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A Review of the Development of Social Security Policy in South Africa

July 2013

By Stephanie Brockerhoff

Monitoring the Progressive Realisation of Socio Economic Rights Project

Working Paper 6

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ISBN Number: 978-0-620-57673-4

Preface and Acknowledgements

The Studies in Poverty and Inequality Institute (SPII) is an independent research think tank that focuses on generating new knowledge, information and analysis in the field of poverty and inequality studies.

The policy review has been undertaken as part of the 'Monitoring the progressive realization of socio-economic rights' project conducted by SPII. The objective of this project is to develop a tool that will monitor the progressive realisation of socio-economic rights. This includes investigating the manner in which policy making, to expand access to socio-economic rights, in fact aligns with the jurisprudential guidance handed down by the Constitutional Court. Such a tool will become a useful tool for policy makers, for those that exercise oversight over the executive, including Parliament and Chapter Nine institutions (notably the South African Human Rights Commission), and civil society.

This work is funded by the Ford Foundation whose funding contribution to this research is gratefully acknowledged.

This policy review is an updated version of the 2010 paper by Stephanie Brockerhoff entitled "Monitoring the Progressive Realisation of Socio-Economic Rights. A Review of the Development of Social Security Policy in South Africa". It has been edited and updated with data from the 2013 budget where possible and the 2011/12 SASSA annual report with the assistance of Tshego Monnana, Hannah Dawson and Ratula Beukman.

For feedback and queries, please email: advocacy@spii.org.za

Executive Summary

This policy review has been undertaken as part of a broader project conducted by the Studies in Poverty and Inequality Institute (SPII). The objectives of the larger project are to develop a monitoring tool to measure and evaluate the progressive realisation of socio-economic rights (SERs) in South Africa. Integral to this monitoring tool is an analysis of policy which corresponds to specific SERs. In particular, this project has undertaken baseline policy studies for each of the SERs to investigate how the policy making process is aligned with the jurisprudential guidance handed down by the Constitutional Court. It is envisioned that such a monitoring tool will be a useful instrument for policy makers, for those that exercise oversight over the executive, including Parliament and Chapter Nine institutions (notably the South African Human Rights Commission), and civil society.

This paper conducts an in-depth analysis of the policy developments for social security before and after 1994. This analysis enables an assessment to be made on how far the constitutional obligation to progressively realise the right to social security and social assistance for those who can't provide for themselves has been realised, and the extent to which this obligation has in fact driven the policy making process.

The paper begins with an analysis of the meaning of the universal right to access social security as a justiciable socio-economic right contained in the Constitution of South Africa, including the implications of the internal limitation of the universal right that makes access subject to progressive realisation within the state's available resources.

Next, the paper examines the extent and impact of poverty and inequality within South Africa, locating these phenomena within the context of an extremely high unemployment rate. The issue of exclusion from the labour market has a direct bearing on the subsequent section that examines the history of social security policy in South Africa - a policy built around the assumption of full employment for white males. Prior to 1994 policies emerged that were constructed to address the needs of cyclical short term, rather than structural and long term, unemployment or lack of access to wage income. The paper argues that despite the adoption of the Constitution in 1996, the same broad social security architecture is still in place today, despite the inclusion of millions of black Africans into the system.

Consequently, the paper then considers some of the guiding policy deliberations and how they pertain to the development of social security policy since 1994. This includes the Reconstruction and Development Programme (RDP), the Lund Committee Report, the Welfare White Paper, Growth, Employment & Redistribution (GEAR) program, and the Taylor Committee report in order to identify to what extent the constitutional imperative of universal access can be seen to have guided the policy making process. The conclusion of this section suggests that whilst the language of policy makers and legislation changes to reflect the terminology of 'progressive realisation', the logical result of 'universal access' is not reflected. Thus, in a way, progressive realisation becomes a justification for continued targeting and exclusions.

Where access to social assistance cash transfers (state grants) has been expanded, it appears to be largely the result of exogenous forces, such as Constitutional Court challenges, mediated through issues of fiscal concerns.

This paper does not seek to suggest that the roll out of social grants has not been extremely important in terms of addressing the minimum needs of those living in destitution. Many arguments and evidence exists outside of this paper that makes a case for the manner in which the cash circulating from social grants is able to stimulate economic inclusion from below. Other evidence shows quite clearly that the current levels of poverty would have been starkly worse in the absence of such a roll out of cash grants. This paper argues that given the constitutional imperatives of universal access to social security, current policy processes do not appear to have the necessary framework. It is for this reason that we argue that government should adopt a roadmap that spells out how to transform the historic design of exclusion from social security to one that is appropriate to the needs of South Africa, its resources, and the developmental challenges.

In conclusion, this paper introduces the ancillary concept of the need to develop a stand alone tool through which the overall progressive or regressive potential of departmental policies and programmes can be monitored and evaluated by the appropriate policy makers, as well as non-state actors. We sketch three basic ways in which this could be done. We also argue that there is a distinct role that civil society could play as a partner to the state both in calling for a road map, but also in independently coming up with draft contents that contain a vision of the look and feel of a transformative social security system.

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Terms and Abbreviations

- ANC African National Congress
- BIG Basic Income Grant
- CDG Care Dependency Grant
- COSATU Congress of South African Trade Unions
- CSG Child Support Grant
- CSOs Civil Society Organisations
- DG Disability Grant
- DSD Department of Social Development
- ECP Eastern Cape Region
- EPWP Expanded Public Works Programme
- FCG Foster Child Grant
- FST Free State Region
- GAU Gauteng Region
- GEAR Growth, Employment and Redistribution (Plan)
- GIA Grant in Aid
- HAT Harmonised Assessment Tool
- ICESCR International Covenant on Economic, Social and Cultural Rights
- IRM Internal Reconsideration Mechanism
- KZN KwaZulu-Natal Region
- LIM Limpopo Region
- MP U Mpumalanga Region
- MQA Mining Qualification Authority
- merSETA Manufacturing, Engineering and Related Services SETA
- NCP Northern Cape Region
- NWP North West Region
- RAF Road Accident Fund
- RDP Reconstruction and Development Programme
- SACP South African Communist Party
- SASSA South African Social Security Agency
- SIU Special Investigative Unit
- SROD Social Relief of Distress
- UIF Unemployment Insurance Fund
- WCP Western Cape Region
- OAG Old Age Grant
- WVG War Veteran's Grant

Chapter 1

Introduction: Setting the Scene – the Right to Social Security and its Importance for addressing Poverty and Inequality

Rising levels of inequality and high levels of poverty are undoubtedly two of the major challenges facing South African society and democracy today. In one of the most unequal countries in the world it is not sufficient to merely focus on economic growth alone, as there is no guarantee that everyone will benefit from it. Social assistance, the non-contributory, tax funded branch of social security can – if properly designed – function as a redistributive mechanism, transferring money from the rich to the poor. The current unemployment crisis stresses the necessity for a well-functioning and comprehensive social security system. At the same time a flourishing economy is of vital importance for financing redistributive measures, as well as for creating jobs and bringing people into employment and thus permanently out of poverty.

Social security is an important safety net that helps relieve poverty and protects people against economic shocks. Furthermore, it has been found to be developmental, both socially and economically. In South Africa, social grants or cash transfers (social assistance) target particularly vulnerable parts of the population – the disabled, children, foster children, people who need care and the elderly. Grants are awarded subject to a means test and provide an important source of income to households that would otherwise face devastation. However, income through social grants merely provides a basic relief against hardship – important as it may be - and can thus never fully compensate for the lack of employment and a decent income through wages. It is a mechanism that eases the hardship of poverty, but fails to tackle its root causes – unemployment and marginalisation. The current social assistance system, whilst reaching some 16 million South Africans, excludes large parts of the population, namely the unemployed or working poor, thus only alleviating poverty in certain, targeted groups. In particular, unemployed adults of working age cannot access social security and can only hope to live off the grants awarded to a member of their household, typically an old age grant or a child support grant. Social insurance, the second branch of social security in South Africa, provides benefits to the part of the population working in the formal economy and covers eventualities such as unemployment and inability to work due to work-related accidents.

The question of how well a social security system is designed and how encompassing its reach is, affects the lives of millions of South Africans on a daily basis. Since 1996, social security has been transformed from a welfare system predominantly aimed at the white population to a more encompassing social security system. As Professor Sandra Liebenberg puts it:

> 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" function for targeted categories of vulnerable groups living in poverty, primarily, persons with disabilities, children and the aged'.[1]

[1] Liebenberg, Sandra, 'The Judicial Enforcement of Social Security Rights in South Africa', in Riedel, Eibe, (ed.), Social Security as a Human Right: Drafting a General Comment on Article 9 ICESCR – Some Challenges, Springer-Verlag, Berlin, Heidelberg, 2007, p. 70. Sandra Liebenberg was also part of the drafting process of the constitution.

Unfortunately, the groups that can claim social assistance have largely remained the same as under apartheid, i.e. coverage has increased in number, but the target groups have largely remained the same. Expansion of coverage was mainly achieved by increasing the number of claimants within the groups and removing racial biases rather than by reaching out to other parts of the population (see chapters II and III for more detail). Thus, the poverty and exclusion of large parts of the population has yet to be addressed.

Nonetheless, it must be recognised as a success that the number of people benefitting from coverage by the social security system has increased markedly throughout the past 20 years. For example, permanent residents and refugees are able to access the entire grant system and child support grants are now available for children up to the age of 18. Then again, even large parts of the working population in the formal economy find it hard or impossible to contribute to voluntary pension or medical insurance funds given their low levels of salaried income. As a result, social assistance functions as the primary safety net against poverty, especially during economic downturns and old age. More to the point, even workers who enjoy good social insurance coverage during their working life can find themselves dependent on social assistance once they have retired and depleted their unemployment or provident funds.[2] With very high unemployment, a well-functioning and encompassing social security system is thus of even greater importance today than in the past to temper shocks of sudden or prolonged poverty.

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

1.1. Outline of the Paper

In order to move towards providing the necessary information and data on the development of social security in South Africa, this paper will mostly focus on social assistance, as it is by far the most important part of social security in South Africa, as social insurance is organised around work in the formal economy and therefore currently only reaches a fraction of South Africans. In addition, social assistance is a highly effective way of tackling poverty and marginalisation.

The remainder of section I will review the constitutional obligation of the state with regard to social security and sketch the socio-economic context of social security. Section II conducts an analysis of the development of social security policy to date. It will also provide an overview of social insurance and social assistance as of February 2013. Section III will examine the state of social security today by providing an overview of spending on social security, looking at backlogs in awarding social grants and gaps in coverage. Section IV will conclude by calling for the development of a roadmap for rights realisation and the introduction and development of a monitoring tool, by which progressive realisation can be measured and evaluated.

1. 2. The Constitutional Obligations of the State with regard to Social Security

The right to social security is one of several socio-economic rights guaranteed in the South African Constitution of 1996.[3] The inclusion of an extensive Bill of Rights in chapter two resulted in the Constitution being heralded as one of the most progressive Constitutions in the world. However, unlike other socio-economic rights, such as the right to education and children's rights, the realisation of the right to social security is subject to an internal limitation. Section 27 (1) (c) and section 27 (2) read:

> 'Everyone has the right to have access to…social security, including, if they are unable to support themselves and their dependents, appropriate social assistance.'[4]
>
> 'The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights'[5]

[2] Department of National Treasury – Budget Review 2012
[3] The Constitution of the Republic of South Africa, Act 108 of 1996. From now on referred to as the Constitution.
[4] See section 27(1)(c) of the constitution.
[5] See section 27(2) of the constitution.

The potential promise and dilemma contained in these constitutional clauses is evident. On the one hand the Constitution guarantees the right to social security to all and social assistance to those who cannot look after themselves or their dependants. This is a striking feature of the South African Constitution and singles it out as one of the most forward-looking constitutional documents with its promise of a comprehensive and universal social security system.

On the other hand, the provision of this right is dependent on the availability of resources. The Constitution acknowledges that the state's resources are limited. Nonetheless, if the state is only obliged to realise a right within its available resources, the realisation of the right will hinge on how much of the available resources are prioritised for the realisation of social security, compared to say spending on education, the economy or defence.

The key phrase is thus progressive realisation. In short, the Constitution guarantees the right to social security or social assistance and stipulates that the government has to move towards progressively achieving this outcome. The legal concept of progressive realisation is too complex to investigate in any detail in this paper. It suffices to note that the South African Constitutional Court in the Grootboom[6] case stated that progressive realisation entails that whilst the state might be unable to realise a right immediately due to limited resources it is nonetheless obliged to progressively improve accessibility both in terms of numbers of people accessing the right, as well as the range of people covered.[7] In addition, progressive realisation can also be seen as referring to improving the quality of the right being realised, rather than merely increasing the scope. Furthermore, 'the Constitutional Court has affirmed that section(s)...27 (1) imposes a negative duty on the state to "desist from preventing or impairing" access to the relevant rights.'[8] However, Sandra Liebenberg points out that whilst the state cannot 'deprive people of existing access to social security rights...it is still an open question whether such "negative" violations include a reduction in social security benefits...'.[9]

The second key term in section 27(2) of the Constitution requires the government to take reasonable legislative measures to achieve the realisation of the right to social security. The Constitutional Court has interpreted this to mean that it can assess 'whether the means chosen are reasonably capable of facilitating the realisation of the socio-economic rights in question.'[10] In other words, the Constitutional Court determines whether a policy is reasonable by assessing whether the policies in place can reasonably be expected to improve things and not whether a better or more desirable policy could have been adopted.[11] This is a distinction worth noting. The Constitutional Court developed the following standards for assessing whether a policy or programme can be said to be meeting the reasonable criterion:

- The programme must be comprehensive, coherent and coordinated;
- Appropriate financial and human resources must be made available for the programme.
- It must be balanced and flexible and make appropriate prevention for short, medium and long-term needs;
- It must be reasonably conceived and implemented; and
- It must be transparent, and its contents must be made known effectively to the public.[12]

The Constitutional Court rejected the idea of a minimum core obligation as put forward by the International Covenant on Economic, Social and Cultural Rights (ICESCR), which states that every government is obliged to - at the very least - achieve a minimum standard of each socio-economic right or be viewed as violating the covenant. The ICESCR also set very high barriers against claims of resource constraint for justifying the failure of meeting the

[6] Grootboom and Others v Government of the Republic of South Africa and Others - Constitutional Court Order (CCT38/00) [2000] ZACC 14 (21 September 2000).
[7] Grootboom and Others v Government of the Republic of South Africa and Others - Constitutional Court Order (CCT38/00) [2000] ZACC 14 (21 September 2000). Irene Grootboom and others made the case that the government had violated their right to housing by evicting them from their informal settlement.
[8] Liebenberg, 'The Judicial Enforcement of Social Security Rights', p. 76. See also Jaftha v Schoeman and Others; Van Rooyen v Stolz and Others 2005 (2) SA 140 (CC) CCT 74/03. This section of this paper draws heavily on the work of Sandra Liebenberg.
[9] Ibid., p. 77.
[10] Ibid., p. 78.
[11] Ibid., p. 78.
[12] Ibid., p. 79. Sandra Liebenberg compiled this list on the basis of standards set by the Court in the Grootboom and TAC cases.

minimum core obligation[13] and has thus largely removed the 'minimum core' from the caveat of progressive realisation, instead reframing it as an obligation to be met immediately by the state. The South African Constitutional Court rejected this concept because of the fact that (1) people's needs change over time and depend on their particular circumstances, (2) the Constitutional Court does not think itself equipped to define a minimum core, and (3) the Constitutional Court believes it impossible to immediately provide even a basic level of all socio-economic rights.[14]

Finally, the Constitution also obliges the state to 'protect, promote and fulfill the rights outlined in the Bill of Rights.'[15] The courts have played a crucial role in enforcing social security by 'highlighting the close links between social security and the foundational constitutional values of human dignity, equality and freedom' in their decisions.[16]

Nonetheless, the question remains what these constitutional obligations of the state mean in reality i.e. in the day to day policy making and deliberation process. The progressive realisation of the right to social security as outlined in the constitution would after all require the government to improve coverage and move towards a more inclusive social security system. Sandra Liebenberg concludes her review of the meaning of the constitutional right to social security by reflecting:

> ...the nature of the reasonableness review and the latitude afforded the State of "progressive realisation" and "within available resources" makes it unlikely that the Court will order social security reforms with far-reaching resource implications. This is particularly the case where the Court fears that the resource implications of its decisions may impact on the enjoyment of other rights. However, it may be possible to require from government at least a plan of action or strategy for the progressive realisation of socio-economic rights.[17]

In short, the constitution seemingly allows civil society to demand that government present a comprehensive programme for the realisation of social security, a road map towards rights fulfillment. However, even if the government were to develop such a road map it would be hard to assess, without an effective monitoring mechanism, whether actual structural progress is being made or whether we are merely seeing cosmetic improvements of individual grants.

> "The progressive realisation of the right to social security as outlined in the constitution would after all require the government to improve coverage and move towards a more inclusive social security system"

1. 3. The Socio-Economic Context of Social Security

Poverty and Inequality:

An effective social security system is of crucial importance for the future of South Africa. Whilst social security can never compensate for a lack of employment it can diminish some of the immediate hardships of unemployment. In short, it is both morally and politically desirable to have a system that eases poverty and allows government time to tackle the long term problems of structural unemployment and poverty. Under apartheid and the colonial regimes, policies were designed so as to deliberately ensure that the majority of the population was forced to work in low-skilled and poorly-paid jobs. The legacy of these regimes is that access to education, land, credit, running a business and saving money was determined by skin colour. This led to a situation in which patterns of exclusion and marginalisation emerged that were subsequently reproduced from one generation to the next, reinforcing themselves. The situation escalated even further when the demand for low skilled labour diminished as the South African economy shifted away from primary extraction and agriculture towards secondary and tertiary sectors which require better skilled workers.[18]

[13] CESCR, General Comment 3, 14 December 1990. In particularly, paragraph 10.
[14] Liebenberg, p. 78.
[15] Constitution, section 7 (2).
[16] Op.cit., p. 76
[17] Ibid., p. 82.
[18] Frye, Isobel, 'Poverty, Social Security and Civil Society in South Africa: Triangulating Transformation', Dec.2008, p. 8.

The effects of these long term discriminations are still felt today, as becomes evident when poverty figures from rural former Bantustan territories are examined. Today levels of poverty, inequality, unemployment and HIV/AIDS pose a serious social, economic and political challenge to the state and society at large.

The 2002 comprehensive analysis of poverty and social security in South Africa by the 'Committee of Inquiry into a Comprehensive System of Social Security for South Africa'[19] arrived at the following definition of poverty and inequality:

> Poverty is '…the inability of individuals, households or entire communities to command sufficient resources to satisfy a socially acceptable minimum standard of living'.[20]

> Inequality refers to the unequal benefits or opportunities of individuals or groups within society. Inequality applies both to economic and social aspects, and to conditions of opportunity and outcome. Social class, gender, ethnicity, and locality generally influence inequality.[21]

Poverty and inequality remain South Africa's greatest challenges in undoing the legacy of Apartheid and moving towards the transformation of our society. Poverty and inequality tend to particularly affect black Africans, in particular women and children. For historical and economic reasons it is more pronounced in rural areas.22 Between 1995 and 2008, inequality as measured by the Gini coefficient rose from 0.64 to 0.67[23] indicating that income inequality is only worsening.

Underemployment and Unemployment:

South Africa has an unemployment crisis and yet employment in both the formal or informal sector is no guarantee that people will be able to move out of poverty. In the third quarter of 2010, 50% of all employed people earned R2500 per month or less, with around 33% earning less than R1000 per month. In the informal sector, 66% of workers earned less than R1000 a month.[24] These people are hence particularly vulnerable and constitute the group of the so-called 'working poor'. It is of crucial importance to bear this in mind when discussing the priorities and impact of the social security system given the inherent hard choices that have to be made between competing interests.[25]

The official unemployment rate is currently around 25.2% (See table 1 below). However, this figure does not include discouraged work seekers.[26] If they were also counted as unemployed[27], the unemployment rate would be significantly higher. In the first quarter of 2013, of the 15,017,000 economically inactive[28], 2,257,000 were discouraged work seekers. If this figure is added to the unemployment figure of 4,601,000 a more comprehensive unemployment estimate might be that of 6,858,000 unemployed South Africans, i.e 37.6%. The problem of discouraged work seekers should be tackled, rather than obscured by the current methodology for calculating unemployment figures.

[19] The Report of the Committee of Inquiry into a Comprehensive System of Social Security for South Africa, Transforming the Present – Protecting the Future, March 2002. Hereafter referred to as the Taylor Committee Report. The report will be discussed in more detail in section II of this paper.
[20] Taylor Committee Report, p. 15.
[21] Taylor Committee Report, p. 16.
[22] Mpedi, Lethlhokwa, George 'Pertinent Social Security Issues in South Africa', Socio-Economic Rights Project, Community Law Centre, University of the Western Cape, 2008, p. 2.
[23] The Gini coefficient is a ration in which 0 signifies total equality and 1 total inequality. South Africa: Country Brief, World Bank. Available at http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/SOUTHAFRICAEXTN/0,,menu PK:368086~pagePK:141132~piPK:141107~theSitePK:368057,00.html.
[24] The New Growth path, Executive summary, 2010, p. 3
[25] Social Security Briefing paper for the National Planning Commission, April 2011, www.spii.org.za, p. 5
[26] The Quarterly Labour Force Survey of 2013 conducted by StatsSa defines discouraged work seekers as follows: '…a person who was not employed during the reference period, wanted to work, was available to work/start a business but did not take active steps to find work during the last four weeks, provided that the main reason given for not seeking work was any of the following: no jobs available in the area; unable to find work requiring his/her skills; lost hope of finding any kind of work.
[27] The Quarterly Labour Force Survey of 2013 defines "unemployed" as follows: 'Unemployed persons are those (aged 15–64 years) who: a) Were not employed in the reference week and; b) Actively looked for work or tried to start a business in the four weeks preceding the survey interview and; c) Were available for work, i.e. would have been able to start work or a business in the reference week or; d) Had not actively looked for work in the past four weeks but had a job or business to start at a definite date in the future and were available.
[28] The Quarterly Labour Force Survey of 2013 conducted by StatsSa defines economically inactive as follows: 'Persons aged 15–64 years who are neither employed nor unemployed in the reference week.'

Table 1: Characteristics of the Labour Force[29]

	Jan - Mar 2013(in thousands)	Jan - Mar 2013 (in thousands)	Year-on-Year Change (in thousands)
Population aged 15-64	**32 786**	**33 240**	**454**
Labour Force	17 948	18 222	274
Employed	13 422	13 621	199
Unemployed	4 526	4 601	75
Not economically active	14 838	15 017	179
Rates in %			
Unemployment rate	25.2	25.2	0.0
Employed/Population ratio (absorption)	40.9	41.0	0.1
Labour force participation rate	54.7	54.8	0.1

Another worrying fact is that between January and March 2013, 12,524,000 of the15,017,000 economically inactive were black Africans, i.e. 83.4% of the economically inactive were black Africans. This is 48 % of all black Africans between the age of 15 and 64.[30] Youth unemployment presents a further crisis. In the first quarter of 2013, 1 402 000 15-24 year olds were unemployed, with an additional 1 849 000 25-34 year olds unemployed for the same period.[31] As no grant targets the unemployed of working age, it is fair to say that they will be living in stark poverty, in a best case scenario benefitting from a grant paid to another member of their household.

[29] Quarterly Labour Force Survey, Quarter 1, 2013 , p. 2.
[30] Ibid., p.4.
[31] Quarterly Labour Force Survey, Quarter 1, 2013, p. 36

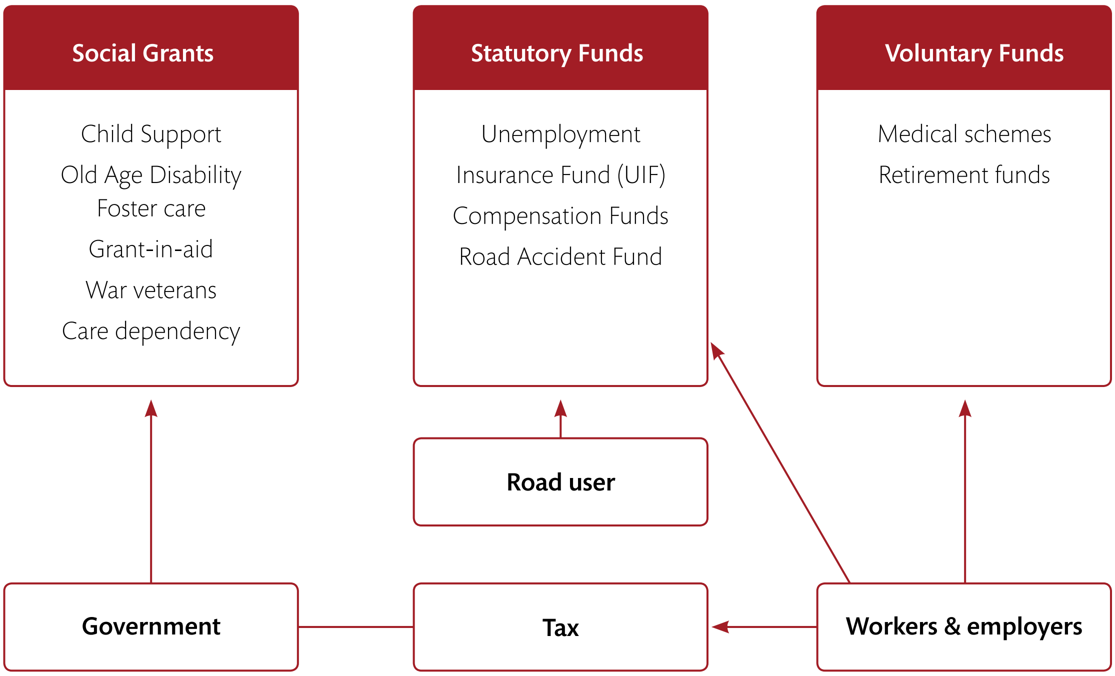
Chapter 2

The Development of Social Security Policy

Social security in South Africa is a two-pillar system made up of a state revenue funded social assistance programme (the redistribution through - grants concept) and a contributory social insurance (the insurance concept). Social grants are classified into Old Age Grant (OAG), War Veteran's Grant (WVG), Disability Grant (DG), Grant in Aid (GIA), Foster Child Grant (FCG), Care Dependency Grant (CDG), and Child Support Grant (CSG). In addition, people can apply for the Social Relief of Distress Grant (SROD) for a limited period of time when in an unforeseen and dire situation. Whether an applicant is eligible for receiving a grant is determined by the South African Social Security Agency (SASSA) on the basis of a means and income test in accordance with set regulations.

Since 2006, SASSA has been in charge of centrally administrating social assistance. The CEO of SASSA reports to the Minister of Social Development, whose department is responsible for monitoring SASSA and for developing policy in respect of social assistance. The state is also responsible for managing the three primary social insurance funds, the Unemployment Insurance Fund (UIF), the Compensation Funds, and the Road Accident Fund (RAF). In addition, the state regulates and provides tax incentives for voluntary – non mandatory - saving and insurance schemes offered by private companies in order to take pressure off the social insurance scheme. As mentioned in the introduction, this paper will mostly focus on social assistance as social insurance can, by definition, merely play a small role in a country where unemployment is high and contributions to social insurance are restricted to small parts of the working population. Ongoing debates around restructuring social insurance will also be discussed in section II. 1.

Figure 1: Structure of Social Security in South Africa



When designing or reforming a social security system, a number of questions need to be answered which will, in turn, inform the policy debate: in respect of social insurance, should contributions be voluntary or mandatory, what range of risks should be covered and ought the state subsidise the social insurance schemes. And in respect of social assistance, i.e. grants, should it be universal or targeted, should they be cash or in-kind payments and should they be conditional or unconditional. The answers to these questions shape a country's social security system and have, in the past, informed the debate on social security in South Africa. The answers given to these questions will reflect the values of the dominant voices in society and will shape a country's attitude towards the issue of solidarity. In short, design questions not only determine the way the system operates, but also what the system is expected to achieve i.e. alleviating poverty or abolishing poverty, providing a basic notion of monetary support tied to certain conditions or unconditional monetary support etc.

The main legislative and policy instruments governing social security:

The Pensions Fund Act of 1956 (in its amended form)

The Compensation for Occupational Illness and Diseases Act of 1993 (COIDA)

The Constitution of the Republic of South Africa of 1996

The Road Accident Fund of 1996

The Medical schemes Act of 1998

The Unemployment Insurance Act of 2001

The Social Assistance Act of 2004 and its amendments and regulations

The South African Social Assistance Agency Act of 2004

"The answers to these questions shape a country's social security system and have, in the past, informed the debate on social security in South Africa"

2. 1. Social Insurance Schemes

Social insurance or occupational insurance, as it is sometimes called, protects employees and their dependents against a possible fall in income. Further contingencies covered include pension funds, medical benefits, maternity leave, illness, disability, employment injury benefits, family benefits and survivor's benefits. Both employees and employers contribute according to an agreed percentage rate which is tied to wages. However, these contributory social insurance schemes can pose a significant challenge to those employees earning low wages.[32] In addition, occupational retirement insurance only covers those employed in the formal economy, thereby de facto excluding many of the poor unskilled workers.[33] As social insurance is not the main area of focus of this paper, the three main funds, the Unemployment Insurance Fund, the Compensation Funds and the Road Accident Fund, will merely be discussed briefly at this point.

The Unemployment Insurance Fund (UIF)

The Unemployment Insurance Act 63 of 2001 lays the basis for the UIF. Its aim is to protect contributing workers against the risk of unemployment, illness, maternity, adoption of a child and death. In 2003, previously excluded people such as domestic workers and seasonal workers gained coverage. At the same time, this amendment also excluded claims from people who had resigned from work, for whatever reason, and it also eliminated the obligation on the state to provide for labour market activation strategies for unemployed workers. However, the definition of "employee" under the Act excludes other categories of vulnerable workers such as persons defined as independent contractors who may in fact be in an employment-type relationship and casual workers "employed for less than 24 hours a month with a particular employer.[34]

[32] Triegaardt, Jean, D., 'Accomplishment and challenges for partnerships in development in the transformation of social security in South Africa', Development Bank of Southern Africa (DBSA), Research Papers, 2009, p. 3.
[33] Ibid., p. 3.
[34] Liebenberg, Sandra, 'The Judicial Enforcement of Social Security Rights in South Africa', p. 72.

In short, the UIF only covers certain parts of the labour force, and its cover does not extend to the informal sector. Another key shortcoming of the UIF is that it merely covers temporary unemployment of up to six months.

The Unemployment Insurance Fund (UIF) provides short-term unemployment insurance to qualifying workers. It is financed by the contributions worth 2 per cent of workers' salaries up to a prescribed ceiling. Contributions are divided between employers and employees. The UIF paid benefits of 5.6 billion to 706 000 people in 2011/12.[35]

The necessity for a policy debate around the UIF is summarised adequately in the 2010 Budget:

> Although the UIF coverage includes all employees other than civil servants, its benefit payments reach only about 5 per cent of the 4.2 million unemployed, which highlights the importance of addressing structural unemployment while broadening social insurance [36]

This illustrates that government is aware of this shortcoming. As a result the UIF's Training of the Unemployed Scheme aims to train the fund's beneficiaries to improve their chances of being reintegrated back into the labour market. The Fund has signed funding agreements to the value of R129 million with the Mining Qualifications Authority (MQA) and the Manufacturing, Engineering and Related Services SETA (merSETA) to train 1000 and 1500 artisans respectively. A sum of R5.5 million has already been paid for 2013 to the various projects based on their withdrawal condition.[37]

Compensation for Occupational Illness and Diseases Fund (Compensation Funds)

The Compensation Funds provide medical care or benefits to workers who are injured whilst at work or become ill due to their work, including funding for rehabilitation of disabled workers. These funds also pay benefits to the families of workers who die on the job. Contribution to these funds is mandatory in the formal economy. The Compensation for Occupational Injuries and Diseases Act (COIDA), Act no. 130 of 1993 lays the foundation for these funds. The Compensation Fund derives its revenue from levies paid by employers on the basis of the annual earnings of their employees. The fund registered 215 493 claims during 2010/11, of which 144 081 were finalised. The remaining 33 per cent are claims where the medical condition of the employee has not yet stabilised, and will only be assessed in the next financial year. Fewer payments were made in 2010/11 (329 091 compared with 340 159 in 2009/10), but the rand value of claims was 4 per cent higher at R802 million. Over the past few years, the Compensation Fund has shortened turnaround time for benefit claims,[38] however administrative difficulties persist with reforms for consolidation and modernization of the administration of the social security funds under way.[39]

There are four main Compensation Funds. Two are run by the government and two by private firms licensed by the Compensation Commissioner:[40]

1. The Compensation Fund (administered by the Department of Labour) covers employees outside the mining and construction sector.
2. The Mines and Works Compensation Fund (administered by the Department of Health) compensates miners and former miners who have contracted lung related diseases. The administration of this fund has proven problematic in the past, but backlogs in processing claims and administrative problems are being tackled.
3. The Rand Mutual Association provides injury cover for workers in the mining industry.
4. The Federated Employers' Mutual Assurance covers workers injured in the construction industry.

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[35] Budget Review, 2013, p. 92
[36] 2010 Budget, p.107
[37] Unemployment Insurance Fund Annual Report, 2011/12, p. 9
[38] Budget, 2012
[39] Budget, 2013, p. 92-93
[40] 2010 Budget, p. 109

Road Accident Fund (RAF)

The road accident fund (RAF) provides compensation for loss of earnings, general damages, and medical and funeral costs to victims of road accidents. The RAF is funded from a dedicated fuel levy collected by the South African Revenue Service. Since 2005, the level of compensation has been capped with respect to income and support. In addition, compensation for pain and suffering is now reserved to individuals who are seriously injured. These changes were upheld by the North Gauteng High Court in March 2010.[41] In the past there have been problems with over proportionally large sums being claimed from the fund, which has led to liquidity and solvency problems. It is hoped that the recent amendments will put the RAF on a more stable financial footing. Nonetheless, spending is set to increase yet again this year, with liabilities reaching R57.4billion.[42] Liquidity problems have been addressed through cash transfers from the fiscus and an increase of the fuel levy of 8c to 88c/l on 1 April 2012.

In addition, the Department of Transport has been looking into changing the RAF into a no-fault benefit scheme.[43] This would allow for the creation of a sustainable social insurance system, tackle the RAF's growing liabilities and spell out the supplementary role of personal accident and life insurance.[44] Proposals have been approved for public consultation, and legislation is set to be tabled in Parliament this year.[45]

Private retirement provisions

Under the Pension Fund Act a pension or provident funds[46] are set up to provide an income to a person on retirement or income to their dependants if the member dies. Pension and provident funds are contributory social security arrangements which are primarily self-funded and focus primarily on income-earning households. When a member dies his or her dependants will receive the benefit from a pension or provident fund. The difference between a pension and provident fund is that a pension fund pays a third lump sum of the benefit at retirement and the remaining two thirds of the benefit are paid out over the beneficiary's lifetime. A provident fund pays its retirement benefits as a lump sum cash benefit at retirement. Employees have the right to request an annual benefit statement from your employer at least once a year to see if your employer is making the proper deductions every month and paying it over to the fund. The beneficiary has the right to complain to the Pension Funds Adjudicator (PFA) if they have any problems with your contributions or claiming of your benefit. The payments received depend on the rules of the fund.

It is true that the different risk benefits are fragmented across schemes that include COIDA, UIF, RAF and a range of retirement provisions. The alignment of benefits and an improved administration mechanism to improve benefits and administrative efficiency is required.

Private health insurance

Medical schemes are by far the largest financing intermediaries in South Africa – they account for nearly 46% of all health care expenditure. Provincial health departments spend about 38% of all health care funds while out-of-pocket contributes 14% of all health care expenditure. The majority of funds from the public sector are funded through nationally collected general tax and other revenues while those from the private sector and out-of-pocket are generally attributable to households. South Africa certainly inherited a highly fragmented health system with wide disparities between blacks and whites, urban and rural populations, between provinces, and between public and private care.

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[41] Media Release by the Road Accident Fund on 31. March 2010. Available at: www.raf.co.za.
[42] Budget, 2013
[43] Department of Transport – Strategy for the Restructuring of the Road Accident Fund, 8 September 2006.
[44] 2010 Budget, p. 110.
[45] 2013 Budget, p. 92
[46] In 2008 about 14 000 funds were registered with the Financial Services Board and 300 benefit administrators

> The exclusion of blacks was predicated on the "civilised labour" view that people accustomed to modern lifestyles and consumption patterns had greater need of social protection than those in rural subsistence agriculture, who were not proletarianised and were thus presumed to be better placed to meet traditional subsistence needs

Transformation efforts over the past decade have clearly not done enough to address these growing inequalities. With this backdrop, the National Health Insurance (NHI) scheme is a promising development. The NHI which is currently being piloted in 10 selected districts aims to be a comprehensive financing system that is aimed at providing essential, efficient and quality healthcare to all citizens of South Africa, regardless of their employment status, socio-economic background and ability to make direct contributions to the NHI fund. However, challenges around its proposed implementation and success are widely contested.

2. 2. Social Assistance

The following section will firstly provide a review of the development of social assistance up to 1992. Secondly, it will conduct a discourse analysis of the policy development around social security. This analysis is embedded in a review of the wider debates around fiscal policy in South Africa which have continuously influenced the development of legislation governing social security.

2. 2. 1. Social Assistance up till 1992[47]

A brief sketch of social assistance until 1992 is important in order to understand how a system emerged that gives broad coverage to children and the old, whilst providing no direct coverage for working age adults.

This system of targeted social assistance towards vulnerable groups in society is also referred to as the coverage of the 'deserving poor' and dates back to Victorian models of social welfare. In South Africa, its roots lie in the fact that the system was set up and designed to target those parts of the white population who despite preferential treatment in education and employment might find themselves in need of social assistance i.e. the young, the old and people living with disabilities.

In South Africa, the idea of providing pro-poor relief dates back to activities by the Dutch Reformed Church in 1657.[48] With the advent of industrialisation and urbanisation in the wake of the opening of mines, the demand for a national welfare system grew.[49] Social pensions were first introduced in 1928 for those Whites and Coloureds not covered by occupational pension schemes, which had been introduced in the 1920s.[50] As Servaas van der Berg explains:

> The exclusion of blacks was predicated on the "civilised labour" view that people accustomed to modern lifestyles and consumption patterns had greater need of social protection than those in rural subsistence agriculture, who were not proletarianised and were thus presumed to be better placed to meet traditional subsistence needs.[51]

[47] As this section is technically outside the scope of this paper it will be kept very brief. For a more detailed analysis of the development of social assistance up till 1992 please see (for example) van der Berg, Servaas, 'South African Social Security under Apartheid and beyond', Development South Africa, vol. 14, no. 4, 1997, pp. 481-503.
[48] Brown, Marquessa, Neku, R. J., 'A historical review of the South African social welfare system and social work practitioners' views on its current status', International Social Work, vol. 48, no. 3, 2005, p. 301.
[49] Patel, L., Restructuring Social Welfare: Options for South Africa, Raven Press, Johannesburg, 1992 as cited in Brown, Neku, 'A historical Review of the South African Social Welfare System', p. 302.
[50] Visser, Wessel, '"Shifting RDP into Gear". The ANC government's dilemma in providing an equitable system of social security for the "new" South Africa', Paper presented at the 40th ITH Linzer Konferenz, 17 September 2004, p. 2.
[51] Van der Berg, Servaas, 'South African Social Security under Apartheid and beyond', p. 486.

From the beginning, means tests and age requirements were used to target the neediest. Few whites claimed social pensions because most of them had well-paid jobs and were thus covered by occupational insurance and not reliant on state support despite the very generous means tests for the white population. In a 1994 review of social security the Social Security Committee concluded that:

> In 1943, take-up rates amongst the elderly 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 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 of Whites and the means test was far more stringent. By 1958, Blacks already composed 60 per cent of the 347 000 social old-age pensioners, although they only received 19 per cent of old-age pension spending.[52]

By 1939, the so called "poor white problem", which had first led to forms of social security emerging in the 19th century had de facto been eliminated. This was achieved through various laws ensuring preferential treatment and the creation of a so called "civilised labour policy" for whites as part of the 1925 Wage Act. This de facto established a minimum income for whites, as well as providing an employment guarantee.[53] A grant for the blind was created in 1936 and a disability grant in 1937. These grants were extended to cover non-whites in 1946. A war veteran grant was set up in 1941, as well as allowances for large poor families in 1947. Both of these grants were available to Whites only.[54]

Under apartheid, the government used social security to ensure electoral support by whites. In the run up to elections, salaries increased and improvements in social security was used to rally electoral support.[55] In the 1950s, the responsibility for social welfare for Black Africans and Coloureds was transferred from the Department of Social Welfare to the Department of Bantu Administration and the Department of Coloured Affairs. In 1961, an additional Department of Indian Affairs was created, which allowed the apartheid regime to develop a social security system of significantly different standards of coverage for different parts of the population, both in terms of value of the grants and grants that can be accessed.[56] In particular, the state maintenance grant was a mechanism for the apartheid regime to secure support from the Coloured population. The Lund Committee found that for a variety of reasons Black African women and their children were largely excluded from access to this grant as it wasn't administered by most homelands and so called 'independent states.'[57] Using social assistance to ensure electoral support is thus a phenomenon that can be traced throughout the course of South African history and can be argued to continue to exist today in the form of patronage spending.

The rationale for moving towards equality in social assistance in the late 1970s and early 1980s came as a result of attempts by the apartheid government to give the homeland system and the three-chamber parliament[58] political legitimacy.[59]

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[52] Social Security Committee, 1994 and Van der Merwe, 1996 as cited in van der Berg, Servaas, 'South African Social Security under Apartheid and beyond', p. 487.

[53] This development emerged as a result of the industrial conflicts during the 1920s and the resulting alliance between organised labour and the Afrikaner Nationalist Party. For more on this and on the impact of the Carnagie Commission of Inquiry see: Visser, Wessel, '"Shifting RDP into Gear"', p. 2-3.

[54] Van der Berg, Servaas, 'South African Social Security under Apartheid and beyond', p. 487.

[55] Visser, Wessel, '"Shifting RDP into Gear"', p. 4.

[56] Brown, Neku, 'A historical Review of the South African Social Welfare System', p. 303 and Visser, Wessel, '"Shifting RDP into Gear"', p. 4.

[57] Report of the Lund Committee on Child and Family Support, 1996, executive summary.

[58] The three chamber parliamentary system was established in 1983, with the first elections taking place in 1984. The idea was to give representation, albeit no political power, to the coloured and Indian population. African's were excluded from this process with reference to the fact that they already exercised political rights in the homelands. The reforms also included a strengthening of the executive, through the abolition of the post of Prime Minister and the creation of a strengthened president, now called the executive State President, who functioned as head of government and state. The rationale driving these reforms was an attempt by the apartheid regime to create a veneer of legitimacy for its political system. For more details on this please see: http://www.sahistory.org.za/pages/library-resources/official%20docs/tricameral-parliament.htm.

[59] Van der Berg, Servaas, 'South African Social Security under Apartheid and beyond', p. 487.

As a result spending on social security in the homelands increased, both in terms of number of grants accessed and the value of grants, leading to nearly twice as many African recipients of old age grants in the homelands as outside by 1993.[60] The flow of grants to the Coloured and Indian population also increased, but due to their smaller number the financial cost of incorporation was much lower than for the Black African population.[61]

However, the Lund Committee found that problems with access to grants and the delivery of grants continued to exist, particularly in the homelands.

- Coloureds, Indians and Whites received payments monthly and Blacks were given their allowance every second month;
- Coloureds, Indians and Whites were paid by cheque through the post office and Blacks were paid in cash at various mobile sites, such as schools, under trees or in stores;
- Pensions, for the minority were payable from the date of application, while those of the Black majority were payable from the date of approval.[62]

The move towards increased equality in the 1970s led to a significant increase in spending, despite the value of social pensions for Whites being decreased from more than 30% of the average wage in 1980 (Black African social pensions were 8.6% of average wage) to parity in pension benefits by 1993 at a level of 15.5% of the average wage.[63] The government found it relatively easy to cut the value of the state pension for Whites as their numbers were few and they represented a politically marginalised group of voters.[64]

Even though assented to in 1992, the Social Assistance Act of 1992 only came into force in 1996. This is notable as it illustrates that the post-apartheid document guiding social assistance was passed before the promulgation of the new constitution, which spells out the government's obligation with regard to social security. This act formally removed racial discrimination in social assistance provisions and led to a huge increase in recipients. In addition, it marks the point in time when social assistance and not social insurance became the branch of social security reaching by far the largest proportion of the South African population. Wessel Visser describes the outcome of this process as follows:

> Under white minority rule during the twentieth century a South African social security system was established along the lines of early social security in Western Europe, where it evolved mainly as social insurance, first for the industrial workforce and later for the whole population...The expansion of this system to other groups ironically put South Africa in the uncommon situation of being a semi- industrial country with the trappings of a modern welfare state, the core of which is the provision of a basic pension for everyone in need.[65]

The development of social security until 1992 thus highlights two facts: firstly, social security emerged in South Africa around labour. This is no longer a satisfactory way of thinking about social security in South Africa given the structural unemployment figures. This also means that ideas on social security imported from Europe and elsewhere will be hard to apply. In addition, the debate in South Africa has largely ignored reforms of social security in Europe, in particular the expansion of social insurance.

Secondly, whilst it is of crucial importance to push for increased coverage of social assistance in South Africa, it is also necessary to bear in mind that it is a middle- income country and it is thus necessary to measure achievements in social security accordingly. For example, comparing progress in social security reform in South Africa with that in other middle-income countries can provide a realistic level of expectation of what governments can do. This can then be used as a yardstick against which to measure policy achievements at home.

[60] Ibid., p. 487.
[61] Ibid., p. 487.
[62] Finding from the Lund Committee Report in 1992 as cited in Brown and Neku, 'A historical Review of the South African Social Welfare System', p. 303.
[63] Op.cit., p.488.
[64] Visser, Wessel, '"Shifting RDP into Gear"', p. 5.
[65] Ibid., p. 1.

2. 2. 2. Policy Development since 1994

In order to understand the policy development on social assistance through the Social Assistance Act of 1992, the White Paper for Social Welfare of 1997, the Social Assistance Act of 2004 and the South African Social Security Agency Act of 2004, it is necessary to contextualise it in the wider policy debates taking place in South Africa during this time. In particular the shift from the Reconstruction and Development Programme (RDP) to the Growth, Employment and Redistribution (GEAR) Plan in 1996. Debates around social assistance have always been shaped by fiscal and poverty considerations. An analysis of policy development that fails to highlight the influence of these two factors on the development of social assistance since 1994 would provide an incomplete picture.

RDP, 1994

The RDP in its original version spelled out a vision for a new democratic South Africa in which people would be granted access to services, and thus been abled to take part in society. The driving rationale was growth through redistribution. The idea was to significantly increase spending on service provisions and create jobs, thereby tackling marginalisation, inequality and unemployment. The approach was both people-centred and people-driven.[66] The Tripartite Alliance made up of the African National Congress (ANC), the Congress of South African Trade Unions (COSATU) and the South African Communist Party (SACP) expected that economic growth through fiscal spending and deliberate redistribution would alleviate poverty. The RDP envisioned that local demand would eventually stimulate growth. The driving rationale was the creation of jobs and the improved delivery of services. The focus in the early post-apartheid era did not rely on expanding cash transfers as a redistributive mechanism per se, but on restructuring the state and bringing people into jobs. Naturally, the RDP also contained an affirmative action message to address historical discrimination and emphasized the delivery of services. Ultimately, however, it was believed that people would be brought into employment and that this, rather than grants, was the way to overcome poverty.[67]

"The driving rationale was the creation of jobs and the improved delivery of services. The focus in the early post-apartheid era did not rely on expanding cash transfers as a redistributive mechanism per se, but on restructuring the state and bringing people into jobs"

Unlike the section on housing, the section on welfare did not contain specific targets, such as increasing the number of beneficiaries by a specific number.[68] Wessler Visser points out that insofar as the RDP's primary goal '...was to meet the basic needs of people... [it constituted] an extended wish list in which the homeless, landless, workers, and even international bankers could take equal comfort.'[69] However, economic growth rates did not meet expectations of 4-6% growth per annum. Competition between ministers over budget allocation undermined the government's ability to implement the RDP, even though most of the funding for the RDP actually came from international donors on a project basis. The publication of the RDP White paper in 1994 further undermined the initial rationale guiding the RDP by focusing on fiscal prudence. This resulted in less attention being paid to meeting basic needs and redistribution through poverty alleviating measures.[70]

GEAR, 1996

The unilateral adoption of the Growth, Employment, and Redistribution (GEAR) Plan by the ANC government in 1996 marked a departure from the previously practiced negotiations within the alliance and civil society structures, and resulted in a policy of fiscal austerity. GEAR was adopted at a time when South Africa was facing a currency crisis and the aim was to reassure domestic and foreign investors by pursuing a conservative macro-economic strategy.[71] The new emphasis on cutting the national budget deficit led to a general disillusionment with the government and its ability to deliver social services. 'Growth through

[66] The Reconstruction and Development Programme of 1994. Available at: www.anc.org.za.The RDP White Paper of 1994 considerably cut the original version of the section on social security and merely contains 4 paragraphs on social welfare in general promising to improve social security without presenting concrete goals.
[67] Brown, Neku, 'A historical Review of the South African Social Welfare System', p. 304.
[68] Makino, Kumiko, 'Social Security policy Reform in Post-Apartheid South Africa: A Focus on the Basic Income Grant', Centre for Civil Society, Durban, 2004, p. 10.
[69] Visser, Wessel, '"Shifting RDP into Gear"', p. 7.
[70] Terreblanche, 2003, as cited in Visser, Wessel, '"Shifting RDP into Gear"', p. 8. The RDP white paper is available on www.anc org.za.
[71] Visser, Wessel, '"Shifting RDP into Gear"', p.

redistribution' was replaced by 'redistribution through growth'.[72] GEAR no longer placed the emphasis on government changing things for the better, but on market forces solving the existing problems. Or as Wessel Visser put it:

> 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.[73]

As a result opinion in society started to shift - especially on the left, - in particular, it was no longer expected that the government could or truly wanted to deliver on the principles of the RDP. Hence, cash transfers were identified as something the government could do in order to alleviate poverty and deliver on its constitutional obligations with regard to social security. GEAR thus marks the beginning of the period in which CSOs and others started to focus on working towards increasing cash transfers, as this was identified as the only thing that government could actually be expected to deliver on.

The White Paper for Social Welfare, 1997 and the Report of the Lund Committee on Child and Family Support, 1996

The draft White Paper for Social Welfare of 1995 and the adopted version of 1997 reflect the ideas contained in the RDP. It was drafted on the basis of discussions with different sectors within South African society. In keeping with the RDP, the idea was to create a social security system that would support individuals in their attempts to improve their personal position and participate in and contribute to the forthcoming period of growth and development. This emphasized the importance of creating human capacities and the concept of developmental social welfare.[74] As the then Ministry for Welfare and Development put it in 1997:

> The main feature of developmental social welfare was that social development and economic development were interdependent and mutually reinforcing..."the developmental approach is less concerned with transferring resources from the productive economy to social welfare services than with ensuring that social policies contribute to development." This approach was exemplified by the flagship programmes for unemployed women with children under the age of five, which aimed "to help women become economically productive by giving them skills to enter the workforce or go to work themselves" while looking at "the developmental needs of young children to ensure they have every chance to grow into productive citizens and reduce problems they may experience later in life". [75]

After criticism from COSATU the final version of the White Paper eventually incorporated a commitment to establishing comprehensive social security policy and legislation.[76] This commitment in the White Paper marks the first attempt to reform the social security system, as the 1992 Social Assistance Act had merely eliminated racial discrimination, but left the old system in place.

The report of the Lund Committee examined the State Maintenance Grant, whose distribution was heavily skewed along racial lines:

In 1990, in the total population about 8 of every 1 000 children between 0 and 17 were in receipt of the grant. However, Coloured and Indian people received a disproportionately high number of the benefits - 48 and 40 per 1 000 Coloured and Indian children respectively. The 15 per 1 000 White children remains quite high given white standards of living. It is the approximately 2 grants per 1 000 African children which shows the extremely inequitable nature of the State Maintenance Grants in the early 1990s.[77]

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[72] Ibid., p. 9.
[73] Terreblanche, 1999, as cited in Visser, Wessel, "'Shifting RDP into Gear'", p. 9.
[74] Visser, Wessel, "'Shifting RDP into Gear'", p. 7.
[75] Ministry of Welfare and Development, 1997 and Midgley, 1996, as cited in Makino, Kumiko, 'Social Security policy Reform in Post-Apartheid South Africa ', pp. 10-11.
[76] Makino, Kumiko, 'Social Security policy Reform in Post-Apartheid South Africa', p. 11.
[77] Report of the Lund Committee on Child and Family Support, 1997, chapter. 1.

As a result the cost of expanding the state maintenance grant to all eligible individuals would have increased spending from around R1 billion to roughly R5-R20 billion. The broad range of estimates can be explained by the different assumptions underlying the costing simulations.

> If one compares the take-up of such grants amongst Coloured people to that amongst Africans, a gap of about 25 to one would indicate that perhaps R5 billion would have to be spent per annum in addition to the present approximately R1 billion, to reach all equally. Much higher estimates have been obtained using survey data and estimating from that who could be eligible, rather than only applying the Coloured take-up rates; one study done for the Committee (Haarmann and Haarmann, 1996) estimated it would take more than R20 billion to close the gap.[78]

The committee therefore suggested phasing out the state maintenance grant and replacing it with a flat-rate child support grant of a significantly reduced value. As a mechanism for containing the cost of the new programme the committee envisioned that the number of years a child was eligible could be adjusted depending on the uptake. Under the influence of GEAR the committee felt it necessary to choose between awarding the grant to a large number of children, and awarding a grant of a higher value to fewer children. The Lund Committee maintained that welfare policy should not place too much focus on job creation as a mechanism for improving living conditions, but must focus on meeting certain needs and empowering people to help themselves.

> "...the developmental approach is less concerned with transferring resources from the productive economy to social welfare services than with ensuring that social policies contribute to development"

The proposed new child support grant was to be a "conditional cash transfer" in as far as the committee envisioned that it would be tied to growth monitoring and immunisation of children. The committee also considered other mechanisms for tackling child poverty such as creating job opportunities for mothers and in-kind cash transfers. It was eventually decided that conditional cash transfers were by far the most efficient option – both easy to implement and therefore guaranteeing success. Another proposal by the committee was that the grant should exclusively be transferred to the child's care giver through a bank or post office. The committee acknowledged that this would require people in rural areas to travel in order to access their money but had the benefits of efficient and transparent delivery of grants and providing women in rural areas access to the banking system. Aside from financial considerations, this new grant also took the changed family structures into consideration. The grant would be payable to the primary care-giver of a child, subject to a means test. The committee also recommended that the foster child grant and the care dependency grants be continued as they provided crucial support for children in specifically challenging circumstances.

The child support grant was eventually launched in 1998, albeit at a higher value (R100 for each child younger than 7) than initially envisioned by the Lund Committee, following massive protests by CSOs at public parliamentary hearings.

The Committee of Inquiry into a Comprehensive Social Security for South Africa (Taylor Committee), 2002

The Taylor Committee Report seems to have informed all of the recent changes in the social security system. Although it was never formally adopted its proposal to centralise the administration of social assistance and to create the South African Social Security Agency (SASSA) was cast into law in 2004 (see below).

One of the key proposals of the committee was to introduce a basic income grant (BIG), as a means of providing social security to all and alleviating poverty. The BIG was called for in order to overcome the fact that the UIF covered less than 40% of the labour force and merely 6% of the unemployed.[79] The BIG would thus function as a mechanism to include the unemployed and those working in the informal economy in the social security system.

[78] Lund Committee, p. 16.
[79] Taylor Committee Report, p. 9.

The idea of creating a basic income grant as part of a comprehensive social security system actually pre-dates the Taylor Committee. It emerged during the Presidential Jobs Summit in 1998 on the back of research commissioned by COSATU that found that over 13.8 million South Africans in the poorest half of the population benefited neither directly nor indirectly from social security.[80] This resulted in an investigation of policy options for a "comprehensive social security". In March 2000, the Cabinet approved the setting up of a ministerial committee chaired by Prof. Viviene Taylor, who was a special advisor to the Minister for Social Development.[81]

The Taylor Committee adopted the idea of "Comprehensive Social Protection" as better suited for a developing country than the employment-centred concept of social security. The underlying rationale was to 'seek 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.'[82] The committee composed a "Comprehensive Social Protection Package" that was to consist of measures addressing income poverty (social grants), capability poverty (healthcare, education, water and sanitation, transport, housing, access to jobs and skills), asset poverty (land, credit, and infrastructure) and special needs (disability and child support).[83]

The committee departed from existing thinking on social security by focusing on income poverty first. This was done for two reasons: firstly, the committee found that people were too poor to buy transport, food or basic clothing.[84] And secondly, the state could tackle income poverty in the short run, whilst asset and capability poverty could only be tackled in the medium to long term. The committee also viewed the BIG as a way for the state to '...buy time for the progressive realisation of its other socio-economic rights if it improved income transfers to the poor in the short term'.[85] This quote also illustrates the committee's awareness of the implications of the Grootboom and Treatment Action Campaign (TAC) decisions by the Constitutional Court.[86] As a first step, the committee proposed extending the age at which children stop receiving the CSG from 7 to 18 years by 2004 and as a second step the gradual introduction of the BIG.

The government rejected the BIG on the grounds that it would be too expensive. The fact that taxes for the rich were cut at the same time as the BIG was being rejected caused a lot of anger amongst CSOs, including the People's Budget Coalition. It seems more likely that the government rejected the proposals made by the Taylor Committee for more ideological reasons. In line with policy developments discussed above, the government argued that people should benefit from the rewards of work and only the young, disabled or old should depend on grants. Furthermore, the alleged move towards a dependency culture was cited in many official comments on the prospect of adopting the BIG.[87] Despite the ANC's obvious lack of enthusiasm for the BIG which became evident during its National Conference in 2002, the cabinet postponed its final decision on the BIG due to mounting pressure from the newly formed BIG coalition.[88] The ANC National Conference came out in favour of investigating extending the child support grant beyond the age of seven.

[80] Makino, Kumiko, 'Social Security policy Reform in Post-Apartheid South Africa', pp. 14-15.
[81] Ibid., p. 16.
[82] Op.cit., pp. 40-41
[83] Ibid., p. 41-43
[84] Ibid., p. 56.
[85] Ibid., p. 43.
[86] See the discussion in the introduction of this paper for more on this.
[87] Makino, Kumiko, 'Social Security policy Reform in Post-Apartheid South Africa', pp. 20-21.
[88] A network of civil society organisations from labour, faith, human rights law, special sector interests etc who came together to call for the introduction of a BIG.

Though falling short of the Taylor Committee's recommendations, this constituted a huge improvement for many households, especially because the government simultaneously launched a campaign to tackle the poor uptake of the grant.[89] The dependency argument is not new and is frequently made with regard to social assistance across the world. Several academics, the South African Human Science Research Council, UNDP and the Department for Social Development have conducted studies that show that grants have not created dependency in South Africa and instead facilitated local economic development and finding employment.[90] Nonetheless, this continues to form part of the every day rhetoric and debate on social security.

Instead of adopting a BIG the government decided to establish an Expanded Public Works Programme (EPWP) in 2004 in order to tackle unemployment and poverty by absorbing a significant number of unemployed people. In 2009 EPWP II was launched. The stated aim is to increase the number of full year equivalent job opportunities to 400 000 throughout the course of the next five years. This occurred despite the fact that the Taylor Committee had rejected the idea of public work's programmes as ill-suited for tackling South Africa's unemployment problem.[91] As Kumiko Makino puts it:

> ...South Africa's unemployment rate is so high that public works programmes would not be able to create enough jobs however "massive" they would be. The recognition of the impossibility of achieving full employment, or even significant reduction of unemployment at least in the short to medium term, was at the bottom of the recommendation of the introduction of a BIG by the Taylor Committee.[92]

The EPWP aim to provide temporary job opportunities supported by training to enable job seekers to access more permanent employment came under significant critique at the end of its first phase.[93] The HSRC study which reviewed the first phase unearthed a number of weaknesses and failures, most notably that the design of the programme to provide short term employment and exit strategies into the open labour market, is inappropriate given the structural and long term nature of South Africa's unemployment crisis.

The Social Assistance Act and the South African Social Security Agency Act, 2004

The Social Assistance Act of 2004 replaced the Social Assistance Act of 1992. By and large it consolidated legislation on social assistance as it emerged throughout the above discussed policy process. The Social Assistance Act codifies the right to the OAG, the CSG, CDG, DG, WVG, FCG, GIA, and SROD. It did not pick up the idea of introducing a BIG, but included an extension of the CSG through the Regulations to the Social Assistance Act. The Social Assistance Act of 2004 is disappointing in so far as it did not restructure the social assistance system, but merely formed part of the consolidation process and focused on the expansion of the existing system. However, it did centralise the administration of social assistance which has resulted in significant advantages as discussed below.

The real reform of the social security system in 2004 was the creation of SASSA. The Taylor Committee had called for a one-stop shop for the administration of social security in 2002. Prior to the establishment of SASSA, '...social assistance benefits were administrated by the provincial departments responsible for social development in each of the nine provinces... [and] financed by the provincial legislatures.'[94] Delivery of services differed between provinces and was poor in general. Amongst the things that went wrong were: (1) provinces failing to observe the rules of administrative law and being sued for it, (2) inefficiency e.g long processing times, unskilled and rude staff, (3) corruption and fraud, and (4) fragmentation

[89] Makino, Kumiko, 'Social Security policy Reform in Post-Apartheid South Africa', pp. 22-24 See www.anc.org.za for more information on the National Conference, 2002.
[90] Samson. M et al, 2004, The social and economic impact of South Africa's social security system. Further work done by Dr. Monde Makiwane from the HSRC that disproves the claim that the CSG increased the rate of teenage pregnancies. His various works on this topic can be found at: http://www.hsrc.ac.za/Staff-publications-2151.phtml.
[91] Taylor Committee Report, p. 74.
[92] Makino, Kumiko, 'Social Security policy Reform in Post-Apartheid South Africa', p. 24.
[93] Hemson, D., 2007, 'Mid-term review of the Expanded Public Works Programme: synthesis report,' HSRC.
[94] Mpedi, Lethlhokwa, George 'Pertinent Social Security Issues in South Africa', p. 16. The 1992 Social Assistance Act had delegated the responsibility for social assistance to the provinces. This was found unconstitutional in 2004 in Mashavha v President of the Republic of South Africa, (12) BCLR 1243 (CC).

"The Foster Child Grant (R800 per month) is bread and butter protection for grandparents who take on the responsibility for orphaned children in families which are mostly already desperately poor"

of services.[95] The South African Social Security Agency Act established SASSA in 2004 and it became operational in 2006. The Department of Social Development (DSD) overseas and evaluates SASSA's activities, sets targets and policy frameworks and is ultimately politically responsible for social security.

Despite its name, SASSA is currently only responsible for the administration of social assistance.[96] The Taylor Committee had envisioned SASSA as an agency that manages all aspects of social security in the country. If the government is serious about its attempts to consolidate the institutional and administrative framework of social security, then SASSA should, in the medium term, also be put in charge of administrating social insurance.

This Social Assistance Act also establishes the independent 'Inspectorate for Social Assistance', with the powers amongst others to conduct investigations to ensure the maintenance of the integrity of the social assistance frameworks and systems and execute internal financial audits and audits on compliance by the Agency. Although this body was already enacted in 2004 it still has not come into existence.

The Independent Appeals Tribunal for Social Assistance Appeals (ITSAA) was also enacted by the same Act and only established on 1 May 2008. The result was that it caused severe delays in addressing the social assistance appeals which resulted in massive backlogs. After much advocacy efforts from civil society and litigation the Regulations[97] were promulgated in 2011.

During 2012 the Internal Reconsideration Mechanism (IRM) was instituted to allow aggrieved beneficiaries and applicants to request SASSA to reconsider any decision with which they were unhappy. This can be a rejection of an application, review, reduced grant payment or temporary award before it being forwarded to the Appeals Tribunal.[98] 2012 also saw SASSA implement a new service delivery and payment model which marks a shift from manual processes to automation.[99] The benefits of this include beneficiaries accessing grants anywhere in country, accessing electronic banking, having access to money at any time during the month and reducing corruption and fraud.[100]

2. 2. 3. Overview of Social Assistance by Grant Type as of 2012/13

In the current fiscal year, just over sixteen million people access social grants. The two largest groups of beneficiaries are the roughly 11.3 million Child Support Grant (CSG) recipients and the 2.8 million Old Age Grant (OAG) recipients. This section seeks to provide an overview of available grants. A detailed overview on eligibility criteria can be found in section II. 2. 4.

Old Age Grant (OAG):

The grant is available to South African men and women, permanent residents[101] , and recognised refugees[102] living in South Africa aged 60 or above.[103] It is granted subject to a means test of the applicant and their spouse's income and assets and certain other conditions.[104] In February 2013 2,862,570 people received the OAG. This grant frequently supports entire families. 66.34% of people over the age of 60 rely on the OAG as their primary source of income.[105]

[95] Mpedi, Lethlhokwa, George 'Pertinent Social Security Issues in South Africa', p. 17.
[96] The South African Social Security Act defines social security as comprising both social assistance and social insurance. Nonetheless, SASSA is currently only charged with dealing with social assistance.
[97] 19 September 2011: Regulations in relation of applications for reconsideration of social assistance application by the Agency and ITSAA.
[98] SASSA annual report, 2011/12, p. 15
[99] SASSA annual report, 2011/12, p. 15
[100] Beukman, R., 2013, Social Grant payment system: deduction changes, UCT workshop on social security, 27-28 May 2013.
[101] Since the 2004 Constitutional Court ruling of Khosa and Others v Minister of Social Development; Mahlaule and Another v Minister of Social Development and Others, permanent residents have been granted the right to access social assistance. For more details see: http://www.constitutionalcourt.org.za/site/thecourt/history.htm#cases.
[102] Since 1 April 2012 recognised refugees are able to access all grants as a result of the promulgation of Social Assistance Act (13/2004): Amendment: Regulations: Application for and payment of social assistance and the requirements or conditions in respect of eligibility for social assistance . This came from sustained advocacy from various rights groups.
[103] In the past men became eligible for OAG at the age of 65 whilst women became eligible when aged 60. This gender discrepancy was eliminated by the Social Assistance Amendment Bill, 22 April 2008. Men became eligible for the OAG at the age of 63 by 1 April 2008, at the age of 61 by 1 April 2009 and at the age of 60 by 1 April 2010.
[104] See the Social Assistance Act: Regulations of 2005 for more details.
[105] SASSA Statistical Report, Fact sheet no. 2 of 2013

War Veteran's Grant (WVG)

People who served in the First or Second World War or the Korean War can apply for the WVG. In February 2013 ,589 people claimed this grant.

Disability Grant (DG):

The grant is of the same value as the OAG and is replaced by the OAG once the recipient turns 60. It is granted on the condition that the recipient is between the age of 18 and

59 and submits a medical report – no older than three months at date of application - that confirms the disability and the applicant's inability of entering the labour market as a result of this disability. There are both temporary and permanent disability grants. The grant is awarded subject to a means test and reviewed on a regular basis. The current disability assessment comprises only of a medical assessment which according to the DSD provides an inadequate measure of disability and functioning when decision-making occurs at the medical practitioner level only. SASSA lists nearly 1,168,464 recipients of the DG in February 2013.

Parliament in 2010 debated the Amendment Act[106] which would de facto tighten the definition of disability thus excluding in particular those with chronic illnesses from claiming the DG. This is highly problematic as chronic illness is strongly correlated with poverty. Clear guidelines on whether people who are HIV/AIDS positive or suffering from multi drug resistant TB can claim this grant are needed. Anecdotal evidence seems to suggest that the various doctors and SASSA departments handle this differently, leaving people vulnerable and at the mercy of their local authorities.

In 2013 the Department of Social Development once again strategized to amend the definition of disability in the Social Assistance Act 13 of 2004 to facilitate the implementation of Harmonised Assessment Tool (HAT). The legislative amendment will enable implementation of the HAT through the inclusion of a new common definition of disability, in order to ensure uniform assessment and determination of eligibility for the disability grant and free health care. The implementation of HAT will enhance the effectiveness and efficiency of the provision of the disability grants. However, the tool will exclude people with chronic illnesses.

Grant in Aid (GIA):

This grant can be claimed in addition to another grant if the applicant requires full time care due to a mental or physical disability. The grant is intended to cover the cost of full time care. In February 2013, 72,767people received this grant.

Foster Care Grant (FCG)

This grant seeks to reimburse individuals for the cost of raising a foster child. It is not awarded subject to a means test of the guardian or of the child. The foster care status must be confirmed by a court order.

The FCG is more generous than the CSG. Its relatively high value can be explained by the fact that it seeks to reimburse non-parents for looking after a child. It thus seeks to create an incentive for foster care as an alternative to taking children into state care.

The foster care system is designed to cope with approximately 50 000 children at a time who are at risk of abuse, neglect or exploitation. The Foster Child Grant (R800 per month) is bread and butter protection for grandparents who take on the responsibility for orphaned children in families which are mostly already desperately poor. At least 1.6 million orphans battle to access this system and therefore receive the FCG. Therefore, the foster care system, social workers and courts have been overburdened for a very long time, and are not the appropriate vehicle to support millions of orphans cared for by grandmothers and siblings.

[106] See Social Assistance Amendment Bill, 3 March 2010 at http://www.info.gov.za/view/DynamicAction?pageid=607&id=0.

Given the high number of orphaned children in South Africa the question that needs to be addressed is whether the Foster Care system should deal with orphaned children – a purpose for which it was not created – or whether a grant for orphans needs to be created. It has also been claimed that grandparents looking after children have been told to apply for the CSG, despite its much lower monetary value.[107]

The ideas behind the FCG are thus very useful, and will likely become even more important in the future. However, the implementation and administration of this grant leaves room for improvement. In February 2013, 522,181 people received this grant.

Care Dependency Grant (CDG)

This grant is targeted at children living with disabilities and turns into the disability grant once a child turns 18. The Care Dependency Grant can be awarded in addition to the Foster Care Grant in order to avoid discriminating against children living with a disability. Like the disability grant a medical certificate attesting the disability is required. In February 2013, 119,384 people benefited from this grant.

Child Support Grant (CSG)

As of 2010, the CSG has been extended to children up to the age of 18, and is therefore now available in accordance with the constitutional definition of what constitutes a child.[108] The grant is said to 'follow the child' as it is paid to the primary care-giver of a child, usually the mother. Despite SASSA now allowing applications to proceed without the applicant producing a South African Identity Document, the necessity to produce documentation continues to present a hurdle, especially for the part of the population that is marginalised and most in need of financial support. Since 2010, all conditionalities attached to the CSG have been dropped. In addition, the threshold for the means test has been relaxed and will be annually determined in accordance with the value of the grant, thus keeping pace with inflation.[109] In February 2013, 11,314,128 Child Support Grant were approved.

Social Relief of Distress (SROD)

Even though this grant is officially part of the social assistance package in the 2004 Social Assistance Act, it does not get covered by SASSA's statistical publications and is sometimes ignored in the debate and assessment of social assistance. The grant is aimed at people who find themselves in an unforeseen critical situation, where they are unable to provide for themselves or their dependents. Grants are awarded on a monthly basis of normally three months, but can, in exceptional cases, be awarded for up to six months. This grant can also be awarded in in-kind rather than cash form. For example, SASSA might pay for certain transport costs or provide food parcels.

2. 2. 4 Eligibility criteria for accessing social assistance

The table below provides a summary of social assistance grants as of 2012/13. On the back of the analysis of social security policy development it illustrates how far the cover of social assistance policy has evolved.

[107] Frye, Isobel, 'Poverty, Social Security and Civil Society in South Africa', p.33.
[108] The grant is now available to all children born after 1996.
[109] The government states that grants increase with inflation. However, section III of this paper found that this wasn't actually the case for most grants in 2012/13.

Table 2: Social Grants and their Eligibility Criteria as of 2012/2013[110]

Social Grant	Purpose	Who can apply	Amount in Rand	Means Test (Max income and assets to be eligible)
Old Age Grant	Income support for older men and women	60 years or older SA citizens and permanent residents	R 1,260	**Income:** Single =R 4 160pm or R49 920 pa Married = R831 600 or R99 840 pa **Assets:** Single =R831 600 or Married =R1 663 200 lko
War Veterans' Grant	Income support to older men and women who served in 1st, 2nd WW or the Korean war	60 years or older SA citizens and permanent residents	R1,260	**Income:** Single =R 4 160pm or R49 920 pa Married = R831 600 or R99 840 pa **Assets:** Single =R831 600 or Married =R1 663 200
Disability Grant	Income support to adults who are not able to work because of a mental or physical disability	Adults who are 18 or older SA citizens and permanent residents and refugees	R1,260	**Income:** Single =R 4 160pm or R49 920 pa Married = R831 600 or R99 840 pa **Assets:** Single =R831 600 or Married = R1 663 200
Grant in Aid	Income support to people (already getting Older Persons; War Veterans or Disability Grant) who need full-time care from someone	Adults who are 18 or older SA citizens and permanent residents	R290	**Not means tested**
Foster Child Grant	Income support to caregivers of children in foster care (you must have a court order)	Foster parents of children under 18 (or up to 21 on the recommendation of social worker) SA citizens and permanent residents and refugees	R800	**Not means tested**
Care Dependency Grant	Income support to caregivers providing permanent care to children with severe mental or physical disabilities (must have medical assessment)	Parent or caregiver or foster parent of children from 1 up to 18 years (not for infants) SA citizens and permanent residents	R1,260	**Income:** Single =R 12 600 pm or R151 200 pa Married =R25 200 or R302 400 pa **No Asset test**
Child Support Grant	Income support to caregivers of children in need.	Parent or primary caregiver of children born on or after 31 December 1993. SA citizens and permanent residents	R290	**Income:** Single =R2 900 or R34 800 pa Married =R 5 800 or R 69 600 pa **No Asset test**

[110] Table 2 is taken from Social Grants Summary 2012/13, published by Blacksash.

2. 3. What guides Policy Development?

The review of policy development on social security conducted in this section of the paper illustrates that eligibility to social assistance has expanded hugely since 1994. This is without doubt a major achievement and results from the fact that South Africa's social security system is comparatively advanced and comprehensive if compared to other middle-income countries' social security system.

It is critical to acknowledge, however, that the universal right to social security and the right of poor people to social assistance which came into effect in 1996 appears not to have impacted on the fundamental policy approach in any way since the drafting of the 1992 Act. Following on from this, the policy discourse illustrates that to date no clear vision for the adoption of a comprehensive social security system exists. In addition, the DSD frequently refers to its policy of 'comprehensive social security', without spelling out what is meant by this. In a presentation in 2008, the DSD merely said this much:

The aim is to move from partial to universal social security. This process will be based on three pillars: '*(1) universally available basic benefits for all...(2) contributory environment over-and-above pillar 1, characterized by strong mechanisms to ensure social solidarity: income and risk-based cross-subsidies and mandatory participation, and (3) discretionary social security over-and-above minimum levels regarded as essential.*'[111]

> The review of policy development on social security conducted in this section of the paper illustrates that eligibility to social assistance has expanded hugely since 1994

This quote highlights one of the key problems with social security in South Africa. The above description of the DSD's comprehensive social security framework does not spell out how the current system will be changed over time in order to meet the constitutional obligation to provide social assistance to those who are unable to help themselves and their dependents. In addition, neither the legislative documents, nor departmental presentations or SASSA publications make explicit reference to progressive realisation and the constitutional obligation to arrive, or move towards, universal coverage.

Policy to date has been guided in a reactionary manner by cases lost in front of the Constitutional Court, fiscal necessities and a reaction to the Taylor Committee. There is little evidence that the constitutional obligation has been driving policy development. This is not to say that government should realise full coverage overnight, but it is surprising that the official policy documents on social security and strategic plans for the coming years make no reference to progressive realisation of social security, but merely talk about increasing the uptake of the existing system. The strategic papers of both the DSD and SASSA talk about increasing efficiency, decreasing corruption, improving service delivery and expanding the scope of coverage of the existing system. However, both fail to spell out a vision for a comprehensive system that tackles some of the structural problems inherent in social security in South Africa today.[112] Hence, the indicators measuring SASSA's progress in realising its strategic objectives are tied to increasing efficiency and delivery of services, decreasing corruption, improving customer care and increasing the number of beneficiaries in the existing system - to name but a few.[113] Success is thus measured by these objectives and not according to whether progress towards reforming the existing system into one that grants everyone the right to social security or social assistance is being made.

However, in the midst of this misdirection of policy priorities, inconsistencies exist. For instance, the Strategic Plan 2009-2012 of the DSD does include some ideas which would constitute a move towards a more comprehensive social security system, thus ensuring the progressive realization of the constitutional rights to social security. One such idea is the mooted policy option of developing a basic income grant for unemployed adults.[114] In practice, however, such a radical departure has not even featured in policy reform discussions since the implementation of this plan. Changes in social assistance have instead occurred within the existing system and largely, as indicated, as a result of external pressures of court cases or other political reasons. It is clear that social security still requires truly structural reforms to enable universal coverage as envisioned by our Constitution.

[111] DSD presentation, Overview of the Social Protection Programmes in South Africa, Cape Town, 10-14 March 2008.
[112] For example see: SASSA Strategic Plan, 2010/11-2012/13 and the 2010 Budget.
[113] SASSA Strategic Plan, 2010/11-2012/13, pp. 27-35.
[114] Department of Social Development, Strategic Plan, 2009-2012, p. 54.

Chapter 3

The state of social security in 2013 - an Overview of Gaps in Coverage, Spending on Social Security, Beneficiary Numbers and Problems with the Delivery of Services

3. 1. Gaps in Coverage

Any discussion of gaps in coverage in the social security system is naturally closely linked to the review of policy development in the previous section. Policy choices lead to design decisions, which in turn will result in gaps in coverage and the preferential treatment of certain groups at the expense of others. These outcomes are to a large extent design choices and problems. As previously discussed, social security under apartheid relied heavily on social insurance which covered eventualities of illness or unemployment for a white population which experienced near complete employment. Hence social assistance was designed to help particular vulnerable groups, such as the elderly, children and the disabled.115 By and large this design has been retained in post-1994 South Africa which has led to significant gaps in coverage in the South African social security system.

3.1.1 Social Assistance gaps

Income support for unemployed

The largest group excluded from the targeted system of social assistance are poor people who are unemployed or underemployed, are "able bodied" and between the age of 18 and 59. The current social assistance system does not provide any type of support for people in this age group. The reasons for this have been outlined above and lie in the design of the system which targets the 'vulnerable' and 'deserving poor.' These phrases in themselves imply that somehow poverty within this group is an individual's fault and that despite their poverty, this age group is not vulnerable. This is a dangerous rhetorical misunderstanding of lived realities.[116] As structural poverty is high, this is of crucial importance as many people in this age group will never work and thus never generate an income whether through work or grants. The Basic Income Grant debate sought to tackle this problem by proposing a grant payable to everyone. However, instead of adopting the BIG the coverage and scope of the CSG was increased significantly. It has been argued that whilst people of a working age aren't directly covered by the social assistance programme, they often benefit from an old age grant or a child support grant given to a member of their family. However, even if this line of argumentation were to be accepted it remains true that the existence of such grants in a family can lead to either an exploitation of the old or a reversal of power relations in favour of the elderly. Similarly, because the CSG is paid out to the primary care-giver, who is typically the mother, this grant constitutes an empowerment of women. Again the effect on men between the age of 18 and 59, even if they can indirectly benefit from an awarded grant, will be a sense of disempowerment. Naturally, this might be an intended policy outcome. When grappling with these issues it is also important to note that between 1997 and 2008 the percentage of households that had no employed member and did not receive remittances or grants increased from 11.8% to 16.9%.[117]

[115] See van der Berg, Servaas, 'Social Security under Apartheid and beyond', 1997, for a detailed account of social security policy up till 1997.
[116] Social Security Briefing paper for the National Planning Commission, April 2011, www.spii.org.za, p. 11
[117] Information provided in a presentation given by Murray Leibbrandt at the Social Policy Forum Workshop in Cape Town, 26-27 August 2010.

Government has established certain mechanism through which 18 to 59 year olds that need income support can gain access to a form of social protection. The Expanded Public Works Programme (EPWP) as discussed earlier offer short term employment opportunities and hence income. However, the focus on short term employment in a context of structural unemployment is inadequate, with many participants relegated back into poverty when their contracts with EPWP ended.[118] The EPWP was designed on the assumption that the economy would provide jobs which had not occurred, resulting in large numbers of unemployed people without any form of social assistance.

Income support for chronically ill

As mentioned briefly in section II. 2. 3. the question of whether the disability grant covers HIV/Aids or TB infected persons remains ambiguous. To-date the system has enabled some people suffering from chronic illnesses to access a temporary disability grant for 6 or 12 months. The grant will then be extended after the situation has been renewed.

The bitter irony is that the grant enables people to live according to a certain diet and get treatment with the effect that once their health improves they no longer qualify for a renewal of the grant. This occurs irrespective of whether the individual has found a job or some other means of income. As improvement of health is tied to following a strict dietary plan and having access to medication, a withdrawal of the grant typically goes hand in hand with a deterioration of health. In short, the eligibility criteria for this grant marginalise people suffering from HIV and other chronic illnesses. The incentive structure is faulty and in the absence of a national policy people depend on the good will of SASSA officials and doctors for accessing the grant. The Harmonised Assessment Tool (HAT) which remains to be implemented through the inclusion of a new common definition of disability aims to enhance the effectiveness and efficiency of the provision of the disability grants but will exclude people with chronic illnesses.

Means testing or universal approach

Whilst means-testing will in theory allow the state to target the truly needy it also leads to inclusion and exclusion errors. In addition, it opens the door to corruption and fraud. Not only is a targeting system expensive to operate, but it also requires applicants to disclose their income and assets, which they are sometimes reluctant to do. The recommendations of the 2007 “Review of Targeting Mechanisms and Means Test” commissioned by the DSD proposed the abolition of the means test. Alternatively, they suggested introducing one means test for everyone (rural and urban) and linking the value of grants to the Consumer Price Index for the lowest 20% of the population for a transitional period throughout which means testing would be phased out.[119] As of 2012, the means test for the GIA and FCG has been abolished.

Adequacy

There appears to be very little reference to empirical evidence of the need in setting of grant incomes. The increase of grant amounts is meant to keep pace with inflation, but has largely not been the case. In the 2013 Budget, the increase percentage increase ranges from 3.6% for the CSG to 5.0% for OAG, CDG and DG which has not kept in line with inflation, which treasury predicts will average at 5.8% in 2012/13.[120] This further dilutes the low value of the grants which typically support an entire household. Given the confusion caused by the lack of a concrete definition of poverty and how to measure it, it is very difficult to engage with the adequacy issue. It is, however, clear that R290 (and from October 2013 R300) per child per month, is not adequate for covering all the needs of a child. It is also important to bear in mind that the inflation experienced by the poor is at variance with the national CPI because the poor spend a disproportionate amount of their money on food and transport. Food inflation thus hits the poor particularly hard, whilst the effect is less prominent in the national CPI basket due to the reduced weight attached to food prices.[121]

[118] Hemson, D., 2007, Mid-term review of the EPWP: synthesis report.
[119] Report by the Economic Policy Research Institute on behalf of the Department for Social Development: Review of Targeting Mechanisms, Means Tests and Values For South Africa's Social Grants, 4 July, 2007, pp.14-15.
[120] National Treasury, Medium Term Expenditure Framework Guidelines, August 2012, p. 24
[121] Social Security Briefing paper for the National Planning Commission, April 2011, www.spii.org.za, p. 14

3.1.2 Social Insurance gaps

UIF

As mentioned in section II, the UIF merely covers unemployed people for a period of six months. Moreover, those working in the informal sector, self-employed or consultants are not covered at all. It is obvious that these premises are still based on the assumption that unemployment is a temporary problem and that people will quickly move from one job to the next. Whilst this was largely the case for the white population under apartheid for which this system was set up, this is not necessarily the case today. As discussed in greater detail in section II, this highlights the inadequacy of having a UIF organized around work in a country such as South Africa.

Pension/retirement reform

South Africa does not have a statutory requirement for pension provision, or death and disability insurance. This has resulted in a very uneven coverage of retirement and insurance funds with workers' access to an occupational fund dependent on factors such as income, employer size and economic sector.[122] According to research based on the 2010 Labour Force Survey, only 32% of people earning below the tax threshold and only 36% of workers at companies with fewer than 50 employees have access to an occupational retirement fund. Only 12% of workers in construction, agriculture or domestic service are enrolled in an occupational fund.[123]

> "Another compounding factor as a result of the means test for the state old age grant, is that many people do not save adequately for retirement as they fear that their deferred income will disqualify them from a regular income from the state old age grant"

Another compounding factor as a result of the means test for the state old age grant, is that many people do not save adequately for retirement as they fear that their deferred income will disqualify them from a regular income from the state old age grant. This is especially the case for workers earning relatively low salaries. COSATU is currently proposing a compulsory saving scheme. However, it is not clear where people will find the cash for such a scheme. Lower income earners, in particular, find themselves increasingly cash strapped and thus unable to cater for events that interrupt their income earning stream.

In 2012, the National Treasury published draft reform proposals on savings and retirement which after public consideration have now been developed for consultation. These reforms will lay the foundation for the eventual introduction of a mandatory tier of a comprehensive social security system that provides death, disability and retirement cover to all workers.[124]

3. 2. Statistics around Social Security

The following analysis is based on data provided in the 2013 Budget and by SASSA in its statistical report in February 2013.

Table 3 provides an overview of the development of spending on social insurance. The effects of the economic crisis on spending can be seen when comparing the UIF figures from 2009/10 and 2015/16. Total expenditure has increased sharply, and interestingly, is predicted to remain high till 2013. It must, however, be kept in mind that according to Statistics South Africa the informal economy was initially proportionally hit the hardest and those workers who lost their job will in all likelihood not have contributed to the UIF.

[122] 2013 Budget, p. 93
[123] Ibid
[124] 2013 Budget, p. 94

Table 3: Social Security Funds, 2009/10 – 2015/16[125]

R Million	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
	Outcome			Revised estimate	Medium-term estimate		
Unemployment Insurance							
Revenue	14,199	13,878	15,206	17,821	18 683	20 167	21 683
Expenditure	6,581	6,435	6,780	8,881	9 600	10 799	12 237
Compensation Funds							
Revenue	7,343	6,948	7,715	7,526	8 071	8 576	9 001
Expenditure	3,902	4,060	4,158	4,382	4 663	5 020	5 185
Road Accident Fund							
Revenue	11,785	14,293	16,155	18,682	21 097	23 266	25 424
Expenditure	12,221	13,810	13,047	15,213	19 370	23 761	25 471
Total revenue	**33,328**	**35,119**	**39,076**	**44,029**	**47 851**	**52 009**	**56 108**
Total expenditure	**22,704**	**24,306**	**23,985**	**28,476**	**33 633**	**39 579**	**42 893**
Budget balance	**10,624**	**10,813**	**15,090**	**15,553**	**14 218**	**12 430**	**13 215**

The number of people accessing social grants in South Africa has expanded significantly with currently just over 16 million beneficiaries. Table 4 (below) breaks down grant recipients by type and region. This table illustrates that the largest number of grants are being claimed in KwaZulu-Natal followed by the Eastern Cape, whilst the lowest number of grants is claimed in the Free State and the Northern Cape Province.

Table 4: Number of Social Grants by Type and Region as of 28/02/2013[126]

Region	Old Age grant	War-veteran grant	Disability grants	Grant in Aid	Foster Child Grant	Care Dependency Grant	Child Support Grant	Total
ECP	507,573	75	185,459	9,261	115,133	18,264	1,841,399	2,677,164
FST	171,320	8	86,522	1,185	40,118	5,825	633,776	938,754
GAU	422,265	148	123,880	1,609	57,826	15,630	1,573,790	2,195,148
KZN	589,547	86	313,946	29,079	134,024	35,875	2,751,183	3,853,740
LIM	394,150	47	88,784	11,044	56,909	11,782	1,581,874	2,144,590
MPU	226,558	28	81,211	2,832	34,594	8,566	1,048,041	1,401,830
NWP	216,524	19	86,296	4,043	41,832	8,278	748,365	1,104,907
NCP	74,604	17	49,319	4,180	13,885	4,435	275,935	422,375
WCP	260,029	161	153,047	9,534	28,310	10,729	859,765	1,321,575
Total	2,862,570	589	1,168,464	72,767	522,181	119,384	11,314,128	16,060,083

[125] Table is taken from the2013 Budget, p. 93. For a detailed breakdown of the individual social insurance funds, please see chapter 6 of the budget.
[126] Statistical Report on Social Grants, SASSA, Report no.2 of 2013, ,28 February 2013

Table 4 also illustrated that Child Support Grants (CSG) make up the bulk of social assistance grants, followed by the Old Age Grant (OAG). However whilst CSGs make up the bulk of grants claimed, the expenditure on OAGs continues to exceed expenditure on CSGs due to the lower monetary value attached to the CSG.

Table 5 (below) further disaggregates this data and illustrates that whilst the largest number of grants is claimed in the Eastern Cape Province and KwaZulu-Natal, the provinces with the highest ratio of the population claiming grants is in fact the Eastern Cape Province (40.44%) followed by Limpopo (38.87%), KwaZulu-Natal (36.85%) and Northern Cape province (36.32%). Similarly, whilst the Northern Cape Province has the lowest number of claimants it actually ranks fourth with regard to the proportion of its population claiming grants. The provinces with the lowest proportion of their population claiming grants are Gauteng (17.25%) and the Western Cape Province (21.96%).

Table 5: Proportion of the Population claiming grants by region[127]

	ECP	FST	GAU	KZN	LIM	MPU	NCP	NWP	WCP	South Africa
Male	3,118,215	1,332,826	6,432,053	4,974,281	2,583,572	2,022,885	574,162	1,827,662	2,957,614	25,823,270
Female	3,501,922	1,420,316	6,296,385	5,482,627	2,934,395	2,105,085	588,752	1,769,928	3,059,312	27,158,721
Total Population	6,620,137	2,753,142	12,728,438	10,456,907	5,517,968	4,127,970	1,162,914	3,597,589	6,016,926	52,981,991
Grants claimed	2,677,164	938,754	2,195,148	3,853,740	2,144,590	1,401,830	422,375	1,104,907	1,321,575	16,060,083
Percentage of population claiming grants	40.44%	34.09%	17.25%	36.85%	38.87%	33.96%	36.32%	30.71%	21.96%	30.31%

Table 6 (below) illustrates patterns of spending on social grants and SASSA over time. It shows that overall, social grants expenditure as a percentage of GDP remained unchanged between 2009/10 and 2012/13 and is predicted to remain stable till 2013/14, dropping slightly in 2014/15, from 3.4% to 3.2% in 2015/16. Despite this stability in the spending as a percentage of GDP, the actual amount of money that will be spent on Social Grants and SASSA in 2012/13 is set to increase. Table 6 also indicates that administration costs including SASSA, payment contractors and appeals tribunal have decreased marginally from 2009/10 to 2012/13 and are expected to decrease further to 5.2% in 2015/16.

Table 6: Social Grant Expenditure as a percentage of GDP, 2009/10-2015/16[128]

R Million	**2009/10**	**2010/11**	**2011/12**	**2012/13**	**2013/14**	**2014/15**	**2015/16**
				Revised estimate	**Medium Term Estimates**		
Social Grants Transfers	79,260	87,493	95,962	104,239	113,007	121,482	129,493
SASSA administration	5,550	5,313	5,358	5,848	6,683	6,961	7,160
Total	**84,810**	**92,806**	**101,320**	**110,087**	**119,690**	**128,443**	**136,653**
As percentage of GDP	3.4	3.4%	3.4%	3.4%	3.4%	3.3%	3.2%

[127] The data in the table comes from the Mid-year Population Estimate, pp. 14-15, the Statistical Report on Social Grants, SASSA, 28 February 2013, p. 8 and own calculations.
[128] This table is taken from the 2013 Budget, p. 86.

The South African National Treasury predicts that Consumer Price Index (CPI) inflation will average at 5.8% in 2012/13.[129] This means that contrary to government claims, grants do not rise in accordance with inflation. As shown in table 7 (below), comparing the increase for the OAG, CDG and DG at 5% to the CSG at 3.6%, one can argue that the grants of the lowest value (most notably the CSG), have decreased in value the most.

Table 7: Social Grant Value by Type and Year[130]

	2012/13	2013/14	Increase (r)
Old Age Grant	1,200	1,260	5.0%
War Veteran's Grant	1,220	1,280	4.9%
Disability Grant	1,220	1,260	5.0%
Foster Care Grant	770	800	3.9%
Grant-in-Aid	-	290	-
Care Dependency Grant	1,200	1,260	5.0%
Child Support Grant[131]	280	290	3.6%

3. 3 Performance Problems - Backlogs in awarding Social Grants

3. 3. 1 Overview of Backlogs, Litigation and Back-Payments according to Information provided by SASSA in Annual Report 2011/12:[132]

The maxim guiding SASSA's work is to 'get the right grant to the right person on time'. Whilst this might not appear to be too ambitious a mission statement, and SASSA has made significant progress with the introduction of a new, automated payment model and the Internal Reconsideration Mechanism (IRM) as discussed in section II.2.2, backlogs in approving and making payment of social grants continue to exist.

SASSA has decided to classify all grants not processed within 21 days as 'backlogged'. The Social Assistance Act of 2004 only requires SASSA to classify grants not processed within 90 days as backlogged. In the 2011/12 report, 89% of new applications were processed within 21 day in all regions which was 9% above the annual target. Currently, the average turn around time for grant applications is 12 days. Most regions claim staff shortage, a lack of connectivity to satellite points, and a delay in transferring records when applicants move between regions as causes for the backlog.

The SASSA annual report for 2011/12 states that of the 12 393 applications received by the IRM, 6 420 were reconsidered within 90 days, consistent with the set guidelines.[133] The annual report, however, does not account for the outstanding applications, nor report on the outcomes of such applications. The annual report also indicates that there has been a significant decrease in the total number of litigation cases per annum from 15 224 in 2008/09 to 249 in 2011/12. This reduction in litigation cases represents a 98.36% reduction

[129] National Treasury, Medium Term Expenditure Framework Guidelines, August 2012, p. 24.
[130] 2013 Budget, p.84.
[131] The CSG value will increase by a further R10 in October 2013.
[132] Annual Report 2011/12, SASSA, p. 24
[133] SASSA Annual Report, 2011/2012, p. 15

over a period of three years.[134] However, KwaZulu-Natal (73) and the Eastern Cape (125) continue to bear a disproportionate burden of these cases.

Another major problem is beneficiaries experiencing 'unauthorised' and 'unlawful' deductions of their grants, often in the form of micro-loans, which exceed the regulations as stipulated in the Social Assistance Act 2004 that deductions for funeral schemes should not exceed 10% of the value of the grant.[135] SASSA has made various efforts to curb the deductions of grants, notably the introduction of a new automated biometric based grant payment system. As of 1 June 2013, SASSA will only allow deductions of up to 10% of grant for funeral insurance policies, with SASSA taking no responsibility for the repayment of installments for micro-loans.[136]

Overall, this brief statistical overview illustrates that SASSA has managed to improve its performance. However, backlogs continue to exist and as most regional SASSA bureaux give similar reasons for this, the way to improve performance seems clear. Specifically, SASSA needs to address delays encountered when applicants move from one region to another. In addition, the number of backlogs is still high and some regions evidently have bigger problems than others in meeting targets for processing time and efficiency. In a statement for the Strategic Plan 2010/11-2011/12 the Acting Chief Executive Officer of SASSA acknowledged that:

> '...the agency still contends with an organisational culture that does not promote service excellence and this is mainly due to the legacy of amalgamating nine different administrations into a single entity.'[137]

Whilst the number of cases brought against SASSA has decreased significantly and most of the pending cases were inherited, some new cases continue to be brought on charges of failure of notification of outcome.

SASSA has made some serious attempts to clamp down on grant fraud and corruption, despite suffering a major public relations disaster over the dismissal of its former CEO Fezile Makiwane amidst allegations of irregular procurement practices. In 2011/12, SASSA and the Special Investigative Unit (SIU) identified 2,509 people for grant fraud and 2,488 persons were brought before the courts. Of these, 2,258 were convicted.

Further steps SASSA is implementing to address the existing problems include[138]:

- sending out notification letters by registration mail so as to ensure that letters of notification are received
- introduction of automated grant applications
- introduction of new, automated payment model
- an integrated community registration outreach program to improve access in rural and semi-rural areas
- More systematic internal auditing systems to cut down fraud and corruption
- providing support to regional offices currently encountering problems, and continuing to improve the training of staff.

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[134] SASSA Annual Report, 2011/2012, p. 18
[135] Beukman, R., 2013, Social Grant payment system: deduction changes, UCT workshop on social security, 27-28 May 2013.
[136] Ibid.
[137] SASSA Strategic Plan, 2010/11-2011/12, p. 10.
[138] SASSA Annual Report, 2011/2012

Chapter 4

Conclusion and Recommendations: Constructing a Measurement Tool to Strengthen Transparent Progressive Realisation of Socio-Economic Rights in South Africa through the Lens of the Right to Social Security

This policy review has been undertaken as part of a broader project conducted by the Studies in Poverty and Inequality Institute (SPII). The objective of this larger project is to investigate the manner in which policy making, to expand access to socio-economic rights, in fact aligns with the jurisprudential guidance handed down by the Constitutional Court, with the aim of developing an indicative tool for the monitoring of the progressive or regressive measures of current and future policies. Such a tool, it is envisioned, will become a useful tool for policy makers, for those that exercise oversight over the executive, including Parliament and Chapter Nine institutions (notably the South African Human Rights Commission), and civil society.[139]

In this final section, we draw on the preceding sections to support our position that there is room to strengthen the policy making process through the development of a coherent roadmap that sets out the timeframes, programmes, targets and resource assumptions for the achievement of the universal right to social security as set out in the Constitution of South Africa.

Over and above this recommendation to the state, we also set out an approach to measuring the progressive or regressive qualities of policies that are adopted by leading departments that are tasked with the progressive realisation of socio-economic rights. We argue that such a tool will empower a range of stakeholders from policy makers to institutions of democracy and civil society to monitor and evaluate policy developments at a time when we collectively strive to realise the rights of the Constitution. Finally, we set out some suggestions of how the task of monitoring can be approached.

4. 1 Research Findings: Recommendation to Measure Progressive Realisation

The analysis of social security policy and the factors driving this policy development suggest an absence of a truly comprehensive, detailed and targeted plan designed to arrive at a comprehensive social security system that meets the constitutional obligations of achieving access to social security for all and social assistance for those who cannot provide for themselves. Such a comprehensive plan should include not only state funded social assistance, but ought to also set out the role of contributory social insurance schemes, potential private pensions and other schemes that contribute to the well-being and income maintenance of people living in South Africa. The proposed retirement reforms are a positive step in this regard.

[139] An extremely comprehensive paper on the jurisprudential rulings of the Constitutional Court and that of the UN Committee on the International Covenant on Economic, Social and Cultural Rights forms part of this project and is available on www.spii.org.za.

The White Paper of 1997 set out the broad strokes of the pillars that should support a comprehensive social security system as the national discourse shifted from 'welfarism' to 'developmental'. The findings and recommendations released by the Taylor Committee provided an illustration of the various components that would be required for the development of a comprehensive and positively reinforcing roadmap.

However, instead of adopting the Taylor Report in its entirety, several of the Committee's recommendations have been implemented by the state in an ad hoc manner, with policy decisions frequently being shaped by financial considerations and in reaction to court cases.

We suggest that the impact of such ad hoc reforms has further diluted the constitutionally driven, universal, rights based approach to social security, replete with a more social democratic notion of solidarity and citizenship. Where the state extends cover to vulnerable groups that share exclusive characteristics (children, older persons etc) this affirms a more residual, neo-liberal approach of targeted interventions to the 'most vulnerable' or the 'poorest of the poor'. Unfortunately, the latter is increasingly the approach taken by the South African government.

> "Health care, education, basic services, housing, food and water are some of the other constitutional rights that jointly impact on a person's right to enjoy their fundamental rights to life, equality, dignity and many would argue, freedom itself"

At this point it is important to remember that the South African Constitution does not tie access to social security to notions of "deserving support", but establishes a universal right to access. From the policy documents reviewed in this research, it appears that the government has adopted the language of comprehensive social security, but without spelling out what is meant by it and without providing a road map as to how comprehensive coverage might be achieved. The policy focus continues to lie on targeting certain groups in society.

Naturally, we accept that the South African social security system is very advanced for a middle-income country. However, this finding should not be used to avoid engagement on the policy development process for two reasons:

Firstly, the Constitution grants universal access to social security and to social assistance for those who cannot support themselves. Obviously, this raises certain resource challenges for a middle-income country, but the right was included in the Constitution and is thus the benchmark against which government policy needs to be measured. Indeed, the huge unemployment and poverty crisis in South Africa serves to illustrate why this is not only rightly the case, but also of crucial importance if South African democracy and society is to flourish in the long run.

Secondly, the gaps in coverage in the South African social security system have led to a lack of access to social security for one group in particular – unemployed adults between the age of 18 and 59 who are not primary care givers of young children. This is not only discriminatory, but also condemns a certain part of the population to a life in poverty. Given the South African jobs crisis the argument that these "able bodied people" should help themselves and find employment and hence generate an income is unrealistic and without foundation. Government must face up to the fact that most people in this category will not be able to help themselves. Policy development in the future must reflect this.

And yet, social security is not the only socio-economic right that requires full realisation in South Africa. Health care, education, basic services, housing, food and water are some of the other constitutional rights that jointly impact on a person's right to enjoy their fundamental rights to life, equality, dignity and many would argue, freedom itself. How are these competing claims balanced? What role do advocacy and interest groups play and more importantly whose interests do they represent? A case in point of this is the competing positions between, for instance, human rights civil society groups and business interests in the retirement reform discussions.

The concept of progressive realisation raises a myriad of issues pertaining to the allocation of resources of the fiscus and even impact on fiscal and other macro- economic policy choices. This is even more the case in a country of such vast income disparities as South Africa. The high level of income inequality and unemployment, as well as low wages have a direct bearing on the size of the income tax base, which is frequently claimed to be too narrow to provide for more money to the fiscus. Then again, these structural issues are both cause and effect of the structural economic exclusions that give rise to the need for income support.

4.2 Developing a measurement tool

It is for the above outlined reason that SPII is currently running a project that seeks to develop a comprehensive monitoring tool to advance evidence-based debate on the implementation of SERs in South Africa, to enable us all, from researchers, to the SAHRC, to civil society organisations, to institutions of democratic oversight including Parliament, to policy makers tasked with drafting policy, to be able to measure state actions and policies over time in terms of how well they advance universal access to socio-economic rights. Such a monitoring tool will also enable us to see the linkages between the different socio-economic rights, to identify the resource constraints and the resource opportunities and to set our course for the immediate, medium and long term realisation thereof, thereby ensuring that the transformative principles of the Constitution are met.

> "SPII has developed a set of indicators for social security and health which have been populated with data from 2010 and 2011"

SPII has developed a three-step methodology which draws upon international best practice but remains contextually specific given the South African context. The methodology is based on a combination of policy and budget analysis and statistical indicators, aligned to data available, to monitor and evaluate the progressive realization of rights according to the following dimensions: access, adequacy and quality. SPII has developed a set of indicators for social security and health which have been populated with data from 2010 and 2011. This analysis begins to build up the information at a national level to evaluate and monitor the progressive realization of social security and healthcare in South Africa. The full list of indicators can be found in the methodology paper available at www.spii.org.za. Over the next two years, indicators will be developed for housing, education, food, water and sanitation, and the environment. As previously mentioned, we use the case of social security to illustrate the benefits of measuring progressive realisation of socio-economic rights.

A monitoring tool with a more quantitative approach is well suited to mapping trends and patterns over time to allow disparities between different population groups to be identified and an assessment of the degree to which progress has been made over time. This would therefore provide a chance for the state to develop its long awaited policy roadmaps, whilst simultaneously meeting the constitutional obligation to progressively realise all the socio-economic rights over time. Comprehensive roadmaps, spelling out how each right will be realised, which are updated and informed by a measurement tool would also necessitate that trade-offs are finally discussed publicly and that a national discourse emerges on which socio-economic rights should be prioritised and what this means for the progressive realisation of other rights given resource constraints. The state is already obliged to make these trade-offs. Currently this remains an extremely closed process which often results in vulnerable groups feeling excluded and forgotten. To throw open some of the critical choices that policy makers are faced with will go a long way to reduce the sense of distance between decision makers and those most intimately affected by these decisions. There are also many examples of how expansion of access can be indexed to GDP growth for instance so that the state does not find itself impossibly challenged fiscally in the throes of a recession, which is a very valid concern for any government of the day.

Once government has presented a road map, monitoring and evaluation could consist of noting sequenced advances or violations through the strategic plans and budgets in order to ensure that government complies with its own targets. For this approach to be viable in the case of social security government would have to present strategic plans with clear indicators tied to outcome achievements in the field of restructuring and expanding social security. Only if indicators and outcomes signifying success are clearly stated can government be held accountable and progress monitored and evaluated. A key problem with this approach is that government must not only set out a road map for achieving the progressive realisation of the right to social security, but must also embark on a sufficiently challenging way forward.[140] In short, government must not only finally show society that it has a plan to reform social security, but this plan must also reflect the maximal effort government can make towards achieving the right to social security.

In the 2010 Budget, the eligibility criteria for the child support grant were expanded to more ages in line with the constitution. However, the value of that grant was not increased in line with inflation. Is this progressive realisation or a violation of the right to social security? How do we evaluate progress made in the realisation of socio- economic rights without a tool that stipulates criteria for what progressive realisation means? How do we criticise or commend reforms without a measure against which to evaluate government policy? To give another concrete example, how do we evaluate whether the recent roll-out in grants to 16 million South African's constitutes a move towards universal social security or whether it merely entrenches the existing system that targets certain groups in society at the detriment of others if we do not know what constitutes progressive realisation of social security? Monitoring the state's obligation to realise socio-economic rights will remain a subjective exercise purely dependent on one's point of view for as long as no clear criteria exist by which to monitor and evaluate this progress. These are the sorts of issues that should be debated from an empirically informed position. The development of a roadmap and a monitoring tool would provide such a space for debate.

One way of creating realistic expectations and of moving towards a mechanism for evaluating and monitoring progress would be to compare achievements in South Africa to those in other countries with a similar level of development. In order to do this, it will be necessary to develop certain quantifiable and replicable indicators for each of the socio-economic rights contained in the South African constitution. These can then be analysed over time in order to measure whether progress is being made. At this point we will encounter a trade-off. By necessity the indicators will have to be aligned with data readily available. For example, the focus will have to lie on data which is currently provided and which StatsSa, or the body responsible for providing it, will continue to provide in the forthcoming years. The available data is unlikely to be the type of data we would ideally like to use. In addition, a trade-off needs to be reached between choosing a large number of indicators in order to capture the complex nature of socio-economic rights and keeping the tool simple enough in order to make it accessible and comprehendible for policy makers, NGO's and economists alike.

4. 3 Concluding Remarks

Space exists for CSOs to increase pressure on government to present a plan or road map on how it intends to reform social security so that it – over time – aligns with the constitutional obligations. The call for a roadmap towards the eventual realisation of socio-economic rights is in line with the Constitutional Court's interpretation and application of the Bill of Rights. In addition, CSOs need a mechanism for monitoring and evaluating progress made towards the progressive realisation of the right to social security. Such a tool would also be useful for policy makers and allow them to identify the effectiveness of policies, as well as measure whether they are making progress in meeting the constitutional obligations.

Whilst the challenge of developing such a monitoring and evaluation tool is without doubt huge, it is nonetheless an important task to tackle. A monitoring and evaluation tool would allow CSOs to assess progress made to date, as well as provide government with information on the effectiveness of their policy programmes. It alone can put both government and CSOs in a position to prove the validity of their claims of progress or stagnation on socio-economic rights realisation. If we as a society are serious about realising the constitutionally guaranteed right to social security, then it is time to present a plan to reform and restructure the existing social security system and for government and CSOs to work together towards the progressive realisation of universal access to social security.

[140] Felner, Eitan, '"Closing the Escape Hatch": A Toolkit for Monitoring the Progressive Realization of Economic, Social and Cultural Rights', Journal of Human Rights Practice, vol. 1, no. 3, 2009, p. 411.

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