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SA Future Economy

SOCIAL SECURITY/PROTECTION IN SOUTH AFRICA

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SOCIAL SECURITY/PROTECTION IN SOUTH AFRICA:

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SOCIAL SECURITY/PROTECTION IN SOUTH AFRICA:

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1. Introduction

This paper examines the rationale for an overhaul of the system of social security in South Africa taking account of long-term social and economic factors and what has been highlighted by the COVID-19 pandemic.

Social security systems have evolved globally as a principal corrective to the distributional forces of market economies and other forms of private action. While markets and self-organisation of various forms are central to the healthy functioning of modern societies, they routinely generate harmful external effects.

On the positive side, markets and self-organisation reward innovation and enterprise. On the negative side, they can institutionalise structural winners and losers in society with resulting unfair distributions of social risk, incomes and assets. If not addressed the resulting social harms become embedded into the social fabric.

As a response, social security systems are society-wide mechanisms that institutionalise countervailing distributions of risk and income that ensure a balanced relationship between society and the economy. The result is a healthier and more resilient society and economy.
Economies with fair distributional rules outperform those that encourage predatory (economic) conduct with unfair outcomes. Which set of rules are adopted is ultimately a policy choice, affected by technical considerations, politics and context. Unfair outcomes, put simply, reflect the choices of governments.

To date, South Africa and the region have arguably given strong preference to exclusionary forms economic development, whether through markets or poor governance of the state. As a result both South Africa and the region are characterised by social segmentation that is structural in nature. These therefore reflect the policy choices made to date.

2. What this paper will address?

This paper will cover five broad areas.
*First, an overview is offered in **section 3** of what the COVID-19 pandemic has revealed about the adequacy of the South African social security system. This serves as a backdrop for a more fundamental review of the South African social security system offered in the subsequent sections.*

*Second, as context for a review of the domestic social security system the definition of social security is reviewed in **section 4**, together with its potential legal and institutional implications.*

*Third, the Constitutional imperative for social security delivery and improvement is analysed in **section 5** to clarify the obligations placed on the state.*

*Fourth, the adequacy of the present social security system is examined along three fronts in **section 6.***

- *The first deals with the role of social security in addressing inequality as a structural feature of all countries and shortcomings within the South African context.*
- *The second reviews potential gaps in the protection against key social contingencies (risks) within the South African context.*
- *The third examines the institutional framework for social security and raises the question whether this explains the very limited reform of social security protection from 1994.*

*Fifth, taking account of the identified gaps **section 7** outlines the reform recommendations required to substantially improve the impact of the social security system on the social and economic development of South Africa.*

3. What has the COVID-19 pandemic revealed

While the prevailing levels of income and wealth in South Africa and the region create the impression of advanced development and economic diversity, in reality the economic and social fabric appears fragile and struggles to withstand major social and economic shocks. The scale of the COVID-19 pandemic and government's response to it has however exposed the extent of this fragility.

Two weaknesses in the response stand out.

- *First, the introduction of a lockdown to suppress transmission of the SARS-COV-2 virus resulted from an incapacity to rapidly implement less economically harmful non-pharmaceutical interventions to suppress the epidemic. This demonstrates weaknesses within the public health system.*
- *Second, the lockdown in South Africa revealed that government lacked the social security machinery to provide interim emergency support to keep people employed or to offer income support to people who instantly lost work and sources of income.*

The focus of this paper is on the latter concern.

While it could be argued that many countries were surprised by the pandemic, South Africa and the region in fact had several months to prepare. The failure to best use the available time suggests important weaknesses in the structures of the state. However, it is the poor social security response that deserves special consideration.

South Africa lacks a comprehensive social security system. As a consequence the COVID-19 response failed in the following respects:

- *First, not one of South Africa's social security agencies or organisations has a registry of households and their socioeconomic situation. For instance, the Unemployment Insurance Fund (UIF) and the Compensation Fund (CF) have no information on contributors, only beneficiaries. Interim support measures needed to keep employees in their jobs, or to provide temporary relief, therefore required rapid implementation of registration processes. Unfortunately for many businesses the wait was too long, resulting in employment terminations and business closures. The South African Social Security Agency (SASSA) also only maintains a registry of beneficiaries, and has no system to prospectively collect information on households that may require income support either now or in future. The implementation of a special COVID grant consequently ran into the same registration difficulties as the UIF and the CF.*
- *Second, the institutional integrity of the social security system is deeply fragmented and poorly governed. The UIF and CF are effectively departmental sub-structures that operate without independent supervision. Similar weaknesses apply to SASSA. It is highly probable that the governance regime for social security agencies has impeded their progress into well-functioning social protection organisations. In all instances, administrative structures are outdated and there is no apparent innovation to improve benefits or the quality of services. The configuration of social security arrangements largely predate 1994 and appear resilient to reform.*
- *Third, the social security departments and associated agencies operate in silos, with a well-entrenched inability to coordinate and integrate responses with related public services and economic actors. For instance, unemployment interventions have to date been limited to basic forms of unemployment insurance. By way of contrast, many countries integrate all forms of social protection with active labour market strategies (Ozkan, 2014).*

4. Definition of social security and social protection

The terms social security and social protection are often used inter-changeably, although what they refer to has stabilised over time (Cichon et al., 2004). Within the South African context the Taylor Committee (Taylor Committee, 2002) and the Department of Social Development (DSD) (Department of Social Development, Wits School of Governance, & Oxford Policy Management, 2017) use the term social protection to refer to a wide group of contingencies that both prevent and mitigate social harm, with social security referring to a narrower set of contingencies typically addressed through income protection schemes.

The rationale for the distinction has an institutional justification (van den Heever, 2011) with the term social security applicable to a package of interventions that are closely related in terms of policy development and delivery for technical reasons. While the term social protection could refer to interventions such as basic education, healthcare, free basic utilities, social assistance and social insurance, the term social security, as used in this paper, refers only refers to income protection-related contingencies best addressed through social assistance and social insurance. This is consistent with section 27 of the Bill of Rights which specifically refers to social security and social *assistance as a form of social security (discussed further in section 5) with other social protection benefits mentioned elsewhere (for instance healthcare, shelter and education).*

The term social security as used in South Africa is therefore understood narrowly, although the adoption of this understanding has not as yet translated into substantial reform of the system of social security.

4.1 The Bill of Rights and its implications

Section 27 of the South African Bill of Rights provides for a set of positive and negative rights relating to healthcare, food and water and social security. Despite this, the obligations of Government to deliver on these rights has not been fully laid out in the form of a social contract or in jurisprudence. While the latter has provided guidance in relation to very specific rights, rights-based approaches to deepening the social security system, although important, have to date proven to be quite limited.

Box 1:Section 27 of the Bill of Rights – The right to health care, food, water and social security

1. Everyone has the right to have access to

a. health care services, including reproductive health care;

b. sufficient food and water; and

c. social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.

2. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.

3. No one may be refused emergency medical treatment.

(Republic of South Africa, 1996)

Box2:Section 36 of the Bill of Rights – Constraints on the limitation of rights

1. The rights in the Bill of Rights may be limited only in terms of laws of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including

a. the nature of the right;

b. the importance of the purpose of the limitation;

c. the nature and extent of the limitation;

d. the relation between the limitation and its purpose; and

e. less restrictive means to achieve the purpose.

2. Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

(Republic of South Africa, 1996)

Section 27 provides a right to social security for "everyone". This includes the right to access "social assistance" if "they" are unable to support "themselves" and "their dependents". Five considerations arise from this subsection:

First, the term "social assistance" refers to what other countries call "cash grants" or "social transfers". The term "social assistance" is used conventionally in South Africa and refers to non-contributory benefits in the form of income transfers where the entitlements do not flow from, or relate in any way (as in the value of an entitlement), to a contribution.

Second, despite referring to "everyone" subsection (c) makes an implicit distinction between sub-categories of "everyone". The reference to those "unable to support themselves" identifies a sub-group of "everyone" with inadequate incomes. It further suggests that dependants of this sub-category are a further sub-category of "everyone". By implication subsection (c) recognises that a mix of social insurance and social assistance is needed to ensure universal coverage across the full income spectrum of families.

Third, the term "social security" by default refers to contributory forms of social security (social insurance) for people with adequate incomes, as this explains the express qualification that the term includes non-contributory coverage (social assistance) for those without adequate incomes. In plain language subsection (c) indicates that everyone in families with adequate incomes have a right to social insurance (contributory social security), and everyone in families without adequate incomes have a right to "appropriate" non-contributory income protection (social assistance).

Fourth, section 27(2) places an obligation on the state to implement reasonable measures to achieve the positive rights. The qualification, which limits these rights, requires that account must be taken of available resources. This limit is itself qualified by the requirement to achieve "progressive realisation" of the rights. A short-term fiscal constraint cannot therefore result in a permanent and long-standing limit to these rights.

Section 36 further constrains the resource constraint qualification by requiring that any limitation on any right conferred by the Bill of Rights requires a law of general application which must be "reasonable" and "justifiable" within the requirements of an "open and democratic society". Section 36 therefore qualifies the right of the state to limit any right contained in the Bill of Rights, which right cannot be exercised in an arbitrary manner.

Despite the existence of the Bill of Rights, finalised in 1996, no system of social security has been either conceptualised or implemented. There is also presently no official definition of social security that can guide the country's understanding of the right or the design of the institutional framework. The Bill of Rights has to date therefore not been given life through legislative and other measures.

Despite the justiciability of the rights outlined in the Bill of Rights, the question is how to enforce these rights (Budlander, 2003; Constitutional Court of South Africa, 2000) in the face of the state's failure to comply with its obligations.

Taking account of section 27(2) of the Bill of Rights, the obligation of the state has three elements: First, in processes consistent with an open and democratic society the state must: develop a definition of social security; and develop an indication of the complete right to social security. Second, the state must provide data, information and reports clarifying the status of the right to social security at any given time.

Third, the state must provide a reform trajectory developed using processes consistent with an open and democratic society that shows how the right to social security will be realised over time. This trajectory should also clarify which rights are subject to resource constraints, and must therefore be progressively realised, and those that are not subject to resource constraints, and must therefore be made available immediately.

4.2 Progressive realisation versus immediate availability

Social security arrangements involve two basic interventions, social insurance and social assistance. Social insurance is contributory with benefit entitlements that flow from a contribution and involve an element of risk (for the contingencies they cover). Social assistance benefits are non-contributory and are therefore state subsidised benefits in the form of income transfers for specified contingencies. An entitlement to these benefits does not flow from a contribution and is instead based on need. While the generosity of social assistance is constrained by the funds that can be raised through general taxes, social insurance benefits are predominantly earnings-related and funded through contributions directly or indirectly paid by the potential beneficiary.[1]

In the case of the social assistance, therefore, the obligation of the state is to provide an institutional framework to deliver social assistance as well as to determine, finance and make available the benefits.

With social insurance, government only needs to determine the institutional framework as the benefits are self-funded.[2] *Without this institutional framework, however, social insurance would not be possible if reliance is placed exclusively on the incomplete protection available from private insurance (Barr, 2012; Cichon et al., 2004).*

While social assistance is subject to resource constraints, social insurance is not and should be realisable immediately.

4.3 Conclusion

In summary, social security policy as embodied in the current framework has not referenced the Bill of Rights. First, no definition of social security exists. Second, no elaboration of the complete right to social security exists. Third, the rights that are subject to resource constraints lack a progressive

[1] These can involves co-contributions by an income earners, an employer and even government. The contribution would be proportional to income, with benefits that can also vary to a degree by income.
[2] This is consistent with the Constitutional Court's understanding that a distinction should be made between the right of "access to adequate housing" and the right "to adequate housing". Whereas the latter may refer to an obligation to provide housing, the former requires that the enabling conditions be established for people to buy their own houses. "The state must create the conditions for access to adequate housing for people at all economic levels of society." (Constitutional Court of South Africa, 2000, par 35)

realisation pathway. Fourth, there is no elaboration of the rights to social security that are not subject to resource constraints such as access to social insurance and robust institutional frameworks for their delivery. These gaps in the state's obligations exist despite the finalisation of the Bill of Rights as far back as 1996.

5. Adequacy of social security in South Africa

5.1 Inequality and redistribution

Poverty and inequality are recognised as distinct concepts although they share a common cause. Poverty can be regarded as a manifestation of severe inequality, with poverty understood to refer to an absence of the means to survive with decency.

Many measures of poverty are themselves measures of inequality. A common approach sees poverty in relative terms, suggesting that it is related to context, with a strong subjective element.
In many cases financial measures are based on some deviation from mean income. Following this approach the more even the distribution of income, the lower the levels of poverty.
Poverty line approaches however see poverty as an absolute lack of some or other objectively determined package of goods and services necessary for basic survival. People falling below this line are assumed to be in a state of absolute poverty.

These different approaches however may lead to different policy choices.
Where the policy focus is on measures of absolute poverty, the causes of inequality may drop from view. But poverty is multidimensional and not reducible to simple income-related measures (Vijaya, Lahoti, & Swaminathan, 2014).

To the extent that severe levels of inequality are structural and flow from the organisation of institutions, including markets, poverty-focused strategies may leave inequality-inducing institutions intact that result in poverty. Such policies also tend to address quite limited features of poverty, leaving many highly distressed families without adequate support or protection where they fall outside the official definition.

Alternatives to poverty line approaches use measures that close the gap between mere survival and the minimum requirement to live decently (Frye et al., 2018). This offers more opportunity for fundamental policy approaches that address both the causes of multidimensional poverty and inequality.

The concept of inequality as a distinct area of concern however requires a reference point.
Complete equality can reasonably be regarded as unattainable as differences in income are not always unjust. For instance, the reward for differential effort and task complexity may result in differences in income that could be regarded as fair.

Differences in private earnings are however not always related to effort when excessive. These include inheritances, inter-family transfers and earnings from accumulated assets. Where earnings begin to deviate substantially from productive contributions to society the result can be a deterioration in social cohesion and economic coherence.

South Africa is one of the most unequal societies in the world (Finn, Leibbrandt, & Oosthuizen, 2014; Hundenborn, Leibbrandt, & Woolard, 2016). The causes are however contested, with policies implemented from 1994 unable to avoid a worsening of inequality and unemployment (Wittenberg, 2017). The competing views can be broadly divided into two theses.

The first, encapsulated in South Africa's National Development Plan (NDP) (National Planning Commission, 2011), argues that inequality results from high levels of unemployment due to weak economic growth. Therefore the only way to address inequality is to grow the economy first and employ more people. This view places weight on the distribution of income through employment. It largely ignores the distribution of income through asset ownership and limits income through redistribution to some measure of a poverty line.

The second, consistent with emerging evidence, argues that inequality is an inevitable outcome of any market economy and private activity in the absence of countervailing institutionalised systems of income redistribution (Hoeller, Joumard, Pisu, & Bloch, 2012; OECD, 2015; Ostry, Berg, & Tsangarides, 2014). The influence of post-tax income redistribution can influence the shape and form of an economy over time with the potential to diversify an economy.

The latter view is gathering weight as the dominant perspective, although not well respected in policy designs outside of the most industrialised countries.

Data reflecting the pre- and post-tax gini coefficients compiled by the Organisation for Economic Co-operation and Development (OECD) (OECD, 2020) for member countries suggests that, in the absence of redistributive programmes, inequality in all OECD countries would converge on South Africa's outcomes irrespective of the level of development. This demonstrates that policy choices matter.

Redistributive programmes typically take the form of subsidised services that de-commodify key social needs such as healthcare, education, basic housing and social security schemes which protect family incomes through insurance and subsidies of various forms.

In the absence of these interventions incomes, assets and the economy become concentrated. The resulting distortions structurally destabilise balanced economic development and social conditions. A strong case can therefore be made that South Africa's inequality outcomes are themselves the drivers of weak economic growth and structural unemployment. The absence of a system of social security as a key institutionalised stabiliser of incomes appears to lie at the heart of South Africa's *social and economic distortions.*

Comprehensive social security systems largely address contingencies closely tied to life-cycle risks. To be comprehensive each part of the life cycle must be protected through measures that both prevent and/or mitigate the contingency.

- *Children are protected through having families that are stable and have access to decent incomes and shelter.*
- *Working age adults are protected from contingencies that result in the loss of earnings from employment due to injuries, illness, death, disability, and unemployment.*
- *People in old age are protected through access to pension incomes.*

Where the measures are sufficiently comprehensive they will address poverty and inequality, with each contingency directly or indirectly affecting these outcomes.

Poverty and inequality can therefore be regarded as outcomes of incomplete systems of social protection rather than contingencies in and of themselves. The protection of incomes afforded by comprehensive social protection systems forms a substantial part of this protection.

5.2 Gaps in protection

OVERVIEW

While structural inequality and unemployment appear broadly related to distributional factors (income and assets) as discussed above, many forms of social protection are categorical in nature and focus on the prevention and mitigation of specific contingencies.

Categorical approaches to social protection are criticised for being so specific that important contingencies and important social outcomes such as inequality and poverty are poorly addressed. Comprehensive approaches attempt to address all important categories of risk through combining targeted categorical programmes and schemes with less targeted approaches. As a package, the chosen set of measures should be designed to structurally address social outcomes such as inequality and poverty.

South Africa's social security system is however highly targeted in two ways.

First, social protection regimes are restricted to a limited range of contingencies.

Second, many redistributive programmes make use of restrictive means tests which result in errors of exclusion and costly administration.

Targeting may lead to segmentation with a structural separation of support for lower income families from those who are better off. Highly targeted, or residual social security systems, reinforce inequality (Mkandawire, 2005).

Social protection regimes are composed of measures that both structurally redistribute income and provide insurance protection. The latter preserves livelihoods and opportunities in the face of *adversity. The former redistributes income while also mitigating the effects of particular contingencies. On its own, therefore, social insurance does not de-segment (reduce social disparities) society. For this to happen the combined influence of income redistribution and insurance is necessary.*

Broadly speaking, South Africa's social security system is characterised by redistributive schemes that exclude many vulnerable families and social insurance that is insufficiently comprehensive (Taylor Committee, 2002). The former leaves many families in extreme hardship while the latter fails to protect income earners from important social contingencies.

Social insurance schemes are furthermore not harmonised with social assistance programmes as the policy processes are driven by different ministries with limited coordination (see discussion in ***section 6.4****).*

While social assistance expenditure expanded by around 1.5% of GDP from 2002, this was largely limited to the expansion of the Child Support Grant (CSG), which provides income support in respect of individual children valued roughly at the food poverty line for children.

Caregiver support has only recently been considered during the COVID-19 crisis as a temporary measure and has been withdrawn. Aside from this expansion, no substantive improvement in any part of the social security system has been implemented after the Taylor Committee of Inquiry in 2002.

5.3 Formal and informal social protection

A distinction is also made between formal and informal forms of social protection. The former refers to systems with statutory guarantees of some form or another while the latter refers to arrangements established by some form of private agreement (Department of Social Development, 2017).

Together both formal and informal social security expenditure trends to around 30% of GDP (Cichon et al., 2004), referred to as the "normal" level of social security expenditure. The comprehensiveness of social security systems is largely determined by the proportion of normal social security expenditure that is formal, i.e. subject to some form of rights-based guarantee, versus informal where the quality of protection is less reliable or complete.

Comprehensiveness is therefore not characterised by high levels of absolute social security expenditure beyond what is regarded as normal. Instead it is emphasises the scope of protection within what is considered normal. Social assistance and social insurance schemes form part of the formal system, while private schemes are informal.

The complete quantification of informal social security would include inter- and intra-household transfers. The simpler approach is to focus on private contractual arrangements in the formal economy.

When this approach is used, South Africa spends 15.7% of GDP (up from 13.5% in 2000) on social security with only 7.9% of GDP on formal social security (up from 7.8% of GDP in 2000) (Table 1). Virtually all contributory old age, death, disability and healthcare expenditures are regarded as informal (noting that there are some limited social guarantees for medical schemes), and offer limited certainty of protection.

At 7.6% of GDP in 2018 the social security system is far from comprehensive with most (53.9%) of the formal expenditure attributable to the public health system (4.1% of GDP. The remainder involves social assistance (2.9% of GDP) and social insurance (0.6% of GDP). (Wits School of Governance, 2020)

Table 1: Overview of social security expenditure in South Africa for 2000 and 2018

Contingency	2000			2018		
	Formal	Informal	Total	Formal	Informal	Total
			Expenditure (2018 prices)			
Health	80 259	84 471	**164 730**	203 242	193 389	**396 631**
Illness	441	0	**441**	313	0	**313**
Old age	25 885	63 104	**88 989**	70 531	68 885	**139 416**
Invalidity/disability	17 266	33 558	**50 824**	26 090	71 422	**97 512**
Loss of support	807	28 116	**28 923**	3 861	60 449	**64 310**
Maternity	1 268	0	**1 268**	1 040	0	**1 040**
Children	11 609	0	**11 609**	60 631	0	**60 631**
Foster care/Adoption	2 063	0	**2 063**	5 475	0	**5 475**
Family protection	7 058	0	**7 058**	10 668	0	**10 668**
Unemployment	4 291	0	**4 291**	7 531	0	**7 531**
TOTAL	**150 947**	**209 248**	**360 195**	**389 382**	**394 145**	**783 528**
Non-contributory	**131 537**	**0**	**131 537**	**356 982**	**0**	**356 982**
Contributory public	**19 410**	**0**	**19 410**	**32 400**	**0**	**32 400**
Contributory private	**0**	**209 248**	**209 248**	**0**	**394 145**	**394 145**
			Expenditure (% of GDP)			
Health	3.0%	3.2%	**6.2%**	4.1%	3.9%	**7.9%**
Illness	0.0%	0.0%	**0.0%**	0.0%	0.0%	**0.0%**
Old age	1.0%	2.4%	**3.3%**	1.4%	1.4%	**2.8%**
Invalidity/disability	0.6%	1.3%	**1.9%**	0.5%	1.4%	**2.0%**
Loss of support	0.0%	1.1%	**1.1%**	0.1%	1.2%	**1.3%**
Maternity	0.0%	0.0%	**0.0%**	0.0%	0.0%	**0.0%**
Children	0.4%	0.0%	**0.4%**	1.2%	0.0%	**1.2%**
Foster care/Adoption	0.1%	0.0%	**0.1%**	0.1%	0.0%	**0.1%**
Family protection	0.3%	0.0%	**0.3%**	0.2%	0.0%	**0.2%**
Unemployment	0.2%	0.0%	**0.2%**	0.2%	0.0%	**0.2%**
TOTAL	**5.6%**	**7.8%**	**13.5%**	**7.8%**	**7.9%**	**15.7%**
Non-contributory	**4.9%**	**0.0%**	**4.9%**	**7.1%**	**0.0%**	**7.1%**
Contributory public	**0.7%**	**0.0%**	**0.7%**	**0.6%**	**0.0%**	**0.6%**
Contributory private	**0.0%**	**7.8%**	**7.8%**	**0.0%**	**7.9%**	**7.9%**

Source: (Wits School of Governance, 2020)

PROTECTION OF FAMILIES AND CHILDREN

While social assistance is offered for children and foster care the benefits have not been designed as a form of family support. The child benefits do not account for the financial needs of the caregiver and the foster care benefits are difficult to access (as the grant is only paid out once a social worker has assessed the foster parents and the courts approved) and stops when a child is adopted.

Means tested social assistance for old age is however considered to have contributed substantially to the reduction of poverty in South Africa, particularly of women who constitute up to two thirds of recipients (Burns, Keswell, & Leibbrandt, 2005). The value of the grant is fairly generous and offers indirect support to families beyond the primary beneficiaries. Many children and unemployed working age adults depend indirectly on the old age grant.

Social assistance for the disabled offers support at the same value as for old age and is also means tested. It is also the only grant directly available to working age adults. Once recipients reach the age of 60 the grant is switched to that for old age.

Concerns with the grant involve inconsistencies in the assessments of permanent disability and proper administration (Goldblatt, 2009). The disability grant is also responsible for a disproportionate number of annual appeals against the decisions made by the South African Social Security Agency (SASSA) where eligibility has (frequently) been improperly declined (own consultations with the Department of Social Development).

Given evidence of the positive social and economic effects of social assistance (Woolard, Harttgen, & Klasen, 2011), the present regime appears too limited for the South African context.
Required for a more comprehensive system of basic income support are: pregnancy support and support for the first 1000 days of the newborn child (van den Heever, 2016); caregivers of child recipients of the child support grant; and basic income support for unemployed adults from the ages of 18 to 59 (discussed further below).

Prior to the COVID-19 pandemic up to 60% of families could be regarded as living in income distress, placing a burden on their family relationships and opportunities (StatsSA, 2018). Nearly two thirds of all children live in the poorest 40% of households (Hall & Sambu, 2016). This number will have increased due to the pandemic.

The removal of means tests for social assistance (Taylor Committee, 2002) is also seen as important to: eliminate errors of exclusion through improved targeting; address the problematic implications means tests have for the dignity of recipients; and eliminate poverty traps (Samson, 2007).
While universalisation appears to increase the financial outlay for social assistance, this is clawed back through the tax system (Samson, 2007). The net financial implications can be designed to achieve fiscal neutrality.

UNEMPLOYMENT

Despite the existence of high levels of structural unemployment, formal protection for unemployment in the form of social insurance accounts for only 0.2% of GDP (Table 1), with no change between 2000 and 2018.

Labour activation programmes are also not integrated into the system of social security, with no social assistance for unemployment linked to labour activation found in well-developed systems (see Ozkan, 2014). While some labour activation programmes do exist they are limited in scale and therefore in their ability to impact on structural unemployment.

While unemployment insurance in South Africa offers reasonable benefits for up to 12 months, it is limited to contributors and therefore does not offer protection to many informal workers (noting that although domestic workers are covered, compliance and access to benefits is poor), non-contributors and the long-term unemployed. An insurance framework is too limited for the domestic context (in fact for any context) as it cannot address structural unemployment.

Resistance to expanded social security for the unemployed focuses on the risk of a dependency culture emerging that could deter normal employment-seeking behavior. Recent research however suggests that strong positive incentives to seek employment exist even where benefits are relatively generous (Howell & Rehm, 2009; Surender, Noble, Wright, & Ntshongwana, 2010).

A comprehensive approach to unemployment protection should consider an integrated approach to social insurance, social assistance and labour activation. Labour activation programmes typically include job placement, internships, adult skills development and special employment programmes, all of which improve labour mobility and are important to addressing long-term unemployment (Rønsen & Skarðhamar, 2009). Labour activation programmes should be developed in conjunction with key industries through trade and industry policy.

OLD AGE, DEATH AND DISABILITY

While South Africa has a basic social assistance benefit for old age and disability, these grants do not form part of a holistic social security framework that integrates social assistance arrangements with contributory schemes offering equivalent benefits in the form of social insurance.

*Contributory protection for retirement, together with the complimentary arrangements for the death or disability of a breadwinner, presently form part of a tax incentivised quasi-voluntary private system. Contributions to these schemes add up to approximately 4% of GDP (derived from **Table 1**), but offer very limited protection for income earners. Schemes are offered at the discretion of employers, fees are excessive, benefit levels are discretionary and typically too low and there are no statutorily required benefit guarantees (Department of Social Development, 2007b).*

Well-developed comprehensive social security systems structure their old age protection schemes in three distinct tiers (International Labour Office, UD). First, through a non-contributory basic social assistance benefit constituting tier 1. Second, through a mandatory contributory basic earnings-related social insurance arrangement constituting tier 2. Third, through a contributory mandatory (if large) or voluntary (if small) supplementary earnings-related arrangements offered through regulated private schemes constituting tier 3.

Presently South Africa has a version of tier 1 together with a weak version of tier 3. This therefore constitutes a major gap in the protection of income-earning families who risk severe reversals if the contingencies death, disability and old age occur while they lack adequate coverage.
To address this gap it will be necessary to constitute a coherent three tier framework (Inter-departmental task team on social security, 2012).

5.4 Institutional gaps

The present institutional framework for social security in South Africa is largely unchanged from that inherited from the pre-1994 period.

Historically social security was never conceived of as a system, but rather as individual categorical programmes addressing very specific needs. The allocation of functions by ministry therefore evolved piecemeal over time.

The ministries with important social security functions include:

Finance (National Treasury): which oversees the general budget allocations; collects the social insurance revenues; oversees policy development regarding financial services which affect private contributory pensions, death and disability schemes; and oversees social security investments in the Public Investment Corporation (PIC).

Social Development: which is responsible for coordinating social security policy; and is directly responsible for policies regarding social assistance and social services.

Employment and Labour: which is responsible for overseeing the Unemployment Insurance Fund (UIF) and associated policy development; the Compensation Fund (CF) and associated policy development for social insurance coverage for occupational injuries and diseases including loss of income, loss of support and compensation for medical expenses; and labour activation strategies.
Health: which is responsible for health policy development; oversight of health service delivery; policies regarding the private health system, including medical schemes and their regulation; and the provision of coverage for occupational diseases in mining.

Transport: which is responsible for policies regarding third party insurance for road accidents offered through the Road Accident Fund. Coverage is offered for: loss of income; loss of support (where a *breadwinner dies); and compensation for medical expenses all largely on a fault basis (awards are apportioned where individuals are at fault in the accident).*

Home Affairs, which provides identification documents and a population registry for births and deaths.

Justice: which provides the general framework for the enforcement of social security rights; and is responsible for the judicial oversight of assessments for foster care and adoptions.
International Relations: which coordinates international and regional social security access for South Africans abroad and travelers to South Africa.

The large number of ministries with some role in making social security policy arguably explains the slow pace of social security reform in South Africa (van den Heever, 2011).

With so many ministries involved no single ministry is properly authorised to initiate holistic social security policy processes that cut across ministries. Inter-departmental coordination of policy appraisals and consultation is severely compromised.

Social security delivery is also complicated by a multiplicity of small agencies and private actors, each of which fall under different policy jurisdictions and a wide range of shallow corporate governance arrangements. These arrangements influence administrative performance in the public interest including the risk of corruption.

Such concerns were originally voiced by the Taylor Committee of Inquiry (Taylor Committee, 2002) which recommended a consolidation of ministries and agencies together with a consolidated array of agencies reporting to an independent social security board.

More recently an inter-departmental process on social security convened within government re-asserted these concerns together with recommendations for a streamlined framework (Inter-departmental task team on social security, 2012).

The complicated array of delivery agents for social security also constrains opportunities for efficient transversal functions, such as public interfaces, assessment regimes, registries (all of which are different for each scheme).

Revenue arrangements are also specific to each social insurance scheme, each of which has a separate balance sheet. Some schemes run up very large surpluses (UIF and CF) while others experience large deficits (RAF).

This poorly articulated framework resulted in the many delays and failures to direct social protection transfers of various forms to households and workers made vulnerable by COVID-19 as discussed *in **section 3**.*

To address these institutional shortcomings social security must first be conceived of as a single large system composed of several sub-systems.

The inter-departmental task team on social security made the following proposals in this regard: First, review and streamline the policy regimes consistent with the comprehensive system of social security.

Second, review and streamline the configuration of schemes that will deliver benefits within each part of the social security system.

Third, review and streamline financing arrangements (contributions, subsidies, asset management) across all parts of system.

Fourth, harmonise the benefit regimes across all schemes.
Fifth, centralise and streamline the registries for members and beneficiaries for strategic and administrative purposes.

Sixth, review and streamline benefit application, adjudication and assessment processes across all schemes to ensure fairness for applicants and beneficiaries.

Seventh, review and streamline the mechanisms by which eligible residents can enforce their rights to social security across all schemes irrespective of the tier in which they occur.

Eighth, review and streamline the configuration of schemes that will deliver benefits within each sub-system.

6. Recommendations

The following are recommendations for a comprehensive system of social security.
They derive from: information provided in this report; extensive consultations undertaken by the author within government; government consultation documents (Department of Social Development, 2007a, 2007b, 2009; Inter-departmental task team on social security, 2012; Minister of Social Development, 2015; National Planning Commission, 2011; National Treasury, 2007, 2013; Rusconi, 2007; van den Heever, 2010, 2012); and discussions underway at the National Economic Development and Labour Council.

First, a definition of social security consistent with the Bill of Rights must be developed through substantive public engagement and formalised within a legislative framework.
Second, the right to social security must be formalised through express clarification of: what the complete right to social security entails; the extent to which the right to social security is presently

achieved; and a progressive realisation pathway to the achievement of the complete right.

Third, the allocation of functions to ministries must be reorganised.

- *Ministry of Social Security: should be responsible for comprehensive social security. This ministry should also make policy regarding social assistance and all of social insurance. It would also be the executive authority for all agencies and regulators responsible social assistance and social insurance.*
- *Ministry of Employment and Labour: should be responsible for labour activation policies. These programmes should be integrated with social assistance and social insurance schemes. Social insurance functions should all be moved to the Ministry of Social Security.*
- *Ministry of Finance: should be responsible for: social security revenue collection; policy regarding the regulation of private schemes forming part of the social security system; and the executive authority for regulators supervising private schemes forming part of the social security system.*
- *Ministry of Social Services: should be responsible for all the social services presently falling under the Department of Social Development.*
- *Ministry of Health: should continue to be responsible for general health policy apart from those aspects that form part of social insurance. The latter would include coverage for employment-related injuries and diseases, and third-party health coverage for motor vehicle accidents.*

Fourth, the scope of social assistance schemes should be deepened, with consideration given to the universal grants for child support, pregnant women, old age (incorporated into the three tier retirement framework) and disability (incorporated into the three tier retirement framework).

Fifth, the unemployment protection regime should be revised to address long-term and structural forms of unemployment. This should include the implementation of unemployment social assistance conditional upon participation in labour activation programmes. The labour activation programmes should be coordinated with industry via the Ministry of Trade, Industry and Competition.

Sixth, a three tier framework should be implemented for old age protection, death and disability. This should involve the development of agencies capable of delivering the tier 2 framework and associated regulators of private formal social security schemes for tier 3.

Seventh, the institutional framework for comprehensive social security must be designed and implemented as system. This should include:

- *The distribution of functions according to ministry must be re-configured as indicated above.*
- *The establishment of an independent social security board made up of social partners and technical experts, which will supervise all social security agencies and regulators.*
- *The implementation of a consolidated social insurance scheme forming part of a second tier of contributory coverage. This scheme would take over the functions of the UIF, the CF and related schemes in falling under the Ministry of Health (for mining diseases). It would also provide second and third tier arrangements for old age, death and disability.*

- *The implementation of new agencies to cater for critical transversal functions required by all parts of the social security system. These agencies would be supervised by the social security board and include:*
- *An agency to manage a master social security registry for all of social security;*
- *An agency to manage the public interface for all parts of the social security system (a version of this exists in Australia called Centrelink);*
- *An agency to manage clearing house functions for the three tier retirement system;*
- *The unbundling of the PIC into four separate independent public investment agencies (according to the approach used in Sweden) (this has been discussed within certain government ministries but is not presently included in the consultation documents);*
- *An agency to manage disability assessments for all social assistance, social insurance and tier three retirement schemes; and*
- *A complaints adjudication agency to manage all complaints and appeals for all parts of the social security system.*

Seventh, establish an implementation authority dedicated to managing the process of implementing the comprehensive social security institutional framework. This is required due to the need to have a multi-year dedicated project team for implementation.

7. Conclusion

The COVID-19 crisis during 2020 highlighted already identified weaknesses in the system of social security. Despite various policy processes dedicated to the identification of priorities for reform, very little has changed since 1994 apart from scaling up certain social assistance benefits and making some minor entitlement changes to the UIF.

The set of programmes that presently make up social security in South Africa are of insufficient scope and design to address the structural causes of inequality, poverty and unemployment in South Africa. While South Africa has some unique contextual features, many of the prevalent social outcomes are arguably the expected consequence of an under-developed social security system. South Africa therefore needs to prioritise the design and implementation of a comprehensive system of social security. A priority in this process is the reconfiguration of the institutional framework for social security sufficient to accommodate a three tier system for a comprehensive spectrum of risk prevention and mitigation measures.

An expansion of benefits should focus on increasing the ratio of formal to informal social security benefits rather than a net increase in benefits. In some cases, particularly in the case of social assistance, increased government outlays are appropriate on an incremental basis. For contributory schemes, social insurance arrangements can take the form of public schemes and regulated private schemes.

South Africa has a long path ahead to realise a comprehensive system of social security. After virtually no movement post 1994, it has become important for social cohesion and economic development to take more pronounced action. Especially in light of the fact that South Africa's poverty and inequality outcomes are policy choices (as much post 1994 as before) rather than accidents of fate.

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