102 (Minimum Labour Standards), the International Covenant on Economic, Social and Cultural Rights and others refer to elements of social protection and social security as human rights.

3 See also other articles: Article 18. 3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible; Article 26. 1. States Parties shall recognise for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realisation of this right in accordance with their national law; Article 26. 2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

and monitoring of social protection programmes need to be consistent with the rights and international commitments agreed to by states. An enabling macro policy framework that integrates both social and economic objectives needs to be the basis for the progressive realisation of all the elements of a social protection floor in South Africa. Adopting the values and principles of a human rights framework that is socially just implies that if a right exists, the South African government has an obligation to ensure that it is realised. The right to basic social protection requires an understanding of the core components of social protection, its specific and general social and economic functions, and its programmes in order for it to be realised. It also requires the participation of civil society organisations, mutual support networks, the private sector, national and international development partners and donors. The roles and responsibilities of all stakeholders need to be clearly identified to assist in promoting and achieving social protection.

Some Conclusions

The overarching framework within which responses to poverty, inequality and unemployment is being addressed by South Africa's National Development Plan 2030: Our Future: Make It Work (NPC, 2011b). Chapter 11 of the NDP states that together with social and other partners a social floor should be determined that can be progressively realised as part of a wider process of achieving a social compact. The initial approach was to engage on the key questions on which South Africa needs to focus to promote dialogue on the social floor, rather than try to reach finality on answers that, among others, define the elements of the social floor itself. The next phase requires a focus around specifics to address poverty by firstly reducing the poverty gap and in the long term (by 2030) enabling people to achieve a decent standard of life that is buttressed by a social floor. Implementation of Chapter 11 in the NDP links with objectives in other chapters which also address elements of social protection such as the economy and employment, education, health and infrastructure. All of these contribute to a social protection floor which in turn should assist households to attain a decent standard of life.

As an important element of public policy, a social floor provides support that reduces vulnerability, alleviates poverty, and empowers individuals, families and communities to attain a decent standard of living. The goal is to determine what combination of public and private services is necessary to attain a vision of an inclusive system of social protection which has an agreed social floor as its central platform. We need to deal with the questions: how do we arrive at a defined social minimum or social floor that prescribes an adequate standard of life; and how do we reduce the cost of living so that a decent standard of life is attainable even in the poorest of households?

Linking the social floor to a decent standard of life and reductions in the cost of living involve a number of complex processes and a wide range of actors. It would affect workers, unemployed people, children, youth, the elderly, businesses, and government and independent constitutional bodies. Much research and evidence already exists on elements of a social

floor. This chapter has highlighted the historical, political and constitutional imperatives that make achieving a social floor an essential requirement. It highlighted the issues affecting the majority as a result of the social and economic context and argued that a social protection floor is necessary for social justice to be achieved. The recognition that South Africa has already established the basis for elements of a social floor does not obviate the need to address the huge gaps in social provision that exist for many.

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8. ECONOMIC GROWTH AND SOCIAL SECURITY: COMPETING OR MUTUALLY SUPPORTIVE

Alex van den Heever

Introduction

South Africa's social indicators are a cause for concern. Not only does South Africa exhibit extreme levels of income inequality and poverty, but the economy appears unable to distribute income and wealth fairly through employment generation and well-paying jobs. Importantly, income inequality has deteriorated from 1994, stabilising at one of the most unequal levels in the world during the 2000s, despite improvements in the poverty headcount (van der Berg, 2011). Gini coefficient estimates for 2010-2011 (where 0 is the most equal and 1 the most unequal) put income inequality at 0.7 and wealth inequality at 0.95 (indicating that 93 per cent of all wealth belongs to just 10 per cent of the population) (Wittenberg, 2017).

While various policy documents, in particular the National Development Plan (NDP) (National Planning Commission, 2011), address these concerns, no concrete pathways have to date been found which are sufficient to alter the prevailing social and economic conditions. This could be for two reasons: first, the diagnosis of the problem could be wrong, leading to policies that are inadequate or even counterproductive; or second, the diagnosis could be correct, but the scale of the problem could require many years to resolve.

This chapter critically examines our understanding of poverty, inequality and unemployment and relates this to a social security policy gap on two levels: the degree of redistribution; and the institutional framework, which influences the responsiveness of policy to need.

Methodology

This chapter reviews the need for comprehensive social security reform based on a literature review of competing economic narratives on the possible causes of inequality, poverty and unemployment. The competing narratives are addressed through a critical examination of the formal government position articulated largely through the NDP and the concept of the social wage.

Diagnosing poverty, inequality and unemployment

Interpreting the National Development Plan

Given the political status of the NDP, it is arguable that it reflects the dominant policy thinking in South Africa required

to address poverty and inequality. While poverty, inequality and unemployment are referred to at length in the plan, the measures to address them stem directly from what are regarded as their causes. The NDP argues that unemployment is the central driver of poverty and inequality, and social protection strategies should be aimed either at mitigating narrow contingencies, such as ill-health, temporary unemployment and old age, or addressing structural causes of unemployment, such as skills development. The social protection policy framework is therefore seen as supplementary to core strategies which are implicitly regarded as more systemic.

A strong indication of this approach, which has significant implications for the design of the social protection system, can be found in the statement 'Employment is the best form of social protection' (National Planning Commission, 2011:355). According to this view, whatever causes unemployment causes inequality and any associated poverty. The causes of unemployment according to the NDP are related to weak economic growth arising from failures identifiable on the supply-side of the economy. For instance, it is argued

'South Africa displays features of a low-growth, middle-income trap, characterised by lack of competition, large numbers of work seekers who cannot enter the labour market, low savings (hence a reliance on foreign capital inflows) and a poor skills profile' (National Planning Commission, 2011:38).

Also,

'The root cause of income inequality is the socioeconomic distortion introduced by apartheid, which constrained the development of education and skills, and therefore labour market participation, for the majority of the population and kept them trapped in poverty' (National Planning Commission, 2011:354).

The distribution of household demand or consumption, related to the distribution of income, is however not addressed in the NDP as a possible structural consideration contributing to skewed development and consequent inequality, unemployment and poverty. The predominant focus of the NDP on supply-side policy measures together with residual social protection measures appears to result from a view that South Africa's economic flaws are architectural, with a high priority given to prioritising resources toward policies seen as able to re-shape this architecture. The assumption being that fundamental incentives to invest and engage in economic activity will arise organically. Expenditures on social protection, other than skills development, are therefore considered as competition for scarce resources that would slow down

the necessary architectural changes. For this reason social protection as a strategy for reshaping the country's social and economic features is arguably shifted to the policy margins by the NDP (for a popular rendition of this narrative see Bissaker C, 'Debunking the myths', Financial Mail, September 21, 2017).

Moving beyond supply-side economics

Keynesian economic positions emerging from the early 1930s argued that economies do not naturally converge on full-employment in the absence of demand-side measures (Beveridge, 1944). Macroeconomic measures were required to compensate for market failures that were principally microeconomic in nature – such as price adjustment failures, in particular labour market prices (wages), which fail to move timeously toward market-clearing levels. Intangibles in the form of confidence to spend or invest were also identified as features contributing to market failure.

The Monetarist backlash of the 1970s, exemplified inter alia by Milton Friedman, argued that macroeconomic demand-led interventions, such as increases in government expenditure or reduced taxes, only temporarily increase labour demand. Attempts to structurally increase employment in this way were therefore seen as doomed to failure as general price increases (or inflation) invariably negate any demand stimulus. This form of argument saw the return of microeconomic strategies that seek to address obstacles to well-functioning markets including wage determination and increased labour market flexibility (understood as the ease of hiring and firing). Unions, monopolies and excessive government spending are therefore seen as inherently market-distorting. Strategies focusing on privatisation, anti-trust or competition interventions and labour-market flexibility rose to prominence in certain industrialised countries. Neoclassical economics, incorporating marginal productivity theory, predominated asserting that market-determined remuneration fairly rewards market participants for their contribution to society and that market imperfections that permit rent-seeking (price fixing, monopolies) are ultimately eliminated through competition.

The supply-side arguments suggest that the distribution of income is a consistent reflection of the market rewards for skills or capabilities with any deviations only temporary. Labour is therefore fairly rewarded for the value it adds, and improved remuneration will only prove possible when skills are upgraded. Any deviation from this 'fair' distribution of income is therefore seen as market-inefficient and likely to interfere with the incentives of better-skilled market participants. In terms of this argument, even ideas such as progressive taxation hinder economic growth as it undermines distributional justice by failing to properly reward effort and innovation.

Implicitly all countries reject strict supply-side arguments as redistributive policies of one form or another to compensate for income shortfalls, with differences a matter of degree. Nevertheless, a continuous tension is maintained between supply- and demand-side strategies mediated by politics in democratic societies. While political economy reflects the contending positions of different social and special interests in

accordance with their power to influence policy, the question of which position is technically correct remains important and may have significance where evidence rather than interests prevail.

Technical arguments have, however, surfaced over the past decade and a half arguing against the supply-side approach. They include: markets do not inherently converge on inclusive social outcomes and instead generate systematic winners and losers that progressively deepen over time (Piketty, 2014); there is no level of economic development or employment that offers universal social protection from sickness, health need, unemployment, old age, invalidity, loss of support, etc., merely through employment and markets (Cichon et al, 2004); the distribution of income is not causally related to the distribution of skills; and high levels of inequality negatively affect economic growth (Organization for Economic Cooperation and Development [OECD], 2015; Cynamon and Fazzari, 2016; Cingano, 2014; *Ostry et al*, 2014).

Such positions, even when acknowledging the importance of markets for complex inter-dependent societies, do not accept that unfettered markets naturally converge on a universally fair social result. In particular, it is argued, inter alia through the work of Piketty (2014), that market failures in the distribution of rewards to labour are systematic. In the absence of compensating policy measures, distortions in the distribution of income and wealth lead to distortions in the distribution of political power – with potential consequences for social and political instability arising from a general deterioration in well-being.

Recent studies increasingly demonstrate that inequality negatively affects economic growth, together with social well-being and, importantly, that well-designed redistributive schemes do not harm growth, except where levels of redistribution are very high and growth enhancing (*Ostry et al*, 2014), especially where there is inequality of opportunity rather than inequality of effort (Marrero, 2013). Also, within OECD countries, top income earners have an increased capacity to pay taxes due to rising income inequality and wealth (*Ostry et al*, 2014). The idea that labour-market imperfections, such as inflexible wages, cause unemployment – particularly in the face of demand reductions – is also questioned (Stiglitz, 2014). The central premise of these arguments is that markets are subject to many imperfections which cause outcomes that are socially harmful and economically counterproductive.

General policy implications

The emerging evidence has considerable importance for the strategic direction of policy areas related to social protection, in particular those policies that directly redistribute income. An important consideration is that the evidence suggests that the overall trends in income inequality are explained largely by trends in wage inequality (Wittenberg, 2017).

First, when starting from a point of high pre-tax inequality, redistributive programmes enhance rather than constrain economic growth (Charles-Coll, 2012; Castells-Qunitana and Royuela, 2012; Muinelo-Gallo and Roca-Sagales, 2013). Second, economic growth measured through changes in gross

domestic product (GDP) fail to measure changes in wellbeing if not adjusted for income inequality (Kahneman and Krueger, 2006; Stiglitz, 2015; Howarth and Kennedy, 2016). Third, increased inequality arising from increased remuneration accruing to top income earners is harmful to both inclusive economic growth and social stability (OECD, 2015; Piketty, 2014). Fourth, policies, which include both progressive forms of taxation, including wealth taxation, and inequality-reducing social protection, typical of social security, are growth enhancing through their impact on inequality (OECD, 2015). Fifth, government expenditure expressed as a percentage of GDP does not in itself reflect the degree of inequality-reducing expenditure, because many government programmes directly transfer incomes to higher income groups – even where in-kind or free services are provided to those without adequate incomes (Ostry *et al*, 2014). Sixth, countries with high pre-tax levels of income inequality invariably have under-utilised tax capacity in very high income groups which implies that fiscal space exists for redistributive programmes (Ostry *et al*, 2014).

Countries with high levels of pre-tax inequality therefore have significant scope to improve the post-tax distribution of income while boosting, rather than compromising, sustainable economic growth. Given what can only be regarded as a *structural* drift toward increased inequality inherent in market economies, improved long-term changes in economic growth and well-being require that government-sponsored countermeasures in the form of income redistribution, income protection, human development, social development, labour activation and social risk reduction be, as far as possible, *institutionalised comprehensively* and at scale rather than adopted on an ad hoc and piecemeal basis.

Policy implications for South Africa

Adequacy of existing policy

The South African Government argues that the post-tax structure of government spending equates to what it calls a fiscally sustainable *social wage*, equivalent to roughly 60 per cent of government expenditure, which counters pre-tax inequality. A distinction is made between an *economic wage*, which is earned through work, and a *social wage* 'provided by government [which] represents a steadily rising contribution to improved living conditions of working people and their families' (National Treasury, 2013:81).

The purpose of the social wage is to reduce '*the cost of living for low-income and working-class households ...*' to broaden '*economic participation and inclusive growth*' (National Treasury, 2013:81). Direct real (inflation adjusted) expenditure on the relevant programmes regarded as forming part of the social wage, social protection (which includes both non-contributory cash grants and unemployment insurance), education, housing and health, doubled over the period 2002 to 2013 moving from 13 per cent to 19 per cent of GDP (National Treasury, 2013:83). The adequacy of existing social policy can be assessed on three levels: first, the quality of the redistributive effects actually achieved through current programmes; second, the degree to which current programmes modify poverty and inequality; and third, the capabilities of the institutional framework.

Table 1 'Social Wage' budgeted expenditure (nominal) in 2002/3 and 2015/16 (R 'million)

Functions	Budget (R'million)		Percent of GDP	
	2002/3	2015/16	2002/3	2015/16
Education	62 757	277 834	5.0%	6.8%
Health	34 940	159 377	2.8%	3.9%
Human settlements and municipal infrastructure	13 678	178 233	1.1%	4.4%
Social protection	41 966	154 353	3.4%	3.8%
Social Wage total	153 341	769 797	12.3%	18.8%
% of total budget	49.4%	55.7%		
Health and education	97 697	437 211	7.8%	10.7%
% of total budget	31.5%	31.7%		
% of social wage	63.7%	56.8%		
Consolidated expenditure	310 230	1 380 926	24.8%	33.8%

Source: Budget data based on National Treasury (2003); National Treasury (2016); GDP data provided in StatsSA (2016).

Redistributive effects of the 'social wage' through education and health

In two of the largest programmes, education and health, which made up 56.8 per cent of the 'social wage' in 2015 (Table 1), the redistributive effects are inherently indirect, with the direct

transfer accruing to the workforces providing the services. In both instances, the compensation of employees takes up in excess of 65 per cent of total expenditure. In the time periods offered in the National Treasury's social wage analysis (2002/3 and 2015/16), the compensation of employees has deviated substantially from historical trends which were relatively stable

to 2008. However, substantial salary increases were awarded across government from 2008 to 2011, particularly in health and education, where increases for nurses, doctors and educators ranged between 10 and 25 per cent (Department of Health, 2009; Education, 2007; Health-e, 2008). General government compensation increased by 93.9 per cent over the same period compared to overall compensation for the country as a whole rising by only 78.5 per cent (Table 2). A near doubling of expenditure would therefore have been expected over the period without any change to service delivery levels. This includes an increase over the period of 18.9 per cent required to accommodate service demand increases due to population change (Table 2). Based on this, very little improvement in service delivery can be expected for the doubling of expenditure.

While the indirect benefits of education and health services are socially important, a one-to-one relationship between expenditure and redistribution cannot be assumed, i.e. the

financial value of expenditure on the programme cannot be assumed to be equivalent to a financial transfer of the same value paid to the relevant households.

First, the implied social transfer depends on the quality of the services offered. If this is poor, then the implied value of the transfer must be discounted. There is also evidence that in South Africa reduced education inequality has not translated into reduced income inequality compared, for instance, to Brazil (Lam et al, 2015). Similarly, health outcome indicators that can serve as a proxy for service delivery performance, such as institutional maternal mortality ratios, have deteriorated rather than improved since 1994 and are far from international benchmarks (Blaauw and Penn-Kekana, 2010). Second, the recipients of the direct transfer, the health and education workforce, reside in the upper income categories of society, which neutralises any redistributive opportunities arising from the direct compensation of employees.

Table 3 Real changes in the compensation of general government employees compared to real changes in the total compensation of employees and population growth from 2002 to 2015

Year	Compensation		Population
	General Government Services	Overall National	Mid-year estimate
2002	100.0	100.0	45 448 000
2003	104.9	103.7	46 058 647
2004	113.9	112.7	46 677 499
2005	120.4	119.9	47 304 666
2006	124.4	127.5	47 940 260
2007	130.2	135.6	48 584 394
2008	137.7	139.6	49 237 182
2009	150.9	141.3	49 898 742
2010	166.5	151.2	50 569 190
2011	177.2	158.8	51 248 646
2012	181.5	163.8	51 937 232
2013	188.0	170.1	52 635 070
2014	190.0	173.1	53 342 284
2015	193.9	178.5	54 059 000
Change over full period	93.9%	78.5%	18.9%

Sources: GDP - Compensation, StatsSA (2016); Mid-year population time series, South African Reserve Bank (SARB).

Changes in inequality

There is a consensus that inequality, as measured by the Gini coefficient, increased sharply over the period 1994 to 2000 and then more slowly to 2005, followed by some levelling off at very high levels, despite including social grants, at an extremely unequal 0.69 to 0.72 (van der Berg, 2010) (Table 3). Analyses for the World Income Database (Alvaredo and Atkinson, 2010, 2013), which used South African Revenue

Services data, suggest that some of the inequality may largely be attributed to GDP growth accruing disproportionately to top income earners. For instance, in 1993 the top 5 per cent after tax share of income amounted to 29.0 per cent compared to 38.9 per cent by 2011 (Alvaredo and Atkinson, 2010, 2013). Improvements in social grants expenditure affecting the lowest income earners, has had a detectable but negligible effect on the overall distribution of income due to its limited scale (Table 3).

Table 3 Changes in inequality reflected by the Gini coefficient from 2006 to 2011

	2006	2009	2011
Gini coefficient (income per capita including salaries, wages and social grants)	0.72	0.70	0.69
Gini coefficient (expenditure per capita excluding taxes)	0.67	0.65	0.65
Share of national consumption of the poorest 20% (per capita)	4.4%	4.4%	4.3%
Share of national consumption of the richest 20% (per capita)	64.1%	61.4%	61.3%

Source: StatsSA (2014)

Comprehensiveness of social protection

While South Africa has improved expenditure on social grants for children, and provides moderate income protection for retirement and invalidity, at their present levels they are unable to address the structural causes of inequality. This is attributed to the fiscal limits of government by some economists based on the supply-side positions discussed above (van der Berg, 2010). However, the absence of a comprehensive system of social security will result in the transfer of many social risks to vulnerable families, unfairly compromising their participation in society.

The following (non-exhaustive) strategic gaps can be identified:

Employment: while South Africa does have unemployment insurance it lacks any form of protection for people who have never entered formal employment or those who have become discouraged from seeking work – even though at some stage they were formerly employed. Also, labour activation programmes are very limited in scope with no links to any form of income protection. In essence, South Africa has a mechanism to deal with normal employment churn and cyclical unemployment, but lacks any systemic response to deal with the structural unemployment that characterises the domestic labour market. The situation as framed by the Taylor Committee of Inquiry in 2002, which argues along these lines, has remained unchanged for decades (Republic of South Africa [RSA], 2002).

Families and children: where families are income compromised, both pregnancy and the demands of bringing up children are poorly supported. This influences not only the life chances of the mother, especially if young and in education or precarious employment, but also the children who face a combination of poor nutrition in the pre-natal period, poor maternal and family nutrition, and stress in the post-natal period. These vulnerabilities affect just over half of all pregnancies in South Africa each year (van den Heever, 2016). Also, no adequate provision is made for income support generally in respect of any caregiver of children, particularly single-parent families apart from the inadequately small child support grant.

Old age: While South Africa offers a means tested social grant for those without adequate income from the age of 60, the system of protection for income-earners (the private contributory regime) suffers from numerous pooling weaknesses resulting in a steep drop in earnings for low- to middle-income earners in retirement. South Africa's private

system of retirement protection is expensive, un-transparent and structurally deficient in providing adequate protection (National Treasury, 2007; RSA, 2002). Unusually high tax subsidies (Department of Social Development, 2017) also characterise the system. These are substantially in excess of the value of social pensions, and appear to principally benefit high income earners and industry intermediaries.

Invalidity and death of a breadwinner: There are up to three different public programmes, the Road Accident Fund, the Compensation Fund (for occupational injuries and diseases) and the Unemployment Insurance Fund (for illness – or temporary invalidity) and voluntary private systems, regulated through the Ministry of Finance, offering some form of invalidity protection and for the death of a breadwinner. These programmes offer different levels of benefit and varying standards of assessment of entitlement. There is no holistic approach that standardises the protection, can risk pool at a societal level, or is capable of managing more complex strategies involving, for instance, return-to-work support. There is also no non-contributory protection against the loss of a breadwinner for families without adequate incomes (van den Heever, 2012).

Institutional capabilities

The institutional platforms central to social protection (which include those dealing with social grants, contributory unemployment insurance, labour activation, pensions, various protections for loss of support and invalidity, and medical coverage) and organised by government within South Africa can be broadly divided into two areas, policy development and delivery (van den Heever, 2011).

Within the South African context, both policy development and delivery are characterised by substantial fragmentation involving at least five departments: Social Development, Transport, National Treasury, Health and Labour; each of which is responsible for policy delivered through a mixture of public delivery and regulated markets. No overriding consideration has to date been given to its architecture (van den Heever, 2011; RSA, 2002). The fragmented nature of policy development may largely explain structural failures to expedite comprehensive and holistic reform over the past two decades. Furthermore, the governance and accountability framework for delivery institutions is weak, exposing delivery organisations, whether operating through a public or regulated entity, to be susceptible to inefficiencies and corruption. Any imperative to consider a comprehensive system of social security therefore requires a rethink of the entire

institutional framework (van den Heever, 2011; RSA, 2002; Inter-departmental task team on social security, 2012).

Governance also involves resolving the way in which the social security system includes society in oversight and ongoing policy determination. Resolving this issue has, in many countries involved institutionalising engagements with key social partners, both in policy negotiations and the direct oversight of autonomous delivery agencies (Rhodes, 2001). Structural weaknesses with the responsiveness of the social security system as a whole have also been identified in the: fragmented nature of the public interface; the absence of centralised information management; and fragmented and weak complaints adjudication mechanisms (van den Heever, 2011; RSA, 2002; Inter-departmental task team on social security, 2012).

Reform imperatives

Four broad imperatives form part of an emerging consensus on Social Security reform for South Africa (Inter-departmental task team on social security, 2012; Department of Social Development, 2007, 2009; van den Heever, 2011, 2012).

First, programmes are required that achieve a substantial post-tax redistribution of income. When introduced at sufficient scale they need to be sufficient to restructure demand within the economy and generate more inclusive economic growth. These programmes require an enhanced system of social grants which combine unconditional universal benefits with conditional schemes where required. Presently, social grants exclude important contingencies such as: unemployment, protection for pregnant women and young mothers; various forms of caregiver support, including income for general needs and childcare; and more general family support. While some countries, such as (inter alia) Brazil, have introduced conditional programmes (where benefits are provided on the condition that beneficiaries comply with certain performance requirements – such as school and healthcare clinic attendance) for child grants, more relevant for the South African context would be to introduce conditionalities only where local important imperatives are driven. For instance unemployment grants could be conditional upon participation in labour activation schemes.

Second, an enhanced framework for social insurance is required for contingencies such as old age, invalidity, loss of support (i.e. death of a breadwinner), maternity, illness and unemployment. This would address the weak institutions, legal frameworks and systems of protection available in both public and private schemes. While social insurance schemes typically offer earnings-related benefits, income redistribution can still occur through contribution subsidies and benefit designs. Universal social assistance schemes should complement this tier of the social security system. Given the substantial weaknesses in existing private arrangements for old age, invalidity, and life insurance cover, a regulated private tier is important in addition to any publicly-delivered social insurance tier. A further enhancement would be to interface a system of unemployment protection (both contributory and non-

contributory, combined with labour activation) with old age protection. The enhanced system of unemployment protection would serve to prevent early benefit withdrawals that result from periods of unemployment.

Third, the institutional framework for the delivery of social security needs to be revised through a reorganisation of the policy-making tier and the delivery regimes. Reform of the former requires a consolidation of the social security function into a single department of social security to address the inefficiencies arising from policy fragmentation. The department of labour, while losing its social security functions, should ultimately specialise in the development and implementation of labour activation schemes designed to articulate with the social security system.

The delivery of social security benefits requires reforms at three levels: the governance framework needed to ensure effective performance; new public organisations required to streamline service delivery; and the establishment of a dedicated regulatory regime for private schemes forming part of the social security system.

The enhanced governance framework needs to be addressed at two levels: the corporate governance designs specific to each public entity; and the overall architecture of the social security system.

Corporate governance reform involves the establishment of two independent supervisory boards, one to oversee the operations of the public organisations responsible for social security benefit provision; and the second to oversee the regulator of private social security schemes. These boards, the members of which would be required to adhere to strict fit-and-proper requirements, would have direct authority over the relevant public entities and be nominated by the social partners. They would furthermore be able to appoint and remove the chief executives of the relevant organisations.

Streamlined architecture involves the consolidation of all contributory (earnings-related) publicly offered benefits into a single scheme – the National Social Security Fund (NSSF); the continued existence of the Social Security Agency of South Africa (SASSA); the introduction of an agency to provide the public interface between members/beneficiaries and all aspects of the social security system; the implementation of a master social security registry – falling under the control of the NSSF; and a consolidated social security contribution/tax to be collected by the South African Revenue Services (Inter-departmental task team on social security, 2012; Department of Social Development, 2009). These proposals represent a development of initial ideas framed in the Taylor Committee of Inquiry (RSA, 2002).

Private social security schemes should be able to provide services to members mandated to participate over-and-above the public contributory schemes (Inter-departmental task team on social security, 2012). This mandatory system requires consideration of a dedicated regulator able to ensure that

social protection is guaranteed within a market with limited risk pooling and reliant on competition and choice. Proposals include the establishment of a default scheme operated by the NSSF (to ensure that if private schemes prove inadequate or lack availability that a public choice will always be available); the requirement that all beneficiaries of *defined contribution* schemes annuitize their benefits (purchase an insurance arrangement using their accumulated retirement savings that then pays out a monthly amount until death) through a scheme operated by the NSSF – to ensure that benefits are fairly available to all and to minimise administrative costs; and that only approved private schemes can offer the social security benefits (see for instance Rusconi, 2007).

Conclusion

While neoclassical economic theory has often been used to reinforce arguments in favour of growth at all costs, the evidence suggests that sustained economic growth only occurs in the presence of equitable distributions of post-tax income. Market economies in and of themselves are poor regulators of the fair distribution of income and wealth. In the absence of government interventions to both regulate markets and the distribution of income, societies become progressively more unequal and economically stratified. Within the suite of social interventions needed to constantly balance out these tendencies, social security arrangements are central. Strongly redistributive social security regimes are therefore needed to ensure sustained socially inclusive economic growth and development.

South Africa presently lacks a comprehensive system of social security capable of achieving a balanced society together with high rates of inclusive economic growth and development. This may in large part explain the systemically high levels of unemployment and inequality that characterise the country's past and present development path. Arguments that the extent of the 'social wage' offsets inequality are invalid since it is not benchmarked against any useful set of social outcomes – such as inequality and unemployment. The NDP argues that unemployment, as a key driver of inequality, can only be addressed primarily through direct employment programmes and skills development (education). These programmes are emphasized in the social wage but demand-side strategies, which require direct measures to protect incomes, principally through social security schemes, are as a consequence de-emphasized. While supply-side approaches are important they cannot succeed in the absence of measures that directly address the distribution of income and the structure of domestic demand.

Consistent with emerging evidence, South Africa needs to implement a comprehensive system of social security if it wishes to reverse inequality and achieve good economic growth. This would however require significant institutional reforms to address the fragmented architecture characterising the current system and its weak overall governance. Without institutional reform it will prove difficult to implement a harmonised system of income protections that cover social

assistance (non-contributory) and social insurance (contributory public and private schemes). The development of a sustainable and well-functioning social security system will, however, ultimately hinge on streamlining the social security function in government. The five government departments presently responsible for social security reflect the priorities of the pre-1994 period. Without this change, policy will continue to structurally reflect past priorities rather than those of the future and it will prove very difficult for the delivery-related reforms to become a reality.

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About the Author

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Digitization unbanked
SASSA Savings
Demand side survey
Behaviour
Disposable income
Research tool
WORK Livelihoods Framework
Technology
Financial inclusion
FINSCOPE
Bank accounts
SASSA MasterCard
Financial Inclusion
Electronic funds transfers
Uptake of savings products
Borrowing

9. DIGITISATION OF SOCIAL GRANT PAYMENTS AND FINANCIAL INCLUSION OF GRANT RECIPIENTS IN SOUTH AFRICA – EVIDENCE FROM FINSCOPE SURVEYS

Kingstone Mutsonziwa; Jabulani Khumalo, Obert Maposa, Bobby Berkowitz, Ashenafi B. Fanta

Introduction and background

The South African social grant system is possibly one of the largest social welfare transfer systems in developing countries, with disbursements of R120 billion (approximately US\$11 billion) budgeted for the 2013/2014 financial year and the government allocated R151.6 billion towards social grants in its 2017/18 budget. Social protection for white South Africans began in the 1920s and was extended to all the other recognised population groups ('coloured', 'Indian/Asian' and 'native black') by the 1960s, although the disbursements reflected the highly skewed, racially allocative, principles of apartheid. As part of the political transition of the early 1990s, work began to dismantle the administratively separated social security systems operating across South Africa's racial group representative offices and Bantustans, in order to create a unitary system based on the principles of racial equality and integration (for details see Woolard and Leibbrandt, 2013).

As of 2013, there were about 8.9 million social grant recipients¹ in South Africa. This means that more than one in four adult South Africans were direct beneficiaries of social grants. In 1994, there were about 2 million social grant beneficiaries in South Africa, the majority of which were old-age pensioners and disability grant recipients. Much of the increase in grants was due to the roll-out of child support grants. There are now 12 million registered child support grant beneficiaries out of the total of 17 million registered grant beneficiaries. In 2012, the South African Social Security Agency (SASSA) introduced an electronic payment system for social grants using a SASSA MasterCard. The aim of the new payment system was to reduce fraud and to minimise the cost of disbursement (MasterCard, 2013) but it is interesting to understand how the introduction of the SASSA MasterCard has impacted the financial inclusion of the poor in the country.

Earlier studies reported that the child support grant enhances women's power and control over household decision-making in financial matters, general household spending and child wellbeing (see Patel and Hochfeld, 2011; Patel, 2012; Patel, Hochfeld and Moodley, 2013). This grant also contributes to a reduction in poverty and inequality and enhanced human capacity with direct human development benefits for beneficiaries and their households (Patel, 2008). However, previous studies only considered the poverty-related impacts of social grants while paying no attention to their role in expanding financial inclusion among the poor.

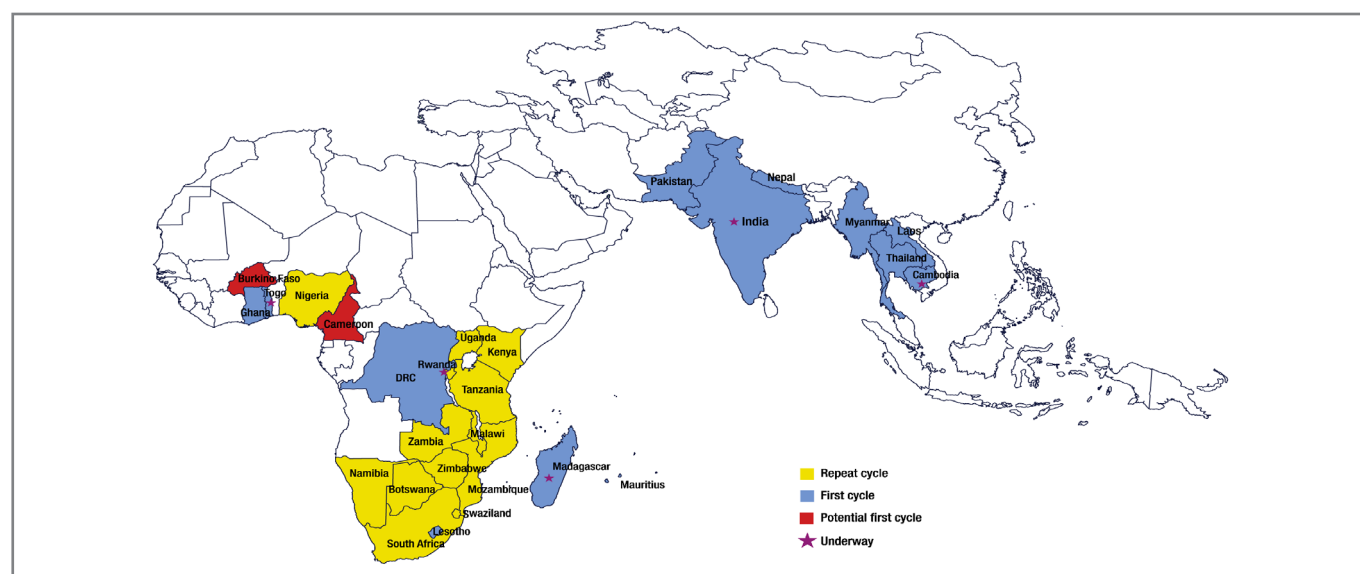
This chapter examines the impact of the SASSA MasterCard on financial inclusion of beneficiaries using the FinScope South Africa consumer survey, one of the most comprehensive, nationally representative, surveys conducted in the country. The chapter benefits from analysis of trends in the profiles of social grant recipients using FinScope survey data from 2003 to 2016.

The FinScope Survey

The FinScope survey is a research tool recognised globally as a credible demand-side survey that allows users to understand consumer behaviour, attitudes to and perceptions of financial products, services and personal finances. FinScope does not seek to replicate what censuses and other household surveys (or surveys like Findex, the former All Media Product Survey, and Target Group Index) do – it provides a deeper insight into consumer behaviour with the objective of allowing users to draw insights about how people access financial services to manage their money and use technology to conduct financial transactions. So far, 35 FinScope surveys have been implemented, of which 29 were FinScope Consumer and 6 were FinScope Micro, Small and Medium Enterprises (MSME) surveys. Twenty-two FinScope surveys have been implemented in Africa and the remaining seven were implemented in Cambodia, India, Laos, Myanmar, Nepal, Pakistan and Thailand (Figure 1).

¹ The number refers to adults that received social grants, as opposed to the number of grants reported by the South African Social Security Agency (SASSA). According to SASSA, there were 16 million registered grant recipients in 2013, which corresponds to 9 million adults receiving grants, reported using the FinScope survey data, implying that a single beneficiary may receive more than one grant. A typical example would be a senior female/male receiving a child care grant for her/his grandchildren and an old age grant for herself/himself.

Figure 1: FinScope surveys footprint.



Source: FinMark Trust

The FinScope Consumer survey was first launched in South Africa in 2003 and has been implemented every year since then. For the purpose of this chapter, we used FinScope South Africa 2003, 2007, 2011 and 2016 and FinScope 2004 data where variables are not available in the 2003 datasets.

In South Africa, the FinScope surveys cover adults aged 16 years and above. The survey is administered face-to-face, using Computer Assisted Personal Interviewing (CAPI) methodology. The sample is designed using rigorous statistical standards in order to ensure reliable representation of the underlying adult population. Survey fieldwork, data capture, data cleaning and dataset finalisation is conducted by a suitable professional organization with the capacity, controls and processes to ensure the highest quality of interviewing and final data. The sample is weighted to be representative of the underlying (national adult) population based on the design weights with adjustments made for variations in responses across key variables. These include: age, sex and household composition, household and area indicators, as well as known population values for key variables.

The questionnaire design and analysis used in FinScope is driven by a Livelihoods Framework approach. The FinScope Livelihoods Framework is inspired by the Sustainable Livelihoods Framework developed by the UK Department for International Development (DFID, 2000) and designed to help eliminate poverty through development cooperation and programme implementation. The FinScope survey focuses on individuals but the livelihoods framework situates these individuals in both their community and household contexts. The factors covered in the FinScope Livelihoods framework are:

- i. community factors, which include access to infrastructure and financial institutions, as well as membership of and participation in community institutions;
- ii. household factors, which include household structure, role of the individual in the household and influence of the individual in household decision-making; and

iii. individual factors, such as:

- demographics, e.g. age, gender, level of education;
- life stage and product needs;
- financial attitudes and behaviour;
- financial engagement in different product categories, including banking, borrowing, insurance, savings and investment; and
- drivers and barriers to product uptake.

Financial inclusion of social grant recipients: the role of the SASSA MasterCard

The concept 'financial inclusion' is core to the FinScope methodology. Based on financial product usage, the 'bankable population' is firstly segmented into two groups: the 'financially excluded' and the 'financially included'. The 'financially excluded' segment refers to individuals who manage their financial lives without the use of any financial products or mechanisms external to their personal relationships. To further understand financial inclusion, the 'financially included' segment of the population is taken through a further step of segmentation. As the 'financially included' segment of the population comprises individuals who have/use formal and/or informal financial products and mechanisms, this second step in the segmentation seeks to identify individuals who have or use:

- products or services from financial institutions that are regulated through an Act of law (formal financial institutions) – the 'formally served' segment of the population;
- products or services from financial institutions that are not regulated (informal financial institutions and mechanisms) and/or use community based organisations/mechanisms to save or borrow money – the 'informally served' segment; and
- both formal and informal products and services.

The next step in the segmentation seeks to better understand or unpack the 'formally served' segment of the population – i.e. individuals who have or use products or services from financial institutions that are regulated through an Act of law (formal financial institutions). This step further segments the formally served population into individuals who have or use products or services from:

- licensed commercial banks that are regulated by the central/reserve bank – the 'Banked' population;
- financial institutions that are regulated through Acts of law but which are not commercial banks - the 'Other Formal' segment; and
- both commercial banks and other formal financial institutions.

Finally, the segmentation process looks at the overlaps between the different population segments allowing for a better understanding of individuals who have or use:

- only bank products and services;
- bank and other formal products and services;
- bank and informal products and services;
- bank and other formal and informal products and services;
- only other formal products and services;
- only informal products and services;
- other formal and informal products and services.

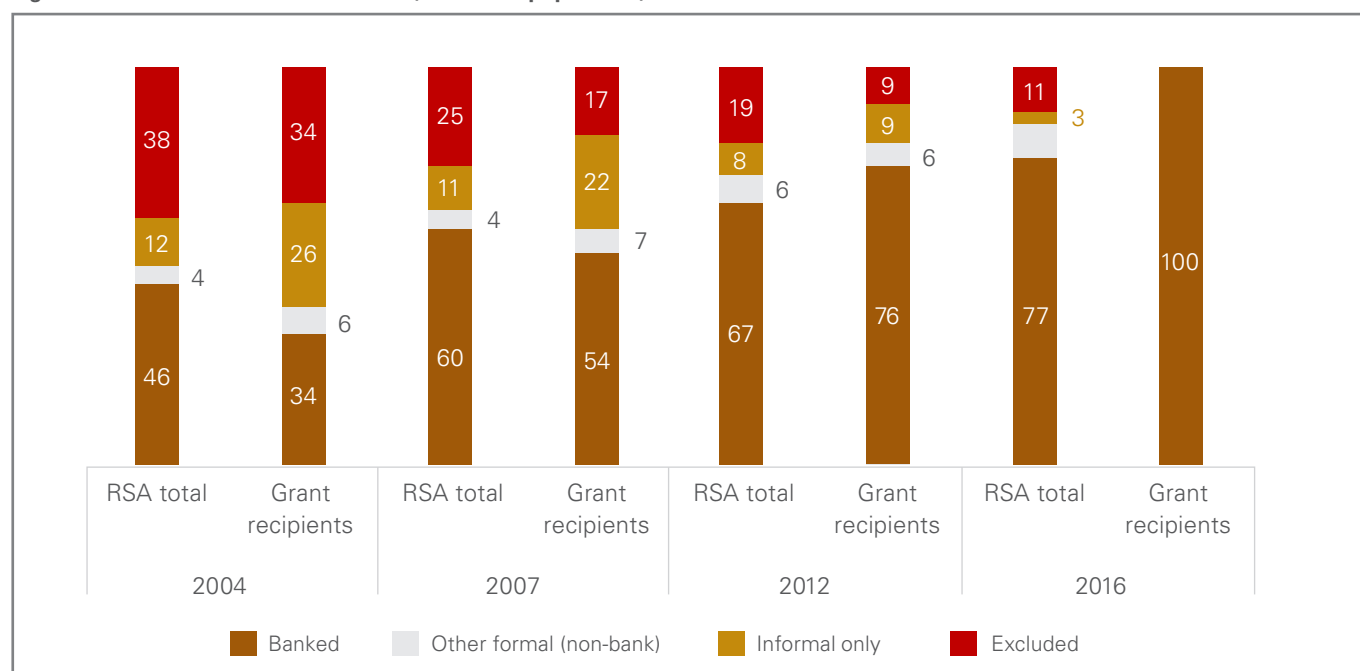
Trends in financial access for grant recipients and other South African adults

As a first step, data on the overall South African adult population was compared with the grant recipient population

with regards to financial access. The trend in financial inclusion of adults in South Africa shows a steady increase in the banked population from 2004 to 2016. As shown in Figure 2, only 46 per cent of the adult population had a bank account in 2004 but this proportion had increased to 77 per cent by 2016. Access to financial products from other formal (non-bank) financial institutions, by those who do not have a bank account, doubled over the same period, reaching 8 per cent by 2016. Though the importance of informal financial providers remains, the number of adults relying solely on informal mechanisms has been diminishing over the years, falling to 3 per cent in 2016 from 12 per cent in 2004. The dynamism in the financial inclusion platform in South Africa is driven mainly by the banking sector and an increase in the banked population led to a 31 per cent decrease in financial exclusion between 2004 and 2016.

Analysis of financial inclusion for social grant recipients shows significant change over the years. As shown in Figure 2, only 34 per cent of grant recipients had a bank account in 2004 but by 2016 this had increased to 100 per cent. Interestingly, although grant recipients were less banked than the overall population in 2004 (banked adults were 46 per cent of the general population compared to only 34 per cent of grant recipients), the picture started changing after 2012 - the year in which the SASSA MasterCard was introduced. In 2012, 76 per cent of grant recipients were banked which is 9 per cent more than the figure for the banked adult population. Similarly, 19 per cent of adults were financially excluded in 2012 while only 9 per cent of grant recipients were, implying that grant recipients enjoyed a better financial inclusion status than the overall adult population in the country at that time. By 2016, all the grant recipients were banked while only 77 per cent of the adult population had a bank account.

Figure 2 Access Strands in South Africa (% of adult population).

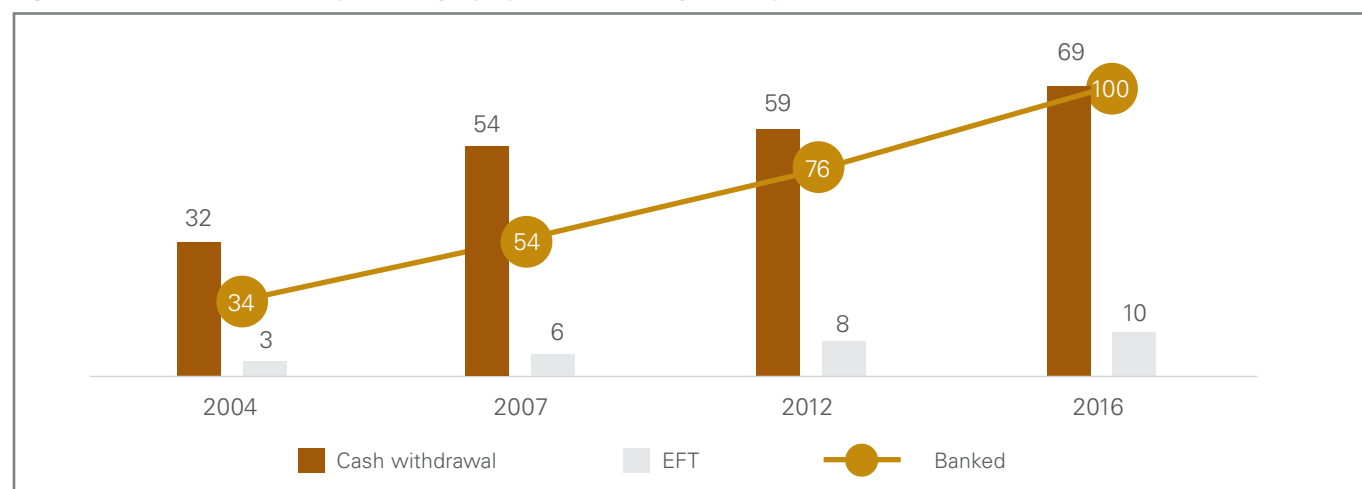


The benefit of financial inclusion accrues to account holders when they use bank accounts as a store of value or to manage liquidity by accessing credit. Hence, we analysed the bank account usage by social grant holders using the frequency of transactions as an index. More specifically, we measured usage based on whether or not social grant holders used their bank account to execute a particular type of financial transaction on a daily or regular basis. As shown in Figure 3, cash withdrawal is the most frequently used transaction and it has seen an increasing trend over the years. This implies that social grant holders use their bank

account as a mailbox² from which they withdraw the money that has been transferred from SASSA. This implies that social grant holders rarely use their bank accounts as a store of value or to access credit.

Use of electronic funds transfer (EFT) has seen a slow but steady increase over the years. However, it is used by only a small proportion of social grant holders, implying that grant holders transact using cash more often. Given that cash withdrawals attract a transaction fee, social grant holders experience loss of value as a result of failure to use EFT.

Figure 3 Bank account ownership and usage (proportion of social grant recipients in %)

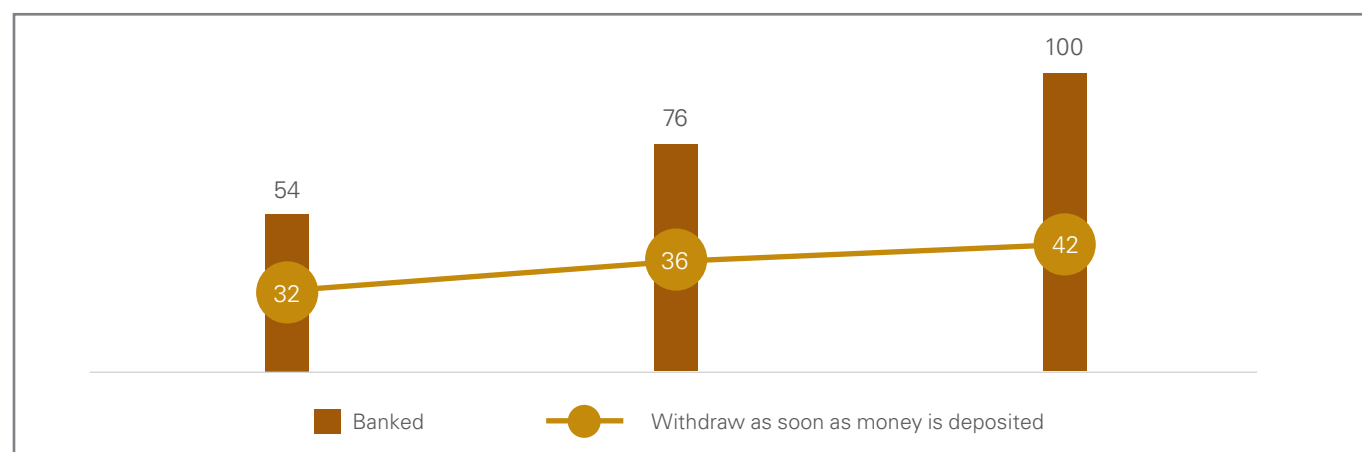


Source: FinScope South Africa Surveys

Further analysis of patterns of usage of SASSA MasterCard accounts by grant recipients provides deeper insight into the manner in which the accounts are used. We used agreement with the FinScope statement 'As soon as money is deposited into your account, you take all of it out', which was available from 2007 onwards. As shown in Figure 4, the proportion of those who took all the money out immediately was 32 per cent in 2007, increased slightly to 36 per cent in 2012 and reached 42 per cent by 2016. This is understandable because the SASSA

MasterCard accounts are designed to distribute grants and the recipients are poor people who rely entirely on this money to cover living expenses. A large proportion of the social grants holders are recipients of the R380 child support grant, which is far less than the absolute poverty line. Therefore, it is not surprising to see that more than a third of the grant recipients withdraw all the money as soon as it is deposited in their accounts.

Figure 4 Proportion (%) of social grant recipients withdrawing money immediately vs the banked



Source: FinScope South Africa Surveys

² For further detail see Unlocking Public and Private Finance for the Poor (2016) 'Lost in the mail: Why bank account access is not translating into usage', available at: <http://www.uncdf.org/article/879/lost-in-the-mail-why-bank-account-access-is-not-translating-into-usage> site accessed on May 29, 2017.

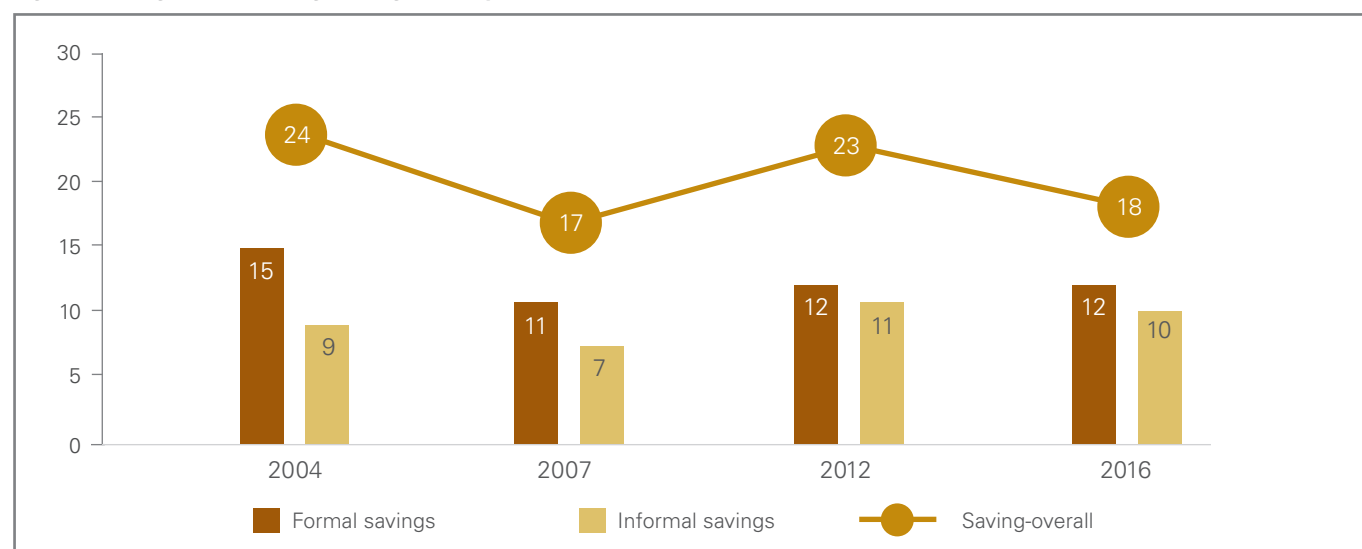
Saving trends among grant recipients

Access to saving products allows people to save money left over from current consumption to be used for various purposes in the future. Saving can be used to meet liquidity requirements. It can also be used to invest in one's development, including paying for education, buying a house, expanding an existing business or starting a new one. Although saving is influenced to a large extent by the amount of disposable income, financial literacy can also play an important role (see Lusardi, 2008). Consequently,

while some low-income people may manage to set aside a portion of their income in the form of savings, those that earn more may not keep any savings due to a lack of financial literacy.

The trends in savings exhibit peaks and troughs over the years, with troughs occurring in 2007 and 2016 and peaks in 2004 and 2012 (Figure 5). The level of savings shows a sharp decline in 2016 compared to 2004 which might be due to an increased cost of living or a change in consumption habits of grant recipients.

Figure 5 Savings trends among social grant recipients (%).



Source: FinScope South Africa Surveys

Social grant recipients may exhibit lower than average saving behaviour because they are less well-off and in need of financial aid. Saving through the SASSA accounts may be very low for formal savings as plastic money (transacting through cards) may encourage impulsive buying behaviour. The terms and conditions of use for the SASSA cards also seem to discourage savings behaviour because they encourage higher rates of withdrawals due to the 'three-month dormancy rule'.³

Borrowing trends among grant recipients

Credit allows consumption smoothing and helps maintain a certain lifestyle even when earnings fall short of expenditure. It also allows people to respond to unexpected events such as illness, job loss, and emergencies (Hodson et al, 2014); enables individuals to access start-up capital for small businesses; and helps individuals finance education and skills development, which are useful for industrial development (De Gregorio and Kim, 2000). In general, consumer credit has come to be regarded as empowering consumers to make better lives for themselves by leveraging future earning potential (Kilborn, 2005).

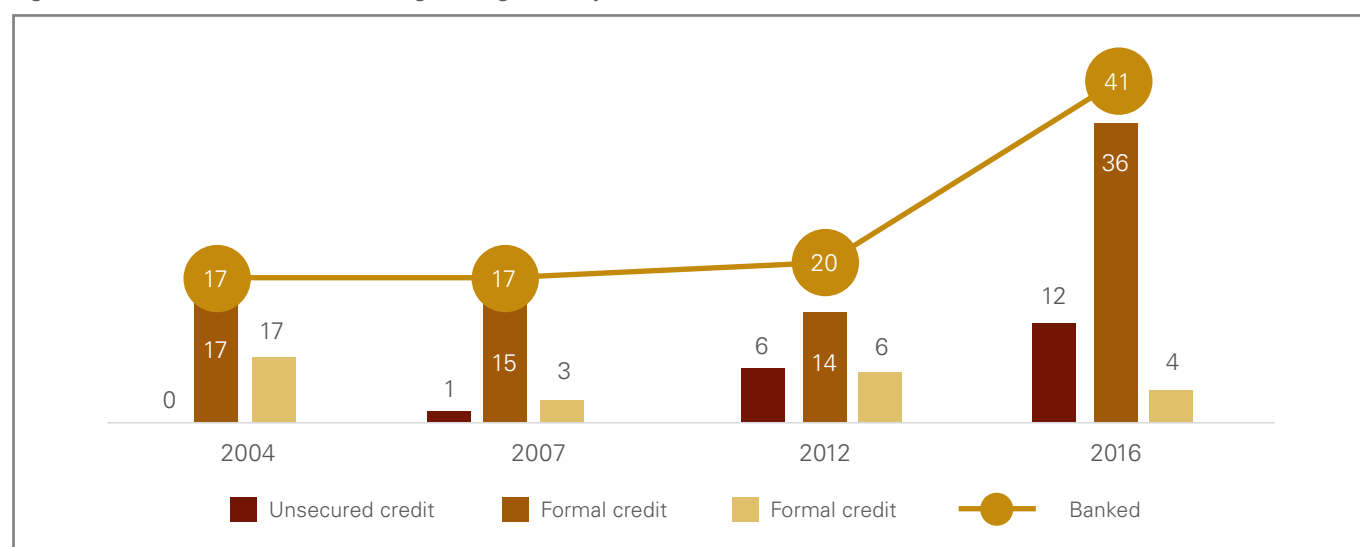
As shown in Figure 6, social grant recipients' access to credit remained relatively stable until 2012 but it more than doubled

by 2016, which might be due to increased availability of credit. A significant proportion of the growth in indebtedness among social grant recipients is driven by formal credit. With only 4 per cent of grant recipients accessing informal credit in 2016, compared to 8 per cent in 2004, the role of informal credit has declined significantly. Analysis of indebtedness based on type of loan shows that although unsecured credit was unreported in 2004, it has shown a marked growth in recent years. In particular, since 2012 when only 6 per cent of grant recipients had unsecured credit, this figure doubled by 2016. This might be due to increased availability of parallel financial services, such as unsecured loans, to grant recipients. It has been widely reported that Net1, the distributor of social grants, provided various financial services to grant recipients, including loans, insurance, airtime and electricity (see AmaBhungane, 'AmaBhungane: How Net1 flouts the financial rules', Daily Maverick, April 4, 2017).

Analysis of the components of credit shows that store cards were the major driver of credit among social grant recipients. There was a marked increase in the use of store cards in 2016 (Figure 7) and these cards will constitute a significant proportion of consumer credit if the same trajectory continues. Credit card and mortgage loans understandably constitute only a small percentage of the credit accessed by grant recipients.

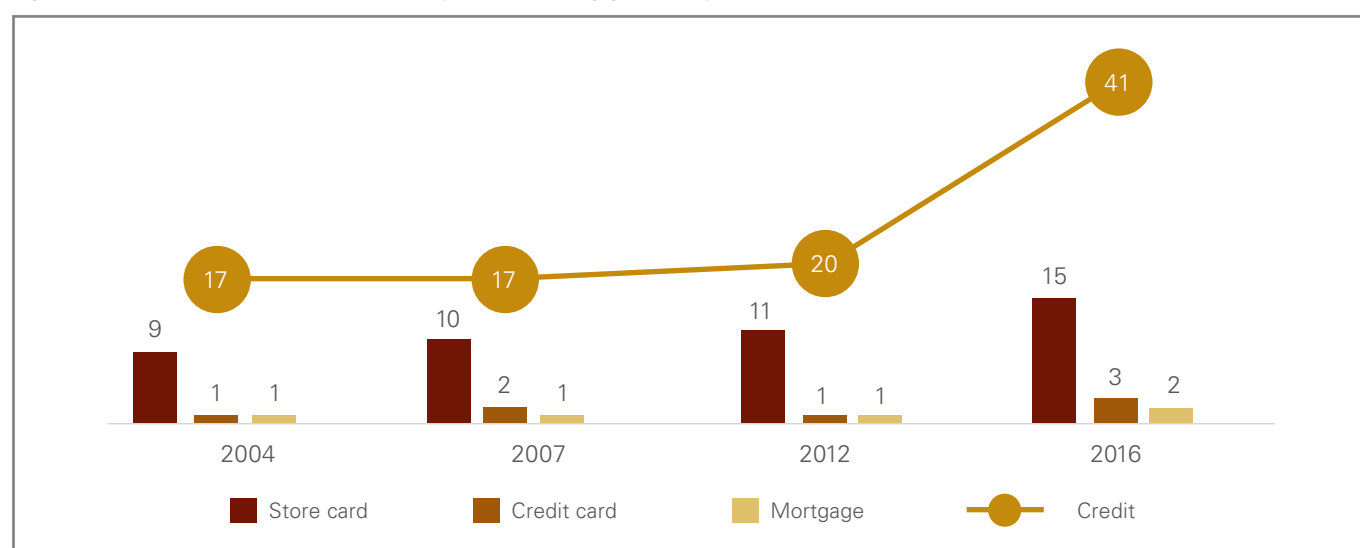
³ The Terms and Conditions for the use of the SASSA Card and Account state: 'If you do not transact on your SASSA Account for 3 (three) consecutive months, your SASSA Account shall become 'dormant'.' <http://www.net1.com/legal/terms-and-conditions-for-the-use-of-the-sassa-card-and-account/>

Figure 6 Trends in access to credit among social grant recipients (%).



Source: FinScope South Africa Surveys

Figure 7 Trends in access to credit and components among grant recipients (%).



Source: FinScope South Africa Surveys

Trends in access to insurance

Insurance provides coverage against risks, including loss of assets or deterioration in income generating capacity and it allows individuals to spread the financial burden of an unexpected event over many years. In the absence of insurance, people may experience a significant financial shock that adversely affects them for the rest of their lives. While property insurance enables one to recover the damaged or lost assets, life insurance products allow the beneficiaries to maintain a lifestyle when the insured passes away or experiences events that lead to deterioration in their income-generating capacity.

In addition to the foregoing products, which are usually provided by formal financial institutions, there are other insurance products that cover unexpected costs such as funeral expenses.

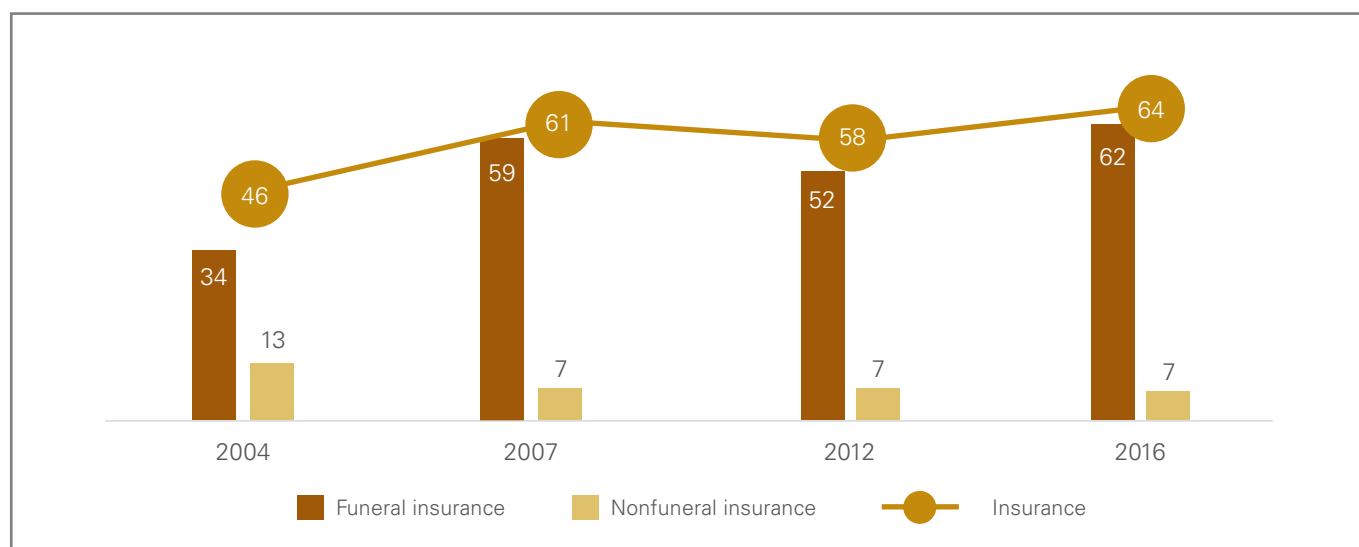
Although the magnitude of funeral expenses can be fairly estimated, the existence of uncertainties around the timing of the event makes it insurable. Funeral insurance (or 'funeral cover') is provided by both formal financial institutions, such as insurance companies and banks, and informal institutions such as community clubs.

As shown in Figure 8, there has been an increase in uptake of insurance products between 2004 and 2016 with a slight drop in 2012. A large proportion of this insurance is in the form of funeral cover. Uptake of funeral insurance increased from 34 per cent in 2004 to 62 per cent in 2016. Non-funeral insurance has seen a significant decline over the same period, falling to 7 per cent in 2016 from 13 per cent in 2004. The increase in funeral cover is partly driven by an increase in the supply of funeral insurance which, in turn, is partly driven by bundling

of social grants with other financial services such as loans and funeral insurance (AmaBhungane, 'AmaBhungane: How Net1 flouts the financial rules', Daily Maverick. April 4, 2017). While an increase in the uptake of funeral insurance is not a concern on its own, prevalence of abuse by suppliers of the product (see Bester et al., 2005) calls for special attention by the regulator to ensure that the poor are protected from exploitative practices.

In general, social grant recipients enjoy better access to bank accounts than other adults in the country. However, uptake of saving products has seen a slight decline over the years, which might be attributed to increasing pressure on grant recipients due to the escalating cost of living. In contrast, uptake of credit products has increased and, unsecured credit has worryingly been rising from year to year. Grant recipients' uptake of insurance products has also seen a sustained increase, with much of it in the form of funeral insurance.

Figure 8 Trends in access to insurance by grant recipients (%)



Source: FinScope South Africa Surveys

Conclusions

A quarter of South Africans rely on social grants and the grant allows millions to access formal financial services. However, the extent to which social grants have contributed to financial inclusion of social grant recipients has not been previously documented. Therefore, this chapter was prepared to highlight the trends in financial inclusion among social grant recipients in South Africa looking at account ownership, usage of accounts, and access to savings, credit and insurance products.

Social grant recipients enjoy a higher level of financial inclusion in the form of account ownership, evidenced by 100 per cent of them owning a SASSA MasterCard that allows them to mobilise their money. This is remarkable when compared to the 77 per cent of adults in the general population who have a bank account. However, most social grant recipients use their bank account as a mailbox and they withdraw all their money in one or more withdrawals. This deprives them of the benefits they could have generated from a bank account that includes accessing credit or insurance products.

Uptake of savings products has seen a slight decrease which might be due to increased pressure on disposable income from an escalating cost of living. Uptake of credit products remained stagnant until 2012 but it has exhibited a significant rise since then, which might be due to bundling of financial products such as loans with the social grant by the distributors. Similarly, uptake of insurance products has been increasing from year to year and much of it is in the form of funeral insurance.

The notion that grant recipients are being targeted by those marketing credit and insurance products may well be true as FinScope reveals significant increases in product uptake since the introduction of SASSA MasterCards/accounts. One consequence of this situation is that over-indebtedness may theoretically prove to be higher amongst grant recipients than the general adult population. These are areas where further research can prove useful in unveiling the usage of financial products by grant recipients.

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A word cloud centered around the SAMOD project. The words are arranged in a circular pattern, with 'SAMOD' being the largest and most prominent. Other words include 'Analytics', 'Experience', 'Knowledge', 'DATA', 'EUROMOD', 'Systems', 'Algorithms', 'Input data set', 'Tax and Benefit Policies', 'Research', 'Policy analysis', 'Models', 'Microsimulation', 'Software platforms', and 'Technical'. The colors of the words vary, including shades of red, orange, yellow, and brown.

SAMOD Statistics
Analytics
Software platforms
Models
Microsimulation
Research
Policy analysis
Experience Technical
Knowledge
DATA
EUROMOD
Systems
Algorithms
Input data set
Tax and Benefit Policies

10. SAMOD, A SOUTH AFRICAN TAX AND BENEFIT MICROSIMULATION MODEL

Gemma Wright and Michell Mpike

Introduction

This chapter provides an introduction to SAMOD, a stand-alone static tax-benefit microsimulation model for South Africa. Tax-benefit models enable one to explore the impact of current or hypothetical tax and benefit arrangements on poverty and inequality, by applying the tax and benefit rules to individuals within a nationally representative household survey. A 'static' model enables the 'next-day' financial impact of the simulated policies on individuals to be calculated. As such it provides an important tool for policy analysis (see Mitton et al, 2000; Zaidi et al, 2009).

Work on the SAMOD model spans a decade and the national Department of Social Development (DSD) has been central to its development from the outset. It is therefore timely to produce this account of the model, to describe the phases of its development, and provide examples of how it has been used. We also present some recent developments and describe how SAMOD has helped to catalyse the construction of similar models in other countries within the Southern African Development Community and beyond.

It is increasingly recognised that tax-benefit microsimulation modelling is not only relevant to high income countries but is also a powerful technique with which to analyse a country's tax and benefit policies in developing countries (see Atkinson, 2009; Urzúa, 2012). South Africa probably has a longer history than most developing countries in this field. Examples include the work of Adelzadeh (2007), Chitiga et al (2010), Haarman (2000), Herault (2005) and Samson et al (2002 and 2004).

What is SAMOD?

The SAMOD model comprises a software file and several content files. The software file includes the user interface, the executable and the integrated help menu. The content files include the country files (containing information on the tax and benefit policies and definitions of key concepts), as well as various other tools and applications. The software and content files can be updated separately from each other, which enables greater flexibility than hard-wired models.

SAMOD draws on an underpinning input microdataset which is stored as a text file and, having run the model, the output dataset is returned as a text file which can then be analysed using a statistical software package of choice.

In the first instance, a baseline tax and benefit system is constructed for the time point of the input dataset. A detailed set of internal and external checks is undertaken in relation to each of the policies, as it is necessary to be able to simulate the status quo (or to understand why it does not do this perfectly) before exploring hypothetical policy scenarios (see Wright et al, 2016a). Having constructed a 'baseline', it is possible to explore the effects of reform options.

SAMOD enables one to explore numerous issues of relevance to social security analysis; for example, the incidence of existing policies across the income/consumption distribution, their (direct) impact on poverty indicators, their budgetary cost, and the analysis of gainers and losers between actual or hypothetical policy reforms.

SAMOD is underpinned by the EUROMOD software platform which was built by Professor Holly Sutherland and colleagues at the University of Essex to simulate policies for the European Union countries (e.g. Sutherland, 2001; Sutherland and Figari, 2013). EUROMOD has been developed over 20 years and now comprises 28 country models. The main benefits of EUROMOD, which make it a particularly suitable platform for the South African model, are that it uses a rigorously tested framework that has been used extensively by academics and practitioners internationally, and which is constantly upgraded and refined. Additionally, the EUROMOD software has been designed in such a way to ensure that the model is both flexible and transparent, which is rarely the case with custom-made models. The fact that the software was designed to enable analysis across countries using harmonised concepts and methodology opens up opportunities for the South African tax and benefit system to be used in comparative tax-benefit microsimulation studies as will be discussed further below.

Tax and Benefit Policies in SAMOD

At the time of writing, the latest version of SAMOD contains tax and benefit policies for June 2015.¹ It is underpinned by data derived from Wave 3 of the National Income Dynamics Study (NIDS) (De Villiers et al, 2013; SALDRU, 2013). Although NIDS is a panel dataset, it can be treated as a cross-sectional survey dataset by using appropriate weights. The survey contains the necessary detailed information about household composition, the demographic and relationship data of individuals within each household, and their incomes and expenditures. This has enabled many of South Africa's tax and benefit policies that relate to individuals to be simulated (Republic of South Africa [RSA] 2004 and 2008).

¹ Since this chapter was written, SAMOD has been updated to include a tax and benefit policy system for a 2019 time point. The addition of a tax and benefit policy system for 2020 is underway.

With regard to taxes, personal income tax is simulated, including the rules related to tax rebates and income tax on lump sums. Value Added Tax (VAT) is not simulated in the current version of the model²

The benefit policies, or 'grants', that are simulated in SAMOD are the Child Support Grant (CSG), Foster Child Grant (FCG), Care Dependency Grant (CDG), Disability Grant (DG) and Old Age Grant (OAG). These are briefly summarised here in relation to how they are simulated within SAMOD.

The CSG is paid to primary caregivers aged 16 or above, and is subject to a means test of the caregiver, including their spouse if they have one (RSA, 2016a). The grant is paid for dependent children under 18 who are not in receipt of FCG or CDG. There is no limit on the number of biological children that a caregiver can claim for but a maximum of six non-biological children can be claimed for (South African Social Security Agency [SASSA], 2016). Apart from the limit on non-biological children, and the so-called 'soft conditionality'³ about school attendance, the other rules were applied within SAMOD and eligible children with eligible caregivers were assigned the grant.

The FCG is provided for children who have been placed in the custody of a foster parent by court order as a result of being orphaned, abandoned, at risk, abused or neglected (RSA, 2016b). Using NIDS, double-orphans were identified as a proxy for children likely to be in need of foster care because 'eligibility for a court order' could not be ascertained in any other way from the NIDS questionnaire. Thus, children under 18 who are double orphans were flagged as potential foster children in the dataset. Of course, some double orphans are not in need of foster care, and some children in need of foster care are not double orphans, and so this is only a rough approximation. Foster children over the age of 18 but under the age of 21 who are still in education or training are also eligible for the grant but these were not simulated as the appropriateness of the proxy diminishes for this older age group.

The CDG is for the care of a child who has a severe disability and is in need of full time and special care and covers the children from birth until they are 18 (RSA, 2016c). The caregiver(s) are subject to a means test, except in the case of foster parents. According to the regulations, a state medical officer must assess the child before the grant is approved but this information could not be obtained from NIDS and so reported disability was used as a proxy.

The DG is paid to people aged 18 to 59, inclusive, who have a physical or mental disability which makes them unfit to work for a period longer than six months (RSA, 2016d). People who have a disability that will continue for longer than a year receive the permanent DG and people who have a disability that will last for six months or more, but less than twelve months, qualify for the temporary DG. The permanent DG is nevertheless subject to review. Receipt of the grant is also subject to a

medical examination and a means test. In order to simulate the grant, reported disability was used and no distinction was made between a temporary and permanent disability; all those aged 18 to 59 with a self-reported disability and who passed the means test were assigned the grant. The sliding scale (whereby the amount payable ranges from a minimum amount to a maximum amount) was applied as appropriate.

The OAG, formerly known as the old age pension, is paid to people who are 60 years or older and it is currently means-tested (RSA, 2016e) and was implemented in full including the sliding scale. An additional R20 is added to the grant for people who are 75 years or older, and this rule was applied.

Certain benefit policies were not simulated or only partially simulated within the model. Whilst employee contributions to the Unemployment Insurance Fund (UIF) were simulated because earnings data is available in NIDS, the receipt of UIF was not simulated as it was not possible to ascertain from the data whether people have contributed to UIF in the past, nor (if they are receiving it) the duration of contributions and receipt. The War Veteran's Grant is not simulated as household surveys do not include questions relating to war veteran status. Grant-in-aid (GIA), which is payable to recipients of the DG and OAG who are not able to look after themselves, due to a physical or mental disability, and require full-time care, is not simulated because NIDS does not contain the information required to identify eligible individuals. It is important to note that SAMOD simulates the income tests but not the asset tests for grants that are means tested. For a recent account of how the tax and benefit policies compare with external administrative data sources see Wright et al 2016a.

Ten years of SAMOD development and research

SAMOD was first developed by Professor Michael Noble and team (Dr Gemma Wright, Dr Kate Wilkinson, Dr Helen Barnes, Dr Phakama Ntshongwana) at the Centre for the Analysis of South African Social Policy at the University of Oxford, in collaboration with Professor Holly Sutherland and team at the Institute for Social and Economic Research (ISER) at the University of Essex. Additional microsimulation specialists from South Africa (Dr Charles Meth and Professor Ingrid Woolard) and the UK (Professor Jonathan Bradshaw and Dr Martin Evans) took part in SAMOD development workshops. The initial project, which ran from 2006-2009, was funded by the South African National Department of Social Development (DSD) as part of a UK Department for International Development Southern Africa-funded programme called Strengthening Analytical Capacity for Evidence-Based Decision-Making (SACED). As part of this work, a workshop was held in Cape Town in February 2008, which included a presentation of the model to members of the Social Cluster in Parliament and a two day workshop

2 Since this chapter was written a VAT policy has been reinserted into SAMOD (see Wright et al, 2016a).

3 This was introduced in 2009 and is referred to as a 'soft conditionality' as non-compliance does not result in sanctions.

involving members of DSD. Once the first version of SAMOD had been built (Wilkinson et al, 2009; Wilkinson, 2009a), training sessions for members of DSD and SASSA were provided by the team.

SAMOD was further developed by the Oxford and Essex team, in collaboration with the University of the Western Cape (Wright et al, 2011). This was funded by the Programme to Support Pro-Poor Policy Development (PSPPD), a partnership programme of the Presidency, Republic of South Africa and the Delegation of the European Union. As part of that project, SAMOD was underpinned by a new micro-dataset: the first wave of NIDS (Smit, 2010). SAMOD was then updated using subsequent waves of NIDS, for SASSA.

More recently, SAMOD has been developed in its current form by Southern African Social Policy Research Insights and the Southern African Social Policy Research Institute (together called SASPRI) with the support of the EUROMOD team at ISER of the University of Essex in the UK. Specifically, EUROMOD has been re-built as a stand-alone programme which is no longer reliant on Microsoft Excel for the user interface. SASPRI have, in turn, re-built SAMOD using this stand-alone version. The new user interface is more compatible with current Microsoft Windows operating systems, and offers increased functionality and is more user-friendly.

There are a number of ways in which SAMOD has been used over this ten year period. First, it is an important source of data for estimates of the number of people eligible for existing grants, both for the current year and, using projections, for future years. SAMOD has also been used internally by DSD and SASSA to examine the impact of hypothetical policy changes and to inform responses to parliamentary questions.

Within academia, a number of hypothetical changes to the social security system have been simulated using SAMOD. These include an income maintenance grant for working age adults (Wright et al, 2011); a caregiver's grant (Ntshongwana et al, 2010); several different scenarios for the provision of social assistance for young people aged 18-24 (Altman et al, 2012; Altman et al, 2014); variants of the Child Support Grant (Dinbabo, 2011); and a series of options for implementing a universal Old Age Grant (CASASP, 2013) and a universal child benefit (Wright, 2016). SAMOD has also been used to explore the impact of the whole tax and benefit system on child poverty in South Africa (Wilkinson, 2009b).

SAMOD was used as part of a recent cost benefit analysis of South Africa's Population Census for Statistics South Africa (May et al, 2013), in which analysis of the impact of different population estimates on simulated grants was undertaken using SAMOD. This was achieved by recasting the survey weights in SAMOD's underpinning dataset, using a range of different population estimates derived from various sources, in order to quantify their impact on the weighted counts of individuals that were identified within the model as being eligible for certain grants.

Also, as part of a study for DSD, SAMOD was 'linked' to a social budget for South Africa (see Scholz et al, 2000). The South African social budget forecasted social spending to 2030 (Oxford Policy Management & Centre for the Analysis of South African Social Policy, 2013). In the context of this particular project, SAMOD was also broadened in scope to include public expenditure on education and health.

Next steps

Work to develop and extend SAMOD is currently underway as part of a collaboration between the United Nations University World Institute for Development Economics Research (UNU-WIDER), ISER and SASPRI. The programme is called SOUTHMOD and promotes tax-benefit microsimulation modelling in developing countries. Activities relating to SAMOD include the update of policies to 2015, the preparation of a new underpinning dataset, production of a user manual (Barnes et al, 2015), and the provision of a training event for DSD and SASSA in 2015. The programme is also supporting the update of SAMOD's sister model in Namibia - NAMOD (Wright et al, 2016b).

SAMOD and NAMOD are regarded as trail-blazers within the SOUTHMOD programme of research. Models are now being developed from the EUROMOD platform with the support of UNU-WIDER, the University of Essex and SASPRI in collaboration with local country teams in Tanzania (Leyaro et al, 2017), Mozambique (Castelo et al, 2017), Zambia (Nakamba-Kabaso et al, 2017), Ghana, Ethiopia (Mengistu et al, 2015), Ecuador (Jara et al, 2017) and Vietnam. Of these, SASPRI will be working most closely with the Southern African Development Community (SADC) country partners in Mozambique, Tanzania and Zambia. As separate spin-offs from EUROMOD, the platform has also been applied successfully in Australia, Macedonia, Russia and Serbia (ISER, 2015).

Importantly, the use of the EUROMOD platform also provides an opportunity for country comparisons to be undertaken. By simulating 'policy swaps' across countries it is possible to explore issues such as policy harmonisation using a common methodological and conceptual starting point. Networks such as the Africa Platform for Social Protection (APSP, 2014) and the Southern African Social Protection Experts Network have strengthened inter-country linkages, building a critical mass of people committed to realising the many international and regional commitments to comprehensive social security within SADC (see SADC, 2007). In this context, the use of tax-benefit microsimulation as a methodological tool for multi-country policy analysis holds great potential.

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11. TEN YEARS OF THE SOUTH AFRICAN SOCIAL SECURITY AGENCY: THE JOURNEY 2006-2016

Stewart Ngandu and Shirin Motala

Introduction

South Africa's non-contributory cash transfer scheme has been heralded for its critical contribution to reducing poverty and inequality, and is a showpiece of its social protection system (World Bank, 2018). The Agency tasked with the management of this system is the South African Social Security Agency which was signed into law in 2004 (Social Security Agency Act No. 9, 2004) together with the South Africa Social Assistance Act No. 13 of 2004, with the latter being the founding legislation for the establishment of the social security agency. Both pieces of legislation were underpinned by the Bill of Rights in the Constitution, which enshrines social protection rights for those who are vulnerable.

By 2016, the South African Social Security Agency (SASSA) had completed a decade in existence, delivering R126 billions of grants to 16,991,634 beneficiaries in the 2015/16 financial year. This inaugural Social Security Review publication provides the platform for a broad reflection on SASSA's origins, its main features and highlights some of its key achievements and challenges, using a multidimensional framework.

Whilst this review focuses predominantly on the first 10 years of SASSA, the timeline of key events precedes the formal establishment of the agency framing the historical context, allowing for a greater appreciation and assessment of the state of the grant administration regime prior to our democratic transition. This context informed the basis for the creation of an agency, solely responsible for the administration of the country's non-contributory social assistance, and in doing so entrenched social protection rights in South African law. The contrast that arises is key to informing an assessment of SASSA's performance over its ten-year history. This chapter reflects on SASSA's functioning across the ten year period, and briefly comments on the recent events which have seen SASSA take centre stage with respect to the integrity of its governance and fiduciary systems under question as they impinge on SASSA's mandate, mission and values.

The chapter begins with an overview of the methodological framework used for the review, followed by a timeline of the post-1994 social assistance landscape, historically tracing the context that led to the establishment of SASSA. It proceeds with a review of SASSA over the ten year period, focusing on key developments that allow for an assessment of its performance against its mandate, whilst highlighting how SASSA functioned and, importantly, how it has addressed the problems that were inherent with the social assistance system. It concludes by highlighting some recommendations that are needed to enhance SASSA's performance over the next 10 years.

Methodology for the SASSA Review

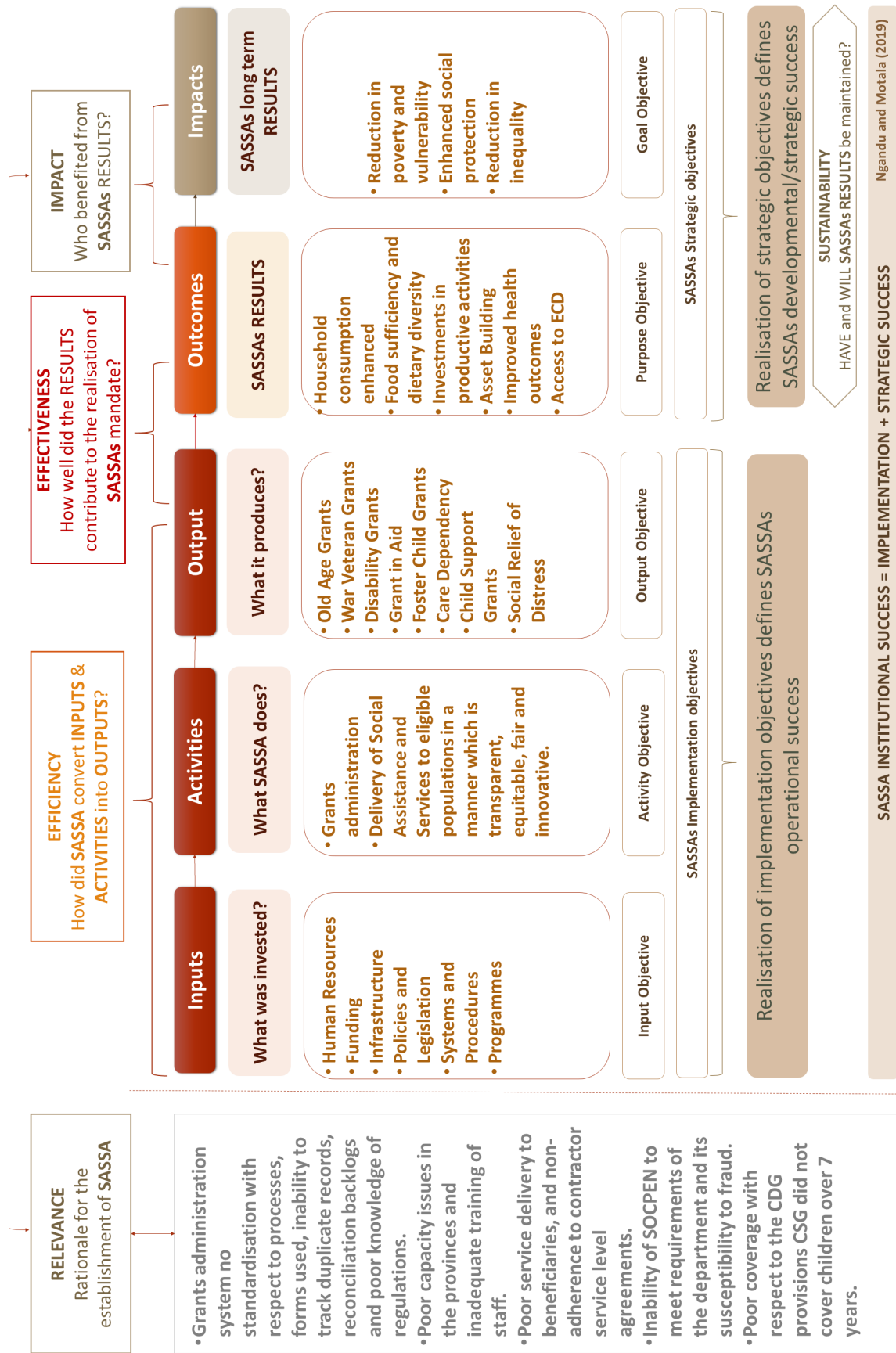
The ten year review of the Social Security Agency (SASSA) is based on an indicative theory of change and logic framework approach. The process of reconstituting an indicative *Theory of Change* allows for a better understanding of how SASSA was expected to achieve outcomes implicit in its mandate. This allows for an interrogation of the logic underpinning the causal mechanisms through which its strategic objectives would be realised from its implementation objectives. As such it provides a heuristic framework for analysing the strengths and weaknesses of SASSA relative to its performance and against its mandate (IDRC, 2002). For this review, the framework is applied to South Africa's social assistance system, as administered by SASSA, relative to the state of grants administration in the pre-SASSA era. We define institutional framework à la Peters (2019) as a set of formal organisational rules and informal norms for service delivery, which act as preconditions for the successful provision of social assistance.

The assessment identifies the institution as the unit of analysis and defines performance measures in terms of the institutions efficiency, effectiveness, relevance and impact, which are universally accepted criteria for assessing performance (OECD, 1991, Roche, 1999). This approach is consistent with the adoption of SA governments National Evaluation Framework (DPME, 2011). The focus of the review is illustrated in the schematic below (Figure 1) which focusses on 4 dimensions of the institutional assessment namely relevance, effectiveness, efficiency and impact.

This review uses the framework as an evaluative and analytical tool, and applies unobtrusive research, to operationalise the rapid assessment of the institution. The latter is done through content and thematic analysis of the literature. The application of this assessment to SASSA does not, in any way, preclude the need for a more comprehensive multi-stakeholder assessment of the entire social protection system.

Overall a systems approach is adopted which focuses on understanding the whole picture rather than certain parts. The rationale for embracing the systems aspect is informed by the recognition that whilst SASSA's grant administration forms the backbone of the non-contributory social protection system, some of its key outcomes are also influenced by developments in the broader social protection configuration of South Africa. The systems approach is expected to deepen our understanding of SASSA's performance of its first 10 years, and to direct change where it can have greater impact in building SASSA as a resilient institution.

Figure 1: Indicative Theory of Change for SASSA and institutional review assessment framework



Source: Authors

South Africa's Social Assistance Landscape: A Historical Timeline

This section provides an appraisal of the historical developments surrounding the establishment of SASSA prior to 2006. Embedding history within this review is a necessary pre-requisite for understanding and examining the context, and the conceptual thinking which informed the policy solutions which it generated.

1994 to 2000 - Diagnostic of Social Grant Administration System in South Africa

In 1994, the new government focussed on the reform of the public service, driven by the general consensus that South Africa's public sector, as inherited was unresponsive and inequitable. Importantly the social security and grants administration system at that time was fragmented, unequal and inefficient. The inequality was driven by prioritization of the white population group, whose share of welfare expenditure was disproportionate to the size of their population group compared with other racial groups in South Africa. In addition the system favoured the elderly, children and people with disabilities, with the exclusion of unemployed adults, this being a key tenet of the "deserving poor" British welfare system which South Africa embraced (Brockhoff, 2013). The system was characterised by duplication across 14 different departments, 4 provincial head offices and three coordinating departments¹, lacking consistency with different operating approaches and the non-standardisation of processes, procedures and management systems. This represented a wasteful use of resources, and presented opportunities for wide spread corruption (Lund, 2008).

The transition to democracy and the concomitant constitutional rights based system enshrined in the constitution placed an obligation on the state to provide social protection placed significant pressure on the new political dispensation for the grants system to deliver to a growing pool of recipients, exacerbated by mounting socioeconomic challenges, such as unemployment, that increased the number of people seeking social assistance. These demands on the social assistance system only served to worsen the quality of service delivery, with resultant long queues becoming the norm. Furthermore, not only did these inefficiencies represent a cost to the country, the issue of fraud and litigation was estimated at R2 billion, in potential losses to the department, both provincial and national. (Donovan, 2015; Reddy and Sokomani, 2008; Department Of Social Development, 2001).

To facilitate restructuring it was important to have a deeper understanding of the nature and the drivers of the problems within a public administration systems framework in order to design reforms. To this end, between 1996 and 2000, a series of diagnostic assessments² were conducted with the aim of understanding the state of the social security system and towards making recommendations for strengthening the system to ensure realisation of the constitutionally protected right to social security.

The findings arising from these diagnostic assessments were congruent in identifying the inefficiencies in the current system namely:

- **Fragmentation:** The assignment of the Social Assistance Act³ to the provinces which excluded a role for National government in service delivery and conflicting directives between national and provincial spheres;
- **Service delivery:** Lack of norms and standards with respect to processes, complex regulations, inability to track duplicate records, reconciliation backlogs and poor knowledge of regulations;
- **Customer Orientation:** Ineffective and poor service delivery to beneficiaries including long queues and poor infrastructure at pension pay points;
- **Human Resources:** Poor capacity issues in the provinces and inadequate training of staff, particularly with respect to compliance with PFMA;
- **Contractor Payments:** Ineffective management of service level agreements with contractors leading to non-adherence and poor information flows from contractors to department;
- **Information Management Systems:** Social Pension (SOCPEN) Information System does not meet the requirements of the department, its susceptibility to fraud, weakness related to the integrity of the system.

The proposals for transformation were diverse, requiring both short and long term responses. These overwhelmingly called for a comprehensive, integrated and centralised social security system which was a rights based, subjected to a set of norms and standards and be applied uniformly across the country. Core elements that were proposed as constituting a comprehensive and integrated grants administration system included:

- Reassignment of grants administration to the national sphere of government; with clear separation of functions between national and provincial spheres;
- Consolidation of legislation, policy and regulations in respect of social assistance;
- Reflect a commitment to institutional transparency and accountable management;
- Ensure the development and maintenance of a

1 See Jehoma and Ornellas, Chapter 2 - Social Security in South Africa: A Historical Overview, in this book, for an overview of the pre-1994 social security landscape in South Africa.

2 These assessments include the Chikane Report (RSA/CRSS, 1996a), the Lund Committee on Child and Family Support 1996 (RSA, 1996b), the White Paper on Social Welfare (1997), the Public Service Commission Investigation into Delivery of Social Security Services Report (PSC, 1998) and the Interdepartmental Task Team within Department of Social Development (DSD) in 1999, this time tasked with reviewing the entire social security system in South Africa (Jehoma, 2018).

3 Proclamation 7 assigned administration of the Social Assistance Act No 59 of 1992 to the provinces which was signed into law in 1996.

computerised and automated National Social Grants Register, with biometric capabilities (finger print identification);

- Establish well defined governance structures with clear separation of powers between those responsible for oversight and implementation;
- Develop an effective Human Resource Development Policy and related strategies which would include assessment of personnel competencies and capacities required. These would include Personnel Administrative Standards (PAS), as set by the Public Service Commission;
- Encourage the promotion of a professional service ethos;
- Consider outsourcing social assistance payments as a means towards improving service delivery;
- Embed in the system uniform operating procedures and have appropriate tools for the ongoing monitoring and evaluation of the entire system, including the privatisation of the pay-out system.

2000 to 2003 - Towards a Framework for Social Security Administration: Policy Convergence

Until 2001 DSD appeared to be impervious to implementing these recommendations, with the exception of the outsourcing of grants delivery to the private sector, the argument being that this would improve service delivery (DSD, 2001). During this period there were several court cases initiated by civil society organisations arising from frustration with grants administration. These cases drew on the constitution to ensure SASSA complied with its constitutional mandate in realisation of peoples social protection rights (Black Sash, 2011). The apparent inertia which characterised government's response changed as a result of these court order and several developments outlined below.

Social Security System Improvement Plan

In 2001 the Social Cluster Cabinet Committee launched its Action Plan for Improvements to the Social Security System (Department Of Social Development, 2001a), built on the findings of the various commissions (Department Of Social Development, 2001; Department of Public Service and Administration, 1998), which identified three major interventions namely:

- Development of comprehensive norms and standards for social assistance administration;
- Replacement of the SOCPEN system (grants payment computer system);
- Improvement of the physical infrastructure at pension pay points.

Towards operationalising the plan DSD presented a strategy and implementation plan to the Portfolio Committee on

Social Development in August 2001 (ibid) which costed the implementation at R 2 billion over a five year period. DSD contended that in addition, the realisation of this plan required realignment of national and provincial government priorities as well as the implementation of a change management process to introduce norms and standards as this would require new ways of working and would seek to reduce potential resistance to change. Evidently bold leadership was required.

Mashava Judgement

The *Mashava Judgement* in 2003 by the Pretoria High Court, subsequently affirmed by the Constitutional Court (Constitutional Court, 2004), ruled that Proclamation 7, which assigned administration of the Social Assistance Act No 59 of 1992 to the provinces, was invalid, and that grants administration responsibility would revert immediately to the national sphere of government⁴. The court case was deciding factor in the creation of SASSA as Schedule 3A Public Entity⁵. The case was relevant in that Mashava was only one example of a broader problem faced by social assistance grant applicants.

Taylor Committee of Inquiry into a Comprehensive System of Social Security for South Africa

The Taylor Committee's report "*Transforming the Present-Protecting the Future*" published in 2002, confirmed the diagnosis made by earlier commissions and recommended the establishment of a **Social Security Board** reporting to the Minister for Social Development and a **Social Security Agency** which would report to the Board. Although the functions were envisaged to address the broader social security system, it specifically included the non-contributory social assistance fund, inclusive of budgeting and administration, but excluded policy responsibility, as this would remain with the relevant ministry. The report indicated that these recommendations were to be implemented taking due considerations of the state's capacity as the starting point for transformation and that the agency structure must follow from strategic functions it must serve. This echo's mainstream thinking with respect to public sector reforms which require a 'value oriented public management approach' (Chipkin & Lipietz, 2012).

2004 to 2005 - Building SASSA's Policy and Institutional Architecture

The foregoing sections served to provide a context and rationale for the development of the Social Assistance Act⁶ (No. 13 of 2004) and the Social Security Agency Act (No. 9 of 2004) both of which derive their mandate from the Constitution of the Republic of South Africa Act No. 108 of 1996 with reference to Section 27(1) (c) which states that "everyone

4 The judgement is named after Mr. Mashava, a grant recipient, who had taken the Limpopo administration to court for failure to pay him his disability grant more than a year after he had applied. He had turned to the court arguing that if not for Proclamation 7, he would have in all likelihood received his grant timeously.

5 A schedule 3A institution is an independent institution partially or wholly owned by government established to fulfil to undertake specific activities on behalf of government. They are required to act with the requirements of the Public Finance Management Act (PFMA No. 1 of 1999). This obliges such institutions to practice good governance and be accountable to the state in terms of the PFMA.

6 The Social Assistance Act of 2004 replaced the Social Assistance Act of 1992.

has the right to social security, including if they are unable to support themselves and their dependents, appropriate social assistance.."

Parliamentary Hearings on the Draft Social Assistance Bill and Social Security Agency Bill

Parliamentary public hearings on the draft Social Assistance and the Social Security Agency Bills solicited much debate (PMG, 2003), mainly in support of the draft bills. Main concerns were related to the proposed governance arrangements as envisaged in the Agency Bill which reflected conflicts of interest with respect to the Minister of Social Developments powers, which afforded him the power to appoint the Chief Executive Officer (CEO), have oversight of the CEO functioning and also an entitlement to overrule decisions by the CEO⁷. (Institute of Directors for Southern Africa, 2009). Counter proposals presented were aimed at strengthening governance included the establishment of an Independent Board which would report to the Minister; ensure stakeholder diversity in the composition of the Board; and revision of the powers of the Minister to have oversight of the CEO, but no powers to directly oversee the Agency.

Within the context of this review it is important to have a clear understanding of both these Acts, as they play an integral role in establishing the extent to which the agency has achieved its vision within its first 10 years. In the sections that follow a summary outline of the provisions of these acts is presented.

The Social Assistance Act No 13 of 2004: Key Provisions

The main provisions of the Social Assistance Act No. 13 (RSA, 2004b) are to regulate the administration and payment of grants and by outlining the grants to be paid and who would be entitled to claim those grants. The Act delegates the Social Security Agency to administer social assistance grants, populate and managing a national database of beneficiaries and establish compliance and fraud prevention measures. The Act sets out the procedures for applying for the grant as well as for what actions to take if the grant is not awarded or if awarded but not paid. Importantly it makes provision for the establishment of the Inspectorate for Social Assistance which must monitor the quality of service delivery.

SASSA Act Objectives

The Social Security Act No. 9 (RSA, 2004a) outlines the objectives of SASSA which are to:

- "act eventually, as the sole agent that will ensure the efficient and effective management, administration and payment of social assistance;
- serve as an agent for the prospective administration and payment of social security; and
- render services relating to such payments"

The Act broadly sets out the functions of the Agency in the realisation of the above objectives, the appointment of the Chief Executive Officer and other staff and importantly outlines the requirement that staff disclose conflicts of interest in relation to their role in SASSA. Furthermore it set out how SASSA would be funded and how it will function including management of resources, ensuring security of confidential information. The act also elaborated on transitional arrangements with respect to the transfer of responsibilities from provincial and national government departments to SASSA.

Mandate

SASSA's mandate is, *"to ensure the provision of comprehensive social security services against vulnerability and poverty within the constitutional and legislative framework (SASSA, 2009)."* Whilst SASSA's mandate, which is governed by the Act has not changed, its vision and mission have undergone refinements that reflect the change in the agencies priorities, as the nature of the challenges it faces evolves.

Vision

At inception, its vision reflected the aspiration of the young agency, to attain a high standard in the delivery of its services, *"to provide world class social security services"* (SASSA, 2008). The latter has since changed to reflect aspirations that go beyond the mere provision of a world class service, to that of leadership, that is, *"A leader in the delivery of social security services"* (SASSA, 2017).

Mission

In the beginning, SASSA's mission was framed broadly as follows, *"To administer quality social security services, cost effectively and timeously using appropriate best practices by:*

- developing and implementing policies, programmes and procedures for an effective and efficient social grants administration system;
- promotion and protection of human dignity; and
- delivering innovative, cost-effective and efficient services to individuals, their families and community groups via multi-easy access channels using modern technology." (SASSA, 2017).

This has since been simplified as, *"To administer social security services to eligible children, older persons and people with disabilities (PWDs)"* (SASSA, 2017). The implications of this change will be discussed further in the recommendations.

Values espoused by SASSA of *confidentiality; integrity; fairness; transparency and equitability* (SASSA, 2008) are guided by Constitutional and Batho Pele principles that seeks to promote a developmental people focussed public service. As SASSA began its operations its activities were driven by SASSA's maxim *"getting the right social grant, to the right person, at the right time and place. NJALO!"*

⁷ SASSA is an entity which reports to its parent body, DSD and as such the accounting officer is the DSD Director General. One of the roles which the accounting officer plays is oversight of any entities that belong to the department. However, in the SSA Act this oversight role was assigned to the Minister, with a specific requirement that, the Minister would sign off on the performance agreement of the CEO. Effectively this agreement means that, Minister would bypass the DG of DSD in the oversight of the SASSA operations, and in doing it blurred the distinct administrative and political oversight roles which the DG and the Minister usually play.

SASSA: An Overview of the First Decade

2006: SASSA Opens its Doors

On the 1st April 2006, SASSA opened its doors to administer South Africa's social assistance programme. The focus during the first two years of SASSA's existence was to acquire "full responsibility and accountability of the administration and payment of social grants" (SASSA, 2008). With the provinces reconstituted as SASSA regions as per the Act, during the first year service agreements were signed between SASSA and national, and provincial welfare departments, which allowed for continuation of certain services, until SASSA had built up appropriate capacity at various levels. These functions included transfer of assets, information technology, communication, finance and human resources. (Reddy et al, 2008). The human resource function included transfer of over 500 personnel from national and provincial departments to SASSA, as well as the appointment of new staff especially at management level, including a Chief Financial Officer, and the termination of just under 500 staff during this period (SASSA, 2008).

In addition, key strategy pilot projects were implemented, including the Enterprise Resource Plan (ERP) to enable its Information communication technology (ICT's) systems.

The foregoing provides a window into the depth of preparatory work and research undertaken to inform the design and establishment of SASSA, and much of which is evident in the prescripts in the SSA Act (RSA, 2004a) as well as in the manner in which SASSA was set up.

2007 to 2009 - SASSA in Operation - Teething Problems

Once integration and optimisation had occurred, SASSA's priorities during the period 2007-2009, centred around the need to enhance and make improvements across six thematic areas which had been identified as accounting for many of the challenges that had plagued the post-apartheid social assistance systems (SASSA, 2008). Core activities identified and implemented during this period towards making improvements across these thematic areas are outlined in the table below:

Table 1 SASSA Strategic Priorities 2007 - 2008

Thematic Area	Core Intervention implemented
<ul style="list-style-type: none"> Improving service delivery quality 	Communication Strategy developed; Submission of METF for 2008/09; Submission of in year reports; Review and implementation of integrated marketing strategy.
<ul style="list-style-type: none"> Enhancing social grant process integrity 	Improved Grants Application Process (IGAP) piloted in Free State region; The verification process strengthened in targeted provinces; MIS (workflow/tracking module) implemented in targeted provinces
<ul style="list-style-type: none"> Improving organisational capacity 	Increasing staff complement by 8% Establishment of Corporate Governance Systems Business Plan for grants administration development Budget modelling simulation models
<ul style="list-style-type: none"> Improving financial management capacity 	Financial Misconduct Board established; Deadlines for the MTEF complied with; Key financial policies, procedure manuals and delegations developed and implemented.
<ul style="list-style-type: none"> Improvement of payment services 	Construction of 5 new pay-points A monitoring tool for checking compliance against norms and standards with respect to the infrastructure conditions of pay points was developed and rolled-out in region.
<ul style="list-style-type: none"> Minimizing prevention 	Risk Management Strategy developed; Strategic and operational risk register compiled MIS (workflow/tracking module) implemented in Eastern Cape and Free State regions; Fraud prevention and compliance plan developed; Code of Conduct and Ethics developed; Whistleblowing policy developed.

2010 to 2013 - SASSA - Full Steam Ahead

The 2010 to 2013 period saw SASSA shift gear in terms of planning and implementation of major initiatives aimed at enhancing grants administration. Three strategic Medium-Term Expenditure Framework (MTEF) (SASSA, 2010, 2011 and 2012) priorities which were the focus during this period were:

- Customer Care-centred Benefits Administration and Management System, which included implementation of new policy reforms, agency payments, improved grants application processes and automated business payment systems;
- Increased Access to Social Security, focusing on increased access and equity with respect to grants and;
- Improved Systems Integrity, which focussed on human capital management reforms, organisational culture reform and integrity model implementation.

Among the interventions implemented during this period were the standardisation of the grant payment system; service delivery business model developed and implemented; conducting of evaluation surveys; production of pay point service delivery reports; implementation of an Integrity Policy; undertaking an audit of skills within SASSA; implementation of Ethics programme, audit report on state of building infrastructure and technology road map developed and implemented.

In 2011, arising from a cabinet reshuffle the Deputy Minister for Social Development, Ms Bathabile Dlamini, who had served in this position since 2009, was appointed Minister for Social Development. This was followed in 2012 with the appointment of a new Chief Executive Officer of SASSA. The appointment was widely acclaimed, as the incumbent came with a wealth of experience broadly in the social development sector and more specifically with social assistance, having headed the Grants Appeals Tribunal prior to this appointment (SASSA, 2017).

2014 to 2016 - SASSA - Dark Clouds on the Horizon.

Taking stock of the situation after 6 years in existence the Strategic Plan which SASSA adopted for the next five year period commencing in 2012 to 2017 focussed on the following four objectives:

- To ensure that eligible beneficiaries receive benefits due to them;
- To improve the quality of service delivery to our customers;
- To achieve a fully integrated and automated social assistance service; and
- To ensure that the Agency is optimally capacitated for optimal service delivery.

The key priorities the plan outlined were to enhance their service delivery through giving attention to the following:

- Excellent customer care;
- The automation of systems;
- Improving organisational capacity;
- Promoting good governance; and
- Re-registration of current beneficiaries.

In order to realise these plans SASSA implemented a range of activities such as extending its reach to communities through its outreach programme; implementation of the outsourcing of payment services via a tender; work to enhance the ICT infrastructure within SASSA; increase human resource capacity by filling new posts and reviewing the human resource plan, ensuring that the financial management systems is enhanced through debt recovery; promote good governance through conducting internal audits; development and implementation of a dispute resolution framework; queue management system implemented; conducting of public and beneficiary awareness programmes implemented and improvements in turn-around times for applications received.

The last two years of SASSA's 10-years in existence up to 2016 continued to see the agency making notable achievements on a number of fronts, particularly with respect to enhanced service delivery. However alongside these achievements the institution and its parent department DSD were confronted with challenges arising from litigation with respect to the outsourcing of grants payment tender processes. These unfortunately overshadowed SASSA's achievements and in fact threatened the institutions integrity

Ten Year Review of SASSA's Performance 2006 – 2016

An Approach to Performance Measurement:

The Department of Performance Monitoring and Evaluations (DPME) "*Framework for Managing Programme Performance Information*" posits that core reason for measuring performance is "*If an institution knows that its performance is being monitored, it is more likely to perform the required tasks – and to perform them well.*" (DPME, 2007;1) The Framework asserts that an institutions mandate and the strategic objectives which arise from a commitment to the mandate provide the basis for articulating robust performance indicators which enable the measurement of progress towards the realisation of SASSA's mandate.

To reiterate, SASSA's mandate is "*to ensure the provision of a comprehensive social security service against vulnerability and poverty within the constitutional and legislative framework.*" SASSA's initial mission statement, outlined earlier in this chapter, set out the institutions core purpose and focus. It provided the direction for the development of strategic plans and was infused with terms such as "*quality, effective; efficient and innovative,*" signifying core characteristics which the institution was to aspire to. Permeating these characteristic was a commitment to the *promotion and protection of human rights and dignity.*

A review of the strategic objectives across the 10 year period revealed synergies in the articulation of objectives over the decade although as the years progressed the objectives evolved reflecting greater specificity. Essentially the objectives could be summarised as one overarching objective "*Comprehensive and Integrated Social Security*

Administration and Management Service” which would be realised through a focus on three broad areas namely striving for operational excellence, enhancing a customer care centred service delivery approach and promoting good governance. Towards the realisation of this overarching objective SASSA undertook various reforms the outcomes of which are reported in the section that follows below.

Strengthening Human Resource Capacity and Quality

As a starting point in 2006 a purposive human resource strategy was put in place to strengthen capacity at senior level, and the recruitment drive assisted in increasing the staff complement by 8% by 2008. Improving organisational integrity was reliant on sufficient resources, and this process coincided with the global recession, and hence lowered resources. One consequence of this was that SASSA was unable to fill the full complement of staff it was entitled to have as per its organogram (SASSA, 2016).

Challenges with the recruitment of appropriately skilled senior staff have been noted, with SASSA employing three CEO's in a period of four years, seriously impacting the ability of leadership to drive the strategic goals of the institution.

With respect to staff capacity the 2015/16 SASSA Annual Report reflected a 51.3% vacancy rate for approved posts. More importantly the vacancy for Professionals was 56.5% and for senior and top management collectively was 59%. (SASSA, 2016)

Despite these resource challenges SASSA attempted to address these through proactive measures such as contracting retired social workers and social work interns to deal with the foster care grant backlog (Breen 2015).

Promoting Good Governance

Fraud and corruption were recognised as big challenges in most of the post 1994 diagnostic assessments. To address this problem SASSA adopted a number of measures including development of a Fraud Prevention Policy, a Whistle Blowers Policy, and importantly the establishment of an Internal Audit and Risk Management Unit (IARMU), which became operational in 2007/08. It was reported that in 2008 the IARMU and the Special Investigations Unit, together investigated 4,204 fraud cases and arising thereof 3,625 convictions were made. In addition 9,391 people signed acknowledgements of debt valued at R50.8 million (SASSA, 2008).

Another achievement reported in 2012 was the substantial reduction in litigation against SASSA from approximately 15,000 cases in 2008/9 to 249 in 2011/12 representing a 98% reduction. This was attributed to the effectiveness of the legal services provided to SASSA (PMG, 2012). Despite these measures, the fraud challenges continued and resulted in repeated audit findings of irregular, fruitless and wasteful expenditure and noncompliance with respect supply chain management processes. In response SASSA established a

Financial Misconduct Board at its national office and Financial Misconduct and Loss Committee's at regional level. The effectiveness of this measure was notable with 925 of the 1 316 financial misconduct cases having been finalised during the 2014/15 period.

Fraud activities were deeply entrenched within SASSA's leadership as evident with the termination of the SASSA's CEO contract in 2011, on ground of have allegedly improperly undertaken procurement processes. This was followed by a report of the Independent Appeals Tribunal, which raised concerns about the huge backlog of appeal decisions, which had not been addressed by SASSA, and which posed a litigation risk (SASSA, 2011 & 2012).

During this period SASSA and the DSD went to court several times, over disputes and allegations of irregularities in the 2011 tendering process of the five year multi-billion-rand tender awarded to CPS, for the distribution of grants. Despite the Constitutional Court declaring the contract invalid in 2014, the potential impact on grant beneficiaries meant that the CPS contract would continue until such time as the tender process would be rerun. SASSA and DSD were given up to five years to award the new tender, and a condition of this order, was a supervisory provision over SASSA for each step of the tender process (SASSA, 2017b).

In 2015, SASSA and DSD advised the court that it had abandoned the idea of a new tender and instead was going to transfer the responsibility for grant distribution, in house as from 1st April 2017. However, in late 2016, despite reported measures taken by DSD and SASSA to facilitate this process, SASSA was not in a state of readiness to take over the grants process from 1st April 2017. Instead, the court was informed that DSD intended to extend the CPS contract for a further period, to allow time for the insourcing to be finalised, an action which was illegal in terms of the court order. More importantly the Court found that SASSA and DSD appeared to have failed to apply the ruling of the Court as had been required.

The overall effect of these events had the direct impact of not only dampening public confidence in both SASSA and DSD, but raised concerns around the key internal controls of the relevant management and oversight structures.

Financial management capacity

The financial management weaknesses that SASSA faced had been endemic and systemic to the social assistance system, and needed strengthening. As highlighted by the post 1994 diagnostic, several challenges were identified, with respect to the payment of beneficiaries, this being a core function of SASSA, as echoed in the agency's theme, *“Paying the right social grant, to the right person, at the right time and place. NJALO!”* (SASSA, 2008:12).

A menu of interventions adopted to address this weakness including the development of policies, procedures, the documentation and reporting of irregular, fruitless and wasteful

expenditure, the development and implementation of a document management system, asset control inventories; and the documentation of financial transactions were accordingly implemented. The outcome of these saw SASSA receiving an unqualified audit within two years of the entity's establishment. However, several years after the establishment of SASSA, the payment challenges persisted.

From the outset SASSA had made focussed efforts to centralise the grants payment system, through tendering for the development of an automated biometric payment system. A tender for such a system in 2007 had failed and a new tender was subsequently advertised and successfully awarded in 2012 to Cash Paymaster Services (SASSA, 2013).

The new biometric-based payment solution, rolled out in 2012, involved reregistration of 18.9 million beneficiaries, allowed for the standardisation of the payment process; significantly reduced the costs for transacting (from an average of R30 to R16.50 per transaction); and provided beneficiaries with flexible payment options, such as, cash withdrawals at either a Retail Pay-Point or at an ATM. It also led to improved access, with more than 80% of grant beneficiaries withdrawing their money within seven days of payment. Issuing the SASSA card succeeded in introducing banking to the unbanked, increasing their level of financial inclusion⁸ to levels that are now higher than the general population. (SASSA, 2010, 2011). However, it also exposed beneficiaries to the risk of fraud, in the form of third party deductions from beneficiary accounts and as such, compromised beneficiary privacy, as the paragraph below illustrates.

The Social Assistance Act (2004) allows for deductions for funeral policies not exceeding 10% of the grant value. However, from as early as 2011, reports surfaced of illegal deductions⁹, in excess of 10%, from grant beneficiary bank accounts by Cash Paymaster Services (CPS). To address this challenge, DSD and SASSA published amendments to the regulations 21 and 26A of the Social Assistance Act No. 13 of 2004, in May 2016, which prohibited banks from deducting funds¹⁰ from SASSA beneficiary accounts. The legality of these regulations were, however, challenged by NET 1¹¹, and the court declared the regulations invalid, as they infringed on an individual's

right to transact freely with any service provider (Maregele, 2017). The lesson that can be drawn from this issue is that, whilst innovations can introduce a lot of advantages, there is a need for SASSA to be more proactive in anticipating potential risks and to design strategies and awareness interventions to mitigate them.

Customer Care Centered Benefits Administration and Management System

To strengthen SASSA's responsiveness to clients, the institution focussed on two key areas namely enhanced human resource capacity and improved physical infrastructure. The streamlining of administration processes was one of the first steps in enhancing its capacity, with improvements in the quality of service delivery noted across the entire grants administration system, including the establishment of norms and standards, and their impact on the standardisation of forms. The impact of this was the remarkable reduction of grant application turnaround times from 3 months in 2006 to less than 15 days by 2016, with over 83% of the applications being processed within 1 day (SASSA, 2015). The exception here was Disability Grant which, requires appointments with health practitioners.

There were also general improvements in the quality of infrastructure at pay-points with SASSA converting 262 open pay points to fixed structures across all nine regions (SASSA, 2015). In 2009 SASSA forged a partnership with South African Post Office (SAPO), to leverage public infrastructure and back office for grants payments.

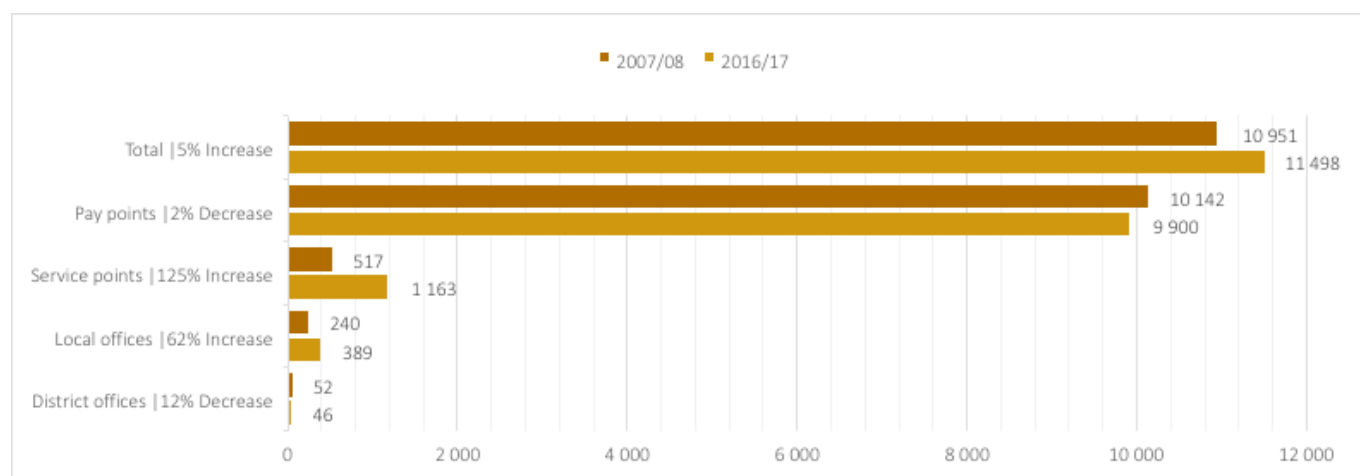
Some of the challenges around poor service delivery in the pre-2006 period were related to SASSA's national footprint. The issue of long queues that characterised access to grants was partly caused by the limited number of access points. The overall impact of the above measures was that SASSA's service delivery footprint was increased with Figure 3 below showing over the 10-year period (2007 – 2017) that whilst the number of pay-points and district offices decreased by 2% and 12%, respectively, the number of service points and local offices increased by 125% and 62%, respectively, with a 5% net increase in total access points (SASSA 2008 & 2017).

8 See Fanta et al, Chapter 8 - Digitisation of Social Grant Payments and Financial Inclusion of Grant Recipients in South Africa – Evidence from FinScope Surveys, in this book.

9 The reports indicated deductions for prepaid electricity, cell-phone data and airtime purchases, as well as collateral for loans allegedly taken out by the beneficiaries and which amounts exceeded the 10% limit. Most of the beneficiaries affected had emphatically denied that they had requested or approved these deductions.

10 These would include stop orders, electronic fund transfers or debit orders.

11 Net 1 is the parent company of CPS.

Figure 2: Type of access point 2007/08 and 2016/17

Source: SASSA Annual Report (2008) and SASSA Annual Report (2017)

Together with other measures aimed at facilitating migration of beneficiaries from cash payments to electronic payments, the resulting outcome was a 23% decrease in the number of people paid in cash. This was a considerable cost saving which decreased the cost of delivering a grant from R 33 to R 31, between 2007 and 2009, representing a 9% saving. This was despite the fact that a substantial number of beneficiaries were still being paid in cash. The shift away from cash payments was also aimed at reducing the risk of theft from beneficiaries at cash pay points.

Operational Excellence in Service Delivery

SASSA appeared to have reached a level of institutional maturity within the first seven years of its existence, as evidenced in its pro-activeness in responding to emerging problems and its adaptability to changes, reflective of a capable organisation as illustrated in the paragraphs that follow.

The launch and countrywide rollout of the Integrated Community Registrations Outreach Programme (ICROP) by SASSA almost soon after it was established involved community outreach through the deployment of 40 mobile units which made monthly visits too hard to reach communities to provide full social grant services. The problem it sought to address was the reported high financial and other costs for applicants to apply for grants, more so when they had to make several visits before the grant application was accepted. The results during the 2007/08 financial year saw over 97,903 new applications being received.

This was followed by the launch of another community base intervention by DSD, Project Mikondzo, whose aim is to integrate service delivery to priority areas across DSD's key focus areas of early childhood development, substance abuse, gender based violence and support to the non-profit sector. The project targeted 1300 of the poorest wards in South Africa and compelled government officials from DSD, SASSA and the

National Development Agency (NDA) to coordinate responses to communities. Some of the interventions implemented by Mikondzo included among others:

- Awareness raising programmes on substance abuse
- Support for victims of crime, especially gender based violence
- Strengthening of non-profit organisations serving communities
- Auditing the quality of child care centres
- Registration of grants for beneficiaries
- Providing temporary support to destitute households through Social Relief of Distress (SROD)

Performance of SASSA's Administration Programme: 2006 to 2016

The role of SASSA's Administration Programme (AP) is to provide leadership, management and support services to the agency. The function of the AP programme has a direct bearing on governance & institutional capacity; financial & fiscal sustainability; coherence & integration; and incentive compatibility. This section assesses the performance of AP by focusing on SASSA's audit outcomes, which provides a summative overview on how well the programme has functioned. As alluded to above, audit outcomes are important in assessing the effectiveness and efficiency of key management and oversight structures.

Over the ten year period, and in the nine applicable years, SASSA did relatively well, receiving seven unqualified audits. Most of these were produced without material misstatements, but with findings related to some of the key audit internal controls. For example, in the period 2013/14 to 2015/16, all though the agency received unqualified audits, the Auditor General of South Africa (AGSA) noted overall stagnation in audit outcomes and noted that SASSA "should exercise oversight and strengthen its internal controls to create a

control environment that supports reliable financial reporting, useful and reliable reporting on the performance information and compliance with legislation by implementing proper record keeping and appropriate reviewing controls” (AGSA, 2016).

A review of the 10-year period suggests that of the three drivers of internal control, that span 14 indicators, governance with 3 indicators, financial & performance management with 5 indicators, and leadership with 6, key areas of concern were largely in the financial & performance management area¹². These were related to the indicators on proper record keeping and compliance with key legislation, and in particular tender processes, where outcomes with material findings were frequently found. Although SASSA received unqualified audits for seven of the nine years between 2007 and 2016 there were in every audit across that period significant audit findings by the AGSA. Of particular importance were the AGSA findings of stagnation in audit outcomes, the noted slow response by management in implementing corrective measures, poor record keeping with respect to SCM requirements, unauthorised, irregular and/or fruitless and wasteful expenditure and a findings of ineffective leadership and poor oversight of senior officials (SASSA, 2007-2016).

The relevance of the AGSA findings for SASSA are critical given that the institution is responsible for the distribution of substantial resources to 31% of South Africa’s population, which represents 3.2% of gross domestic product (GDP) (AGSA, 2016).

Increase in the scale of Grant Beneficiaries by SASSA 2006 – 2016

The primary function of SASSA is to deliver grants to beneficiaries who qualify for them. Given the low rates of access to grants pre-democracy, one of the key objectives of the post-apartheid social assistance system was to ensure that all who qualified for grants got access and this meant the

progressive scaling up of the number of beneficiaries from the levels seen in 1996 as seen in Table 2. The figures show that a number of grants experienced substantial increases as coverage of eligible populations was expanded, with annual growth rates in the double digits.

By the time SASSA came into existence in 2006 the number of grant recipients stood at 10,974,076, see Table 2. During the 2006 to 2016 period an additional 6,017,558 grant recipients were added to the system with 81 % of these being CSG grants, 17% OAG and with the remaining 2% being shared between the remaining grant types. The negative growth in the 2013/14 financial year was due to a decrease in the number of grants, as a result of the re-registration and bio-metric enrolment of beneficiaries. Not only did this exercise reduce the inclusion error, it also resulted in over 850,000 grants being cancelled resulting in a saving of R2 billion rands. However, Black Sash noted that the cancellations were at times as a result of beneficiaries not having received notification and some of those cancellations had to be reversed. Black Sash was however unable to quantify the scale of incorrect cancellations (Black Sash, 2013).

The growth of the number of grant beneficiaries after SASSA was established continued at a steady pace with two important developments after SASSA was established contributing to this growth. These were the incremental extension of the Child Support Grant (CSG) to children up to 18 years of age and the age equalisation for old age pension in 2009 with the latter resulting in over 196,000 men, between 61-64 years receiving grants by 2010, almost 70% of the intended beneficiaries (SASSA, 2010).

Whilst the WVG and the DG have seen a precipitous decline over the 10-year period all other grant types experienced increases albeit with relatively lower growth rates as illustrated in Table 2 below.

12 LEADERSHIP - 1. Effective leadership culture, 2. Oversight responsibility, 3. HR management, 4. Policies and procedures, 5. Action plans, 6. IT governance; FINANCIAL AND PERFORMANCE MANAGEMENT - 1. Proper record keeping, 2. Processing and reconciling controls, 3. Reporting, 4. Compliance, 5. IT systems controls; GOVERNANCE - 1. Risk management, 2. Internal audit, 3. Audit committee

Table 2: Number of Social Grants by Grant Type 1996/97 – 2015/16

Grant type Year	OAG	WVG	DG	GIA	FCG	CDG	CSG	Total	Annual Growth Rate
1996/97	1,637,934	13,473	711,629		42,999	2,707		2,408,742	
1997/98	1,697,725	10,525	660,528	9,183	43,520	8,172		2,429,653	1%
1998/99	1,812,695	9,197	633,778	8,496	46,496	16,835	21,997	2,540,998	5%
1999/00	1,848,726	7,908	607,537	8,570	49,843	22,789	150,366	2,687,169	6%
2000/01	1,900,406	5,617	655,822	10,107	66,967	33,574	1,111,612	3,773,998	40%
2001/02	1,903,042	5,336	694,232	10,332	67,817	34,978	1,277,396	3,982,801	6%
2002/03	1,943,348	4,638	840,424	12,625	83,574	42,355	1,998,936	4,913,275	23%
2003/04	2,050,572	3,996	1,228,231	17,528	120,571	76,494	2,996,723	6,476,587	32%
2004/05	2,124,984	2,963	1,293,280	25,667	195,454	86,917	4,165,545	7,869,143	22%
2005/06	2,146,344	2,817	1,315,143	26,960	317,434	90,112	7,075,266	10,974,076	39%
10 Year % Change	31%	-79%	85%	194%	638%	3229%	32065%	356%	
10 Year Average	1,906,578	6,647	864,060	14,385	103,468	41,493	2,349,730	4,805,644	
10 Year Change	508,410	-10,656	603,514	26,960	274,435	87,405	7,075,266	8,565,334	
2006/07	2,195,018	2,340	1,422,808	31,918	400,503	98,631	7,863,841	12,015,059	9%
2007/08	2,229,550	1,924	1,408,456	37,343	454,199	102,292	8,189,975	12,423,739	3%
2008/09	2,390,543	1,500	1,286,883	46,069	474,759	107,065	8,765,354	13,072,173	5%
2009/10	2,546,657	1,216	1,264,477	53,237	510,760	110,731	9,570,287	14,057,365	8%
2010/11	2,678,554	958	1,200,898	58,413	512,874	112,185	10,371,950	14,935,832	6%
2011/12	2,750,857	753	1,198,131	66,493	536,747	114,993	10,927,731	15,595,705	4%
2012/13	2,873,197	587	1,164,192	73,719	532,159	120,268	11,341,988	16,106,110	3%
2013/14	2,969,933	429	1,120,419	83,059	512,055	120,632	11,125,946	15,932,473	-1%
2014/15	3,086,851	326	1,112,663	113,087	499,774	126,777	11,703,165	16,642,643	4%
2015/16	3,194,087	245	1,085,541	137,806	470,015	131,040	11,972,900	16,991,634	2%
10 Year % Change	46%	-90%	-24%	269%	17%	33%	37%	41%	
10 Year Average	2,691,525	1,028	1,226,447	70,114	490,385	114,461	10,183,314	14,777,273	
10 Year Change	999,069	-2,095	-337,267	105,888	69,512	32,409	4,109,059	4,976,575	

Source: SASSA (2017)

Concerns however remain that despite the incremental increase in access to the CSG evidence suggests that 39% of poor households with children are not accessing the grant¹³. Further disaggregated it is noted that less than 50% of poor households with children headed by men and of 29% of poor households with children headed by women were not in receipt of the CSG (Sagan, 2017). At a spatial level all provinces experienced an increase in the number of recipients over the 2006 to 2016 period, with the Northern Cape, which started off at a low base of 218,020, experiencing an increase of 108% and Gauteng also seeing a significant increase of 84%. Despite these increases the proportion of grant recipients across provinces remained virtually unchanged, with KwaZulu-Natal accounting for 23% of all grant recipients in 2005/06 and 2015/16 (SASSA, 2017).

SASSA's ability to fulfil its mandate in respect of the provision of grants to children in foster care was threatened arising from the mass cancellations of grants for 120,000 children in May 2011. The cancellations arose from DSD's failure to process extension order timeously. Without a valid court order SASSA was duty bound to cancel these grants, as such payments would have raised audit queries. In response to this the Centre for Child Law successfully filed a court application for the grants to be reinstated with immediate effect. The court order issued instructed DSD to authorise a deviation for SASSA to pay the grants immediately, whilst giving DSD an ultimatum to find a lasting and less bureaucratic solution to this matter within a three year period. This allowed SASSA to reinstate the grants (Breen 2015).

Coverage across vulnerable groups currently targeted also raises concern with approximately 60% of children in SA accessing grants. Similarly there is little evidence of how SASSA ensures inclusion of people with disabilities, with only 4% of adult disabled people between 18 and 59 years accessing the DG (Plagerson & Ulriksen, 2016).

Responsiveness to socioeconomic crises

The need for social assistance to be responsive to sudden changes in the socioeconomic circumstances that people face as a result of various kinds of shocks is accepted and provision for this was made by means of the Social Relief of Distress (SRD) grant. From early on after SASSA's existence both DSD and SASSA had envisaged that SRD disbursement function would be consolidated together with all social relief funds under one act and which would be a provincial government responsibility to avoid duplication and fast track responses. A draft Social Relief Bill was tabled but appears not to have gained traction as provinces disputed the appropriateness of this role being assigned to them (DSD, 2009). To date there has been no further development and SASSA has continued to disburse this grant.

Table 3 below shows the number and types of support provided in terms of SRD.

Table 3: Number of Social Relief of Distress Disbursed by benefit Type

Year	Cash	Food Parcels	Vouchers	School Uniforms	Total
2013/14	28,614	336,466	246,290	360	611,730
2014/15	11,231	186,067	146,225	10,155	353,678
2015/16	8,897	171,120	156,142	30,610	366,769

Source: SCOPEN (2017)

Assessment of SASSA

The foregoing section provided an overview of the activities and programmes implemented by SASSA, identified some of the challenges it experienced and indicated some of the key impacts of the delivery of social assistance. In this section the conceptual framework is applied in assessing SASSA's ability to translate the resources invested and activities implemented towards the realisation of its mandate namely

"To ensure the provision of comprehensive social security services against vulnerability and poverty within the constitutional and legislative framework" (SASSA, 2009).

As indicated earlier the mandate has been derived from SASSA's objectives as articulated in the SASSA Act (RSA, 2004a).

Relevance

The rationale for establishing a national structure to deliver social assistance was succinctly outlined earlier in this chapter in the various diagnostic studies undertaken prior to the SASSA Act being promulgated. The need for social assistance in SA given the scale of poverty, unemployment and inequality was not in question. The problem SASSA inherited was of fragmentation, inequality and inefficiency. This undermined the rights based constitutional obligations to social protection for all who qualified to receive them and to do so in a manner which was equitable and fair.

Efficiency

The review reflects that in the last decade substantial financial, social and intellectual resources have been channelled toward enhancing social grant administration in South Africa which reaches approximately 31% of South Africa's population and which represents 3.2% of gross domestic product (GDP) (AGSA, 2016).

At this point in SASSA's existence the significant achievements highlights that grant administration is in a different state to what existed pre-2006. The evidence suggests that while initially the costs of delivering a grant were high, these costs have reduced by more than half to approximately R 16 per

¹³ Poor households were defined here as those living at or below the upper bound poverty line in 2014/15.

grant compared to R 31 per grant in 2006. More importantly SASSA has turnaround the processing time from an average of 3 months to 15 days, with more than 80% being processed within one day.

Effectiveness

The system of grants administration that was inherited by the democratic government in 1994 is a far cry from the transformation that has happened during the 10 years of SASSA's existence. The establishment of SASSA, as a Schedule 3A autonomous government agency, not restricted by government bureaucracy, was aimed at optimising flexibility and effective decision making in grants administration. That SASSA has delivered to an incrementally increasing population over the ten year period is a commendable experience.

It is clear that the focus in the first 10-years was on the consolidation and standardisation of service delivery, as these areas were flagged as critical pain points in the old system. Several achievements have been noted in terms of the quality of service delivery, improvements in the payment system, enhancement of administration of grants, drawing up of comprehensive guidelines, standardisation of business processes and procedures across provinces and the reach of social assistance. Furthermore, SASSA managed to resolve some of the biggest challenges that the grant administration system faced, namely, that of fragmentation, complexity, inefficiency and to a limited extent fraud and corruption.

With respect to cost effectiveness, SASSA appears to have a high benefit to cost ratio, the cost of running SASSA, grant administrations and benefit administration, was 5% of the total expenditure on transfers in 2014/15 and 2015/16 financial years (SASSA, 2015 & 2016).

The SASSA Act (Republic of South Africa, 2004) commits the agency to "promote and protect human dignity" thereby espousing protection of respect for rights and dignity, as it pertains to social entitlements and implementation arrangements as anchored in law. SASSA failed to address this in respect of the protection of beneficiaries' privacy of information, which allowed for illegal deductions from beneficiary accounts.

The SASSA Act (Republic of South Africa, 2004) was laudable in many respects, however, deficiencies with respect to governance were evident from the Bill drafting phase with concerns relating to the conflict of interest with respect to the powers granted to the Minister of Social Development in the appointment and oversight of the CEO. Although various provisions of the Act, have taken on board requirements to establish governance systems, the Act failed to heed warnings, from stakeholders to ensure effective governance through separating administrative and political oversight functions. This failure has proved to be one of the most critical challenges as events from 2012 onwards revealed resulting in the intervention of the Constitutional Court.

SASSA has not maximized its contribution to strengthening integrated programme implementations, with respect to targeting and means testing for programmes which deliver to the same target groups, an example of which include a separate means tests for school fee exemption for children already in receipt of CSG, and means testing for indigence for household's access to free basic services.

Finally, despite provisions in Chapter 4 of the Social Assistance Act No 13 of 2004 (RSA, 2004b), allowing for the establishment of an independent Inspectorate for Social Assistance, this was not established by the Minister for Social Development. Existence of such an institution may have reduced the scale of malfeasance which has characterised SASSA particularly in the latter half of the decade. Here again, while the direct responsibility did not lie with SASSA, it had an obligation to address this with its parent body but did not.

Governance challenges were inherited with the old system and although SASSA invested in various initiatives towards mitigating these, and to a great extent these were shown to be largely effective, some challenges have persisted. These have, unfortunately, led to serious concerns with respect to the integrity of both its management and oversight structures. It is clear that during the next 10-years SASSA should focus on addressing critical governance issues that have tarnished the image of a key institution in South Africa's social security system.

Impact

A number of empirical studies continue to confirm the positive socioeconomic impacts, in particular poverty alleviation, of social grant transfers on beneficiaries (Surender et al., 2010; Oosthuizen, 2013; Tanga and Gutura, 2013; World Bank, 2018, DSD et al, 2012). Evidence from the National Income Dynamic Survey, 2008, suggests that social grants were the main income related reason for 25% of households exiting poverty (Sagan, 2017).

However although the mandate speaks to the "provision of comprehensive social security services against vulnerability and poverty within the constitutional and legislative framework" it has excluded key populations including unemployed adults outside of the formal labour market, pregnant and lactating women and those with various forms of disability which are not defined as severe. This is largely a failure of SASSA and DSD with respect to the advocacy and development of a comprehensive social protection system for South Africa.

Recommendations

There is no doubt that the agency has been able to implement its mandate as it pertains to the provision of grants. With respect to its vision it is also clear that SASSA has to a large extent become a leader in the provision of social assistance. This is more so, when compared to other developing countries, and the scale of provision. The review has also revealed areas that need attention as the agency enters its next 10-years and the following recommendations are suggested.

1. **Mission Statement:** SASSA's mission statement fails to provide any semblance of direction and the means of achieving its purpose. We recommend a revision of SASSA's mission statement as follows, "To administer quality social security services to eligible populations, via multi-easy access channels using modern technology, cost effectively and timeously, through the implementation and development of policies, programmes and procedures for an effective and efficient social grants administration system."
2. **Development of a Comprehensive Social Security Framework:** SASSA has done well with respect to coverage and access, there are limitations to the extent to which coverage can be extended beyond current target groups as covered in the Social Assistance Act. There still needs to be an overarching Social Security Framework which includes the missing middle of unemployed people, those who are chronically or temporarily ill and pregnant and lactating mothers who are currently not catered for. Such a framework will also importantly aim to ensure alignment and coherence of policies and programmes, as well as strengthening coordination between institutions and programmes delivering components of social protection.
3. **Protection of Privacy Rights:** SASSA needs to strengthen mechanisms for the protection of privacy in their contracts with external service providers.
4. **Governance and Institutional Capacity:** The SASSA Act No. 9 of 2004 (RSA, 2004a) should be revised to strengthen governance oversight of the Agency by introducing the following amendments. Make provision for the establishment of an Independent Board to oversee the functioning of SASSA. Revisit the powers, roles and responsibilities of the Minister with respect to the appointment, oversight and control over the institutional leadership. In addition, DSD is urged to establish immediately, an Inspectorate for Social Assistance as provided for in Chapter 4 of the Social Assistance Act 13 of 2004, to strengthen the integrity of SASSA.
5. **Addressing Corruption:** While it is acknowledged that SASSA has a number of strategies in place to address corruption, it is proposed that SASSA evaluate and, if necessary, redesign its approaches to dealing with corruption both internally and externally using behaviour change psychology.

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Interview

Mr Selwyn Jehomma (2018) Telephonic Interview 18th February 2018

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