

The right to social security in South Africa

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1. Introduction

The Foundation for Human Rights (FHR) has commissioned a series of studies assessing the progress on the achievement of socio-economic rights in South Africa, and in particular the Government of South Africa's fulfilment of its obligations in terms of the socio-economic rights as set out in the Constitution. The study is intended to provide an update on South Africa's achievements since its transition to democracy. This paper analyses, from a human rights perspective, the current fault lines in relation to the realisation of the right to social security.

Social security policy in South Africa developed in a context of human rights violation and systemic inequality, before the political transition to democracy in 1994. Twenty years on, after the dismantling of the apartheid regime, South Africa reaps the benefits of a rights-based social security system, which charted a ground-breaking new path as an essential component in the rebuilding of the country on values of justice and freedom.¹ Internationally, South Africa is particularly recognised as having a progressive and far-reaching social assistance programme for a middle-income developing country.² Yet human rights challenges in the field of social security still remain.

Social security is defined as the provision of minimum income security and support in kind via contributory social insurance schemes and non-contributory social assistance programmes.³ We start the paper by discussing, in Section 2, the legislative and policy frame-

work that underpins the delivery of social security in South Africa. The section provides a brief overview of international and regional human rights laws relevant to social security, and then moves on to the South African context to discuss domestic law, South African jurisprudence, and finally South African policy and spheres of government responsibility with regard to social security.

Following the overview of the social security legislative framework, Section 3 provides an analysis of the systemic fault lines across the human rights dimensions. We show that South Africa has achieved a remarkably large and efficient social assistance programme for children, the elderly and persons with disabilities. There are moderately effective social insurance programmes for the unemployed who were employed and for those exposed to occupational injuries and diseases in the formal employment sector, as well as for those exposed to traffic injuries. Yet these provisions fall short of the comprehensive developmental approach to social security (and social welfare) outlined in the White Paper (1997) and reiterated in the National Development Plan (NDP)(2013). The majority of the structurally unemployed and informal worker population remain marginalised from social assistance and social insurance schemes.⁴ Rigid divisions between social assistance and social insurance do not favour the development of an integrated approach to social and economic development.⁵

In conclusion, we argue that South Africa's social security system has continued to build on a foundation

of human rights, but that a number of challenges remain in continuing this journey.

2. Legislative and policy framework

2.1 International and regional law

The right to social security is laid down in key international human rights documents. Thus, social security is recognised as a human right in the Universal Declaration of Human Rights of 1948 and the International Covenant on Economic, Social and Cultural Rights of 1966 (ICESCR). The Human Rights Declaration asserts that ‘Everyone, as a member of society, has the right to social security’ (article 22) and that everyone has the ‘right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control’ (article 25(1)).⁶ Equally, the ICESCR states in article 9: ‘The states parties to the present Covenant recognise the right of everyone to social security, including social insurance.’ Article 11 further declares: ‘The states parties [...] recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.’⁷

The right to social security is also incorporated in a range of international human rights instruments,⁸ most notably and in further detail in ILO Convention 102 on Minimum Standards of Social Security (1952)⁹, and the ILO Recommendation No. 202 on National Floors of Social Protection (2012)¹⁰

From a regional perspective, the member states of the African Union recognised, in 2004, the centrality of social protection for social policy,¹¹ which was subsequently followed by the Social Policy Framework for Africa in 2008.¹² The Framework is not legally binding and member states are merely ‘encouraged to choose the coverage extension strategy and combination of tools most appropriate to their circumstances.’¹³ However, with wordings akin to the Social Protection Floor (which we discuss in more detail below), the Framework also declares that ‘[t]here is an emerging consensus that a minimum package of essential social protection should

cover: essential health care, and benefits for children, informal workers, the unemployed, older persons, and persons with disabilities. This minimum package provides the platform for broadening and extending social protection as more fiscal space is created.’¹⁴

A draft Declaration on Employment, Poverty Eradication and Inclusive Development in Africa has been developed (known as Ouagadougou+10 and intended to replace the 2004 Declaration). It was adopted by the Ministers of Labour and Social Affairs (LSAC) in Windhoek in April 2014, and was supposed to be adopted by an Extraordinary Summit of African Union (AU) Heads of State and Government in September 2014, however, adoption had to be postponed due to the Ebola crisis. Another key African Union instrument which relates to social security is the ‘Social protection plan for the informal economy and rural workers 2011–2015’ (SPIRE-WORK), in which a strategy towards social security for the informal economy and rural workers is formulated.¹⁵

The Southern African Development Community (SADC) has committed member states to social security provision as a human right. Hence, article 19 in the *Charter of Fundamental Social Rights in SADC* (2003) states that:

1. Member States shall create an enabling environment so that every worker in the Region shall have a right to adequate social protection and shall, regardless of status and the type of employment, enjoy adequate social security benefits.
2. Persons who have been unable to either enter or re-enter the labour market and have no means of subsistence shall be entitled to receive sufficient resources and social assistance.¹⁶

The SADC Code on Social Security (2007) reiterates that ‘[e]veryone in SADC has the right to social security’,¹⁷ and then further provides details on different types of policy options and security provision for different groups in society, such as the elderly, children, the unemployed etc. The SADC also recently adopted the Protocol on Employment and Labour.¹⁸ Although not yet in force, this important document contains comprehensive provi-

sions on and reference to social security, explicitly stating that both decent employment and social security need to be ‘at the centre of macro-economic and sectoral policies at global, regional and national levels’ (p. 3). The document declares the aim of achieving regional integration through the harmonisation and co-ordination of labour and social security legislation.

Although the older documents grant a vital basis for the provision of social security as a human right, the newer documents, particularly the CESCR and the ILO Recommendations 202, provide a fundamental framework for the future expansion of social security.¹⁹ The recent documents reflect a growing realisation that social security needs in developing countries are different to the industrialised world. At the International Labour Conference in 2001, where representatives affirmed that social security ‘is a basic human right and a fundamental means for creating social cohesion’,²⁰ it was recognised that the implicit assumption ‘that past economic and social development patterns of the industrialised countries would replicate themselves in other regions’, has proved to be incorrect.²¹ Consequently, acknowledging that large segments of the populations in developing countries work outside the formal sector, social assistance has become a primary tool to alleviate poverty and provide basic income security in developing countries,²² while ways are being sought to expand social insurance beyond the traditional formal sectors.²³

It has been argued that the National Social Protection Floors Recommendation [202] ‘identifies, for the first time, a comprehensive set of principles for national social security systems’ with principles such as ‘the universality of protection, the adequacy of protection, the obligation to define benefits in the law, non-discrimination, progressivity of implementation’ among others.²⁴ The objectives of the Recommendation are to provide guidance to members to:

- (a) establish and maintain, as applicable, social protection floors as a fundamental element of their national social security systems; and
- (b) implement social protection floors within strategies for the extension of social security that progressively ensure higher levels of social secu-

rity to as many people as possible, guided by ILO social security standards.²⁵

The following social security guarantees are recommended for national Social Protection Floors:

- (a) access to a nationally defined set of goods and services, constituting essential health care, including maternity care, that meets the criteria of availability, accessibility, acceptability and quality;
- (b) basic income security for children, at least at a nationally defined minimum level, providing access to nutrition, education, care and any other necessary goods and services;
- (c) basic income security, at least at a nationally defined minimum level, for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability; and
- (d) basic income security, at least at a nationally defined minimum level, for older persons.²⁶

Although advocating an initial basic minimum of income security, the Recommendation envisages the progressive realisation²⁷ of a comprehensive social security framework²⁸ with universal access, under the primary responsibility of the state.²⁹ In reference to progressive realisation of the right to social security, the Recommendation explicitly links to various earlier documents. Article 2(1) in ICESCR thus declares that:

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.³⁰

The ICESCR confirms the legal obligation (rather than policy option) of states, under intentional human rights

law, to 'ensur[e], at the very least, minimum essential levels of non-contributory social protection'.³¹ Furthermore, the ICESCR also asserts the obligation of progressive realisation of the right to social security; in fact, even though there may be significant financial implications, the state 'must demonstrate that every effort has been made to use all resources that are at its disposal in an effort to satisfy, as a matter of priority, these minimum obligations'.³²

Another important and influential international document in the social protection floor debate is the Bachelet report (2011).³³ The report links the social protection floor to principles of social justice and the universal right to social security. The core idea is that no one should live below a certain income level and that everyone should at least have access to basic social services. The social protection floor is also strongly linked to the decent work agenda, and the need to strengthen labour institutions and to support macro-economic environments that promote employment. It is envisaged that each country develops its own social protection floor strategy, in line with national priorities and resources, for the extension of social security, comprising a basic set of social guarantees for all (horizontal dimension), and the gradual implementation of higher standards (vertical dimension).

There is thus ample support in international and (AU and SADC) regional documents for the right to social security (now also often referred to as social protection).³⁴ Accepting, at least initially, a minimum set of social security provisions, the vision is clearly for states to progressively expand their framework to provide comprehensive social security for all.

2.2 South African law

A core aspect of the human rights approach is that social protection programmes must be enshrined and defined in national legal frameworks, and supported by a national strategy and plan of action. The most successful experiences of social protection systems are those grounded in legal instruments that create an entitlement to social protection benefits, ensure the permanence of

these initiatives, and give rights-holders the legal ability to invoke their rights. The success of systems in countries such as Brazil and South Africa is due in part to the existence of specific legal provisions ensuring the individual's right to social protection and defining the standards which regulate the involvement of all stakeholders.³⁵

As we shall see in the following discussion, South Africa has a constitutional foundation ensuring individuals' right to access to social security.³⁶ Nevertheless, international human rights law must also be taken into account as 'South Africa has indicated its intention to become a party to and to be legally bound by the obligations imposed by relevant international treaties'.³⁷ In particular, South Africa is bound by international agreements that it has ratified: 'An international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces, unless it is an agreement referred to in subsection (3)'.³⁸ South Africa has signed, and now also ratified, the ICESCR. Furthermore, section 39(1)(b) of the Constitution compels courts and tribunals to consider international law when interpreting the Bill of Rights, even if South Africa is not legally bound by obligations under a treaty.³⁹ In addition, the international approach of the Constitution should determine the interpretation of legal provisions (also in relation to social security): 'When interpreting any legislation, every court must prefer any reasonable interpretation of the legislation that is consistent with international law over any alternative interpretation that is inconsistent with international law'.⁴⁰

Arguably, it can be inferred from the Constitution that South Africa is a social state and that the cornerstone of a social state is a comprehensive social security system. This conclusion is drawn⁴¹ from the preamble in the Constitution, which states that the aim is to '[h]eal divisions of the past and establish a society based on democratic values, social justice and fundamental human right; [...and] [i]mprove the quality of life of all citizens and free the potential of each person'.⁴²

With reference to social security, the Constitution states:

Everyone has the right to have access to [...] social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.⁴³

The state must take reasonable legislative and other measures within its available resources to achieve the progressive realisation of each of these rights.⁴⁴

It follows from these sections that the right to access to social security is protected by the Constitution. It is further suggested that, while the state may not deny anyone access to social security benefits, it does not ensue that everyone has the right to social security because its accessibility depends on the state's availability of resources.⁴⁵ However, the state is obliged to take reasonable measures to achieve the progressive realisation of the right to access to social security (see the same section 27(2)). Also, considerations of deprivation and vulnerability could play an important, if not decisive, role in at least prioritising the entitlement of certain categories (for example, the elderly, children and people with disability) to access social security, which means that the plight of the (most) vulnerable may not be neglected. In sections 2.3 and 3.2 we discuss in more detail how the developing jurisprudence interprets the constitutional provisions to social security, as well as that of the more specific social security laws.

South African laws regulate the administration of social assistance and social insurance separately.⁴⁶ Concerning social assistance, the Social Assistance Act (2004),⁴⁷ as amended,⁴⁸ provides for the rendering of social assistance to eligible persons. The South African Social Security Agency Act (2004) provides for the establishment of an agency (SASSA) to 'ensure efficient and effective management, administration and payment of social assistance'.⁴⁹ As will become clear in sections 2.3 and 3, these Acts, as amended, in conjunction with and in response to court cases and civil society actions, have been instrumental in expanding the coverage of social assistance in South Africa. Nevertheless, the Social Assistance Act, through its definitions of eligible persons and the eligibility criteria for access to different grant types, effectively excludes all poor and able-bodied adults

between eighteen and 59 years from accessing social assistance, although many in this age group are in income-insecure positions.⁵⁰

Social insurance schemes are contributory in nature and can be divided into mandatory social insurance and voluntary social insurance funds. There are Acts providing for the regulation of voluntary social insurance schemes, such as the Pension Funds Act (1956) as amended, and the Medical Schemes Act (1998). As voluntary insurance falls within the realm of the private sector, we focus in this paper primarily on compulsory social insurance. Arguably, South Africa has a minimal formal social insurance system, as there is no direct legal obligation of employees to contribute to medical aid schemes and retirement funds.⁵¹ There is thus an absence of compulsory social insurance in the areas of pension and medical benefits, which causes significant exclusion of a large number of people from accessing social security. The main laws providing for social insurance on a compulsory basis are limited to the Unemployment Insurance Act (2001), which provides for the payment of unemployment, illness, maternity, adoption and dependants' benefits.⁵² The Compensation for Occupational Injuries and Diseases Act (1993) provides for compensation for disablement caused by occupational injuries or diseases sustained in the course of employment, or for death resulting from such injuries or diseases.⁵³ And the Road Accident Fund Act (1996) provides for the payment of compensation for loss or damage wrongfully caused by the driving of motor vehicles.⁵⁴

2.3 South African jurisprudence

The Constitutional Court has stressed that the socio-economic rights contained in the Constitution are justiciable, and that their inclusion in the Constitution has direct financial and budgetary implications.⁵⁵ Further, in cases where statutory entitlements to social assistance grants and social insurance benefits have not been adhered to, the courts have not hesitated to intervene.⁵⁶ Court cases (at both the Constitutional Court and lower court levels) have in particular been prevalent with respect to social assistance and have extensively applied administrative justice principles.⁵⁷ In many instances, decisions by the courts have led to amendments of social

security laws and policies; for example, the extension of social assistance to refugees and permanent residents. Arguably then, due to the pressure to justify which persons are eligible (or not) for social security, the South African state has moved towards a more explicit interpretation of its social security framework.⁵⁸ In this section, we focus specifically on how the developing jurisprudence interprets the principles of social security in South Africa. In section 3.2, we will discuss in more detail the implication of court cases (and subsequent changes to laws and policies) on issues regarding administrative justice and rules of eligibility for social security.

At the most fundamental level, the Constitutional Court has reiterated the value of social security:

[T]he right of access to social security, including social assistance, for those unable to support themselves and their dependants is entrenched because as a society we value human beings and want to ensure that people are afforded their basic needs. A society must seek to ensure that the basic necessities of life are accessible to all if it is to be a society in which human dignity, freedom and equality are foundational.⁵⁹

Moreover, the Constitutional Court has affirmed the intimate interrelationship between social security as a fundamental right and other fundamental rights.⁶⁰ All rights contained in the Constitution are then seen as interrelated, indivisible and mutually supporting.⁶¹ Particularly in the area of social assistance, it has been noted that the provision made to give effect to one right may have an impact on the extent to which it might be required of the State to take measures to give effect to other rights. Thus, in *Grootboom*, the Court noted that: 'If [...] the state has in place programmes to provide adequate social assistance to those who are otherwise unable to support themselves and their dependants, that would be relevant to the state's obligations in respect of other socio-economic rights.'⁶²

While the right to social security appears firmly entrenched, the availability of resources is still an important consideration when determining the obligation of the state.⁶³ However, the availability of resources has to

be balanced against the state's obligation to take reasonable measures to achieve the progressive realisation of the right to access to social security, as well as to consider the deprivation and vulnerability of affected persons.⁶⁴ Following the constitutional emphasis on redressing imbalances of the past and on empowering the historically disadvantaged and the vulnerable, there has been particular constitutional focus on addressing the plight of the most vulnerable and poor in society.⁶⁵ In both *Grootboom* and *Treatment Action Campaign*, the Court emphasised that '[t]hose whose needs are the most urgent and whose ability to enjoy all rights therefore is most in peril, must not be ignored by the measures aimed at achieving realisation of rights.'⁶⁶

The Constitutional Court has thus been willing to intervene in cases affecting communities historically marginalised, excluded or appearing particularly vulnerable.⁶⁷ Along with this principle of addressing the needs of the most vulnerable first, retrogressive measures as regards social security provisioning are regarded as incompatible with the state's obligation to progressively realise the right to access to social security.⁶⁸

Summing up, the jurisprudence has confirmed the intrinsic value of social security and its interconnectedness and indivisibility with other fundamental rights. While the availability of resources constitutes a legitimate restriction on the provision of social security, as the courts have affirmed the need to focus on the poorest and most vulnerable, the principle of progressive realisation is also affirmed and with that the inadvisability of retrogressive measures.

2.4 South African policy

The White Paper for Social Welfare (1997) constitutes the key policy framework for restructuring social security in the post-apartheid era.⁶⁹ The policy framework is premised on a rights-based approach to social welfare⁷⁰ and it committed the government to ensure the progressive realisation of social security for all.⁷¹ It adopts a holistic approach to social welfare premised on key themes such as the interrelations between social and economic development, democracy and participation, and social welfare pluralism referring to the involvement of both state and civil society actors.⁷² Furthermore, the

need for a comprehensive social security system is emphasised:

Social welfare refers to an integrated and comprehensive system of social services, facilities, programmes and social security to promote social development, social justice and the social functioning of people.⁷³

In lieu of the challenges for the post-apartheid government in streamlining legislation and administration fitting a new democratic system, the short-term priority was to amend legislation to align with the Constitution and the new policy directions of the government, and to improve administration through the creation of one single national welfare department, the Department for Social Welfare.⁷⁴

Following these first steps, the medium- to longer-term plan was to develop comprehensive legislation for social security⁷⁵ that would in time ensure income security for all. The policy framework thus states:

Policies and programmes will be developed to ensure that every member of society can realise his or her dignity, safety and creativity. Every member of society who finds him or herself in need of care will have access to support. Social welfare policies and legislation will facilitate universal access to social welfare services and social security benefits in an enabling environment.⁷⁶

There have been a number of efforts to move towards comprehensive social security systems through commissioned reports. In 2000, the South African Government appointed a Committee of Inquiry into a Comprehensive System of Social Security for South Africa, termed the Taylor Committee.⁷⁷ The Committee was tasked with investigating policy options for comprehensive social security. The Committee reported in 2002 and in its report identified some critical gaps in the nature of social security in South Africa, for example regarding the lack of income security for the working-age population largely due to structural unemployment: 'Not only do children, retirees and the disabled need social protection

– millions of potential workers are vulnerable to unemployment and resulting impoverishment.⁷⁸

The Taylor Committee provided a range of recommendations for improving access to and efficiency of social assistance programmes and social insurance schemes, covering key areas such as unemployment, retirement, health, children, and disability. Furthermore, to address the gap noted above and the immense challenges of poverty, the Committee suggested the introduction – over time – of a Basic Income Grant (BIG) payable to all South Africans at a modest level of R100 per person per month.⁷⁹ The suggestion of a Basic Income Grant was controversial and the government largely responded negatively and stalled the proposal.⁸⁰

In 2007, the Inter-Departmental Task Team (IDTT) on Social Security and Retirement Reform was established, comprising various key departments including National Treasury, the Department of Social Development and the Department of Labour, supported by the work done and reports prepared by National Treasury and the Department of Social Development. The aim of the IDTT was to develop a comprehensive social security framework for the country, including non-contributory social assistance, contributory social insurance, institutional design, financing and retirement fund reform. With regard to retirement, cost effective options were proposed to provide adequate coverage to a greater proportion of the population, also raising equity issues, for example regarding large tax subsidies to high-income earners.⁸¹

As already discussed, social assistance and social insurance legislation is still not integrated into a comprehensive framework and, arguably, although there are improvements in coverage and administration, social security continues to be implemented in a piecemeal and non-integrated fashion.⁸² The NDP is a multi-faceted report that attempts to build a coherent plan for socio-economic development in SA. The NDP was accepted by Parliament in 2013.⁸³ The NDP reflected that: 'The country has built an advanced and comprehensive social protection system with wide reach and coverage, but the system is still fragmented, plagued by administrative bottlenecks and implementation inefficiencies.'⁸⁴ The NDP expresses a continuing commitment to the provision of

social protection, including social security. The chapter on social security similarly to previous reports identifies gaps in provision, and makes recommendations that can be combined to extend assistance and insurance across the population.

To sum up, even though both the legislation and policy documents strongly commit the government to building a comprehensive social security framework for all South Africans, and although coverage has expanded particularly with regard to social assistance (see section 3), there are still notable challenges in building an integrated framework. This is also evident in how policy is administered by different parts of government as explained in the following part.

2.5 Spheres of government responsibility

Fragmentation of social security programmes, and a lack of co-ordination between actors and across the levels of government institutions implementing policy, increase the possibility that social security provisions are ineffective, which consequently negatively infringes on the right of people to social security.⁸⁵ Since 1994, the government has reformed the functional and financial arrangements of its administration in order to realign budgets and improve co-operation between different spheres of government; this was a matter of urgency as the social service delivery in the apartheid system was ethnically differentiated and implementation very uneven across provinces.⁸⁶

Based on the South African Social Security Agency Act of 2004, the government set up SASSA (the South African Social Security Agency) in 2006 under the then Department of Social Welfare.⁸⁷ With the establishment of SASSA, social assistance became the responsibility of one specialised institution responsible for the management, administration and payment of grants; the administration and delivery system has become standardised and uniform, which has resulted in improvements in the provision of social assistance grants.⁸⁸

Although, as mentioned earlier, the South African Social Security Agency Act does make provision for SASSA to also regulate social insurance schemes, social insurance programmes are spread out across different implementing agencies. Hence, unemployment insur-

ance is implemented by the Unemployment Insurance Fund under the Department of Labour; the Road Accident Fund under the Department of Transport is responsible for compensation for road accidents; and compensation for occupational injuries and diseases is administered by the Compensation Fund in the Department of Labour, although certain diseases in the mining industry are under the auspices of the Department of Health.⁸⁹ To the extent that government entities are involved in voluntary social insurance schemes, the Department of Health oversees health insurance schemes, whereas the National Treasury has oversight over the Financial Services Board, which regulates retirement funds.⁹⁰

3. Analysis of systemic fault lines across all of the human rights dimensions

In this section, we assess both achievements and challenges related to relevant systemic fault lines, namely access to social security, government compliance with legislation, participation, quality and gendered dimensions.

3.1 Access

Social assistance: overview

Today, the South African Government distributes more than sixteen million social grants, reaching roughly a third of the South African population.⁹¹ There are seven different social grants: Old Age Pension (OAP), Disability Grant (DG), Child Support Grant (CSG), Foster Child Grant, Care Dependency Grant (CDG), Grant in Aid, and War Veteran's Grant. In addition, the Social Assistance Act of 2004 makes provision for the social relief of distress as a temporary assistance measure. In this report, we focus mainly on the CSG, the OAP and the DG, as they are the most extensive social grants both in terms of coverage and costs. Together, these three social grants reach 95.5 per cent of the total number of grant recipients (see Table 1). When comparing numbers of grant beneficiaries to the latest census from 2011, coverage per population age group can be estimated as follows: grants for children (CSG, Foster Child Grant and CDG) reach 60

per cent of all children under eighteen years of age.⁹² Four percent of the population between 18 and 59 receive the DG (the only grant for this age group),⁹³ while over 70 per cent of the population aged 60 and above are in receipt of the OAP.⁹⁴

Table 1: Social grants, target group, amount and number of beneficiaries in South Africa (June–September 2015)

GRANT TYPE	TARGET GROUP	AMOUNT OF GRANT PER MONTH	NUMBER OF GRANT BENEFICIARIES	SHARE OF TOTAL BENEFICIARIES		AMOUNT OF GRANT PER MONTH	NUMBER OF GRANT BENEFICIARIES	SHARE OF TOTAL BENEFICIARIES	
Care Dependency Grant	Parents, primary caregiver or foster parent of a disabled child who requires permanent care or support at home by another person	R1 410	127 869	0.7%					
Old Age Pension	Persons over the age of 60 years	R1 410 ⁹⁵	3 114 729	18.6%					
Disability Grant	Persons medically diagnosed disabled over 18 years	R1 410	1 106 425	6.6%	Grant in Aid	A person with a physical or mental condition requiring regular attention by another person	R330	119 541	0.7%
Child Support Grant	Paid to primary caregiver of a child up to 18 years	R330	11 792 596	70.3%					
Foster Child Grant	Foster families of children under 18 years	R860	519 031	3.1%	War Veteran's Grant	Veterans of the two world wars, Zulu uprising and the Korean war	R1 430	297	<0.1%
Total							16 780 488	100.0%	

Source: SASSA (2015),⁹⁶ South African Government,⁹⁷ authors' calculations

With the expansion of social assistance, the composition and profile of beneficiaries has changed in line with the post-apartheid transformation of the social welfare sys-

tem in response to racial and socio-economic disparities.⁹⁸ Recipients are predominantly African, and have lower levels of education and access to employment than non-recipients.⁹⁹ Distributions by gender are presented in Section 3.5.

Social assistance: practicalities of access

Practically and administratively a number of changes have been made to facilitate access to social assistance grants. Based on the South African Social Security Agency Act (2004), the South African Social Security Agency (SASSA) was established in 2006 to improve system effectiveness and efficiency and to ensure access to social assistance for all eligible beneficiaries. SASSA replaced the previous independent provincial administrative systems with a mandate to centrally administer social assistance programmes at national level.¹⁰⁰ SASSA has access points throughout the country, with a total of 335 local offices, 917 service delivery points and 9937 pay points. In addition to these service delivery points, the Integrated Community Registration Outreach Programme (ICROP) uses mobile offices to reach under-served areas, with facilities to handle new applications, reviews, enquiries and enrolments for the SASSA card.¹⁰¹

A campaign to re-register all current social grant beneficiaries onto a new biometric system was undertaken in 2012/13. The new payment system aims to ensure that social grant payments are channelled through one system (previously, different contractors handled payments in each province). This enables beneficiaries to access grants anywhere in the country at any time, greatly increasing convenience.

Social assistance: remaining barriers to access

While many barriers have been overcome with regard to access, a number of challenges still remain. Broadly, the main challenges concern documentation, the addition of informal conditions by administrative officials, lack of public awareness regarding new regulations, physical access constraints and lack of integration with other services.¹⁰²

Despite the extensive reach of the CSG, the Children's Institute estimates that approximately 2.35 million children remain excluded from access (this has dropped

from an estimated 3.8 million in 2008). Often these children are those most vulnerable and in need of assistance. Children under the age of one, children of young mothers, children living in rural areas, orphans, children in child-headed households, adolescents who have dropped out of school, children with non-South African caregivers, and refugee children are over-represented among those who do not access the grants.¹⁰³ Inconsistency in the definition and assessment of disability (for example AIDS-related disability) has led to disjointed administration of the disability grant, with a high risk of excluding eligible beneficiaries.¹⁰⁴ The strict medical-based criteria which are necessary to qualify for the disability grant are often not met by the chronically ill.¹⁰⁵

Lack of documents is a major reason for exclusion. The administrative requirements, particularly the need for identity documents issued by the Department of Home Affairs, can be burdensome.¹⁰⁶ Lack of identity documents, birth certificates and death certificates are cited as major barriers to accessing the grants for many of the vulnerable groups listed earlier. Amendments made in 2008 to the Social Assistance Act (Regulation 11(1))¹⁰⁷ that seek to overcome this barrier, by making provision for alternative documentation, have been brought into effect. Yet lack of awareness by the public of these provisions has led to a lack of demand for taking advantage of the alternative documentation allowance.¹⁰⁸

Access is also constrained by the widespread practice of officials imposing informal conditions to official criteria for social grant eligibility.¹⁰⁹ For example, demands for proof of school enrolment or for affidavits attesting to the applicant's unemployment reflect a misrepresentation of the necessary requirements for grant application. In the case of the CSG, the enforcement of school attendance by SASSA officials as a mandatory condition for eligibility, has resulted in the exclusion of eligible adolescents. This 'soft conditionality' was not intended as a criterion for exclusion but as a way of identifying those not attending school, in order to support their return to education.¹¹⁰ Misinterpretation of the means test is another reason for lack of access. Due to a common perception that grants are only for those who are unemployed, in

some instances eligible applicants have been discouraged from applying because of their working status.¹¹¹

Practicalities such as the cost of transport to administrative offices, illiteracy (particularly in rural areas) and safety concerns at pay points can also be limiting factors to access.¹¹² Lack of integration across service providers and data management systems has left certain vulnerable groups particularly exposed. Since CSG applications are not automatically embedded into infant and maternal services, delays in children under the age of one accessing grants is exacerbated.¹¹³ Similarly, a lack of coherence between policies and services available for disability adds unnecessary barriers to access to social assistance.¹¹⁴

Social insurance

A second pillar of social security in South Africa is social insurance. Before 1994, access to unemployment insurance excluded all African workers, informal sector workers, agricultural labourers, seasonal workers, domestic workers and government employees. Following the adoption of the Unemployment Insurance Act (2001), access is now available more broadly to all employees except for, among others: employees in national or provincial governments and employees who are employed for less than 24 hours a month with a particular employer.¹¹⁵ In 2003, access to the national Unemployment Insurance Fund (UIF) was extended to include domestic workers and seasonal workers.¹¹⁶ The UIF assists those who lose their jobs, in addition to those who stop receiving a salary for a period of time due to maternity leave, illness or taking care of an adopted child (under the age of two). Relatives left behind by a deceased worker can also be assisted by the fund.¹¹⁷

The first Quarterly Labour Force Survey of 2014 estimated 8 027 000 employees registered with the UIF, representing 53 per cent of the employed labour force and 40 per cent of the total labour force (see Table 2).¹¹⁸

Table 2: Employment in South Africa, first quarter 2014

	JAN – MAR 2014 ¹¹⁹	% OF WORKING AGE POPULATION
Population aged 15–64 years	35 177 000	100%
Labour force	20 122 000	57%
Employed	15 055 000	43%
Formal sector (non-agricultural)	10 780 000	31%
Informal sector (non-agricultural)	2 336 000	7%
Agriculture	709 000	2%
Private households (including domestic workers)	1 231 000	3%
Unemployed ¹²⁰	5 067 000	14% (25% of labour force)
Not economically active	15 055 000	43%
Discouraged job-seekers	2 355 000	7%
Other (not economically active)	12 700 000	36%

Source: (SSA 2014b)¹²¹

Most importantly, in relation to access, as in many developing countries, a large section of South Africa's labour force remains systematically excluded, including some of the most vulnerable unemployed labour market participants.¹²² Informal sector workers, public servants and those who have never worked before or those who work less than 24 hours per month are excluded from being contributors and, subsequently from receiving unemployment benefits.¹²² Contract workers and immigrants are also excluded. As Table 2 shows, this is of importance in South Africa where the official unemployment rate is 25 per cent. By comparing the number of claims for unemployment benefits (next paragraph) with the figures for unemployment in Table 2, it can be estimated that less than five per cent of the labour force and less than fifteen per cent of the unemployed (or less than five per cent of the unemployed if one includes those not economically active) receive benefits, since the majority of the unem-

ployed have never worked, and many who do have previous work experience are long-term unemployed and would have exhausted their benefits if they were ever eligible for them.¹²³

With regard to claims from contributors, in the year 2011/12 the UIF paid out R5.6 billion in benefits in response to 705 854 claims.¹²⁴ In an analysis of claims and claimants, Bhorat et al.¹²⁵ observe that for those who can access the UIF, it does provide essential support in times of social and economic shocks. Since the income replacement rate is higher for low-income workers, the UIF does provide relatively better support to more vulnerable workers. Yet, because the system provides fewer days of benefits for those with shorter employment spells prior to unemployment compared to those with longer employment histories, from this perspective the UIF provides less support in terms of days of benefits to those in more vulnerable employment. Data also suggests that the proportion of poorer claimants has declined in the period 2005–2011, compared to their wealthier counterparts. Women, youth (15–24 year olds) and those with lower educational levels are under-represented in the UIF claimant data compared to their representation among potential UIF contributors. This may well be attributed to the vulnerability of these groups in the labour market, for example, their shorter prior work histories.

In terms of access to UIF, a study commissioned by the Department of Social Development in 2008 found that children of previously employed contributors' can struggle to access their insurance benefits, particularly as a result of lack of documents such as birth certificates, parental identity documents and death certificates.¹²⁶ Women are also under-represented as claimants, possibly due to location or due to other responsibilities.¹²⁷

The Road Accident Fund (RAF) provides compensation to victims (including their dependants) who have suffered loss or damage as a result of motor vehicle accidents, which are a major cause of mortality and disability in South Africa.¹²⁸ Access to the RAF requires an intense and expensive bureaucratic process, and for claimants to prove that they were not at fault. The RAF has been criticised for poor administration, for the length of time it takes to compensate victims and the limited payments

received that are insufficient to cover the medical expenses of those affected.¹²⁹

Through the Compensation for Occupational Injuries and Diseases Act (COIDA), the Compensation Fund was established to compensate workers who are injured while on duty or who contracted an occupational disease. The COIDA makes provision for no-fault compensation of such employees who are injured in accidents, or contracted a disease which arise out of and in the course of their duties. The Fund is effectively limited to the formal sector.¹³⁰ Domestic workers, those employed in the informal sector and self-employed contractors are currently excluded from access to COIDA. Mineworkers are covered under a separate law, the Occupational Diseases in Mines and Works Act (ODMWA).¹³¹

While the government does not play a direct role in the funding and provision of voluntary contributory social insurance (e.g. private health insurance and retirement funds), its role in regulating and facilitating participation, and in the provision of tax concessions and/or deductions, is of importance for social security provision as a whole. Private sector pension and provident funds pay out in benefits each year about five per cent of GDP, equivalent to almost double what the state pays out through its social assistance programmes. These funds provide major retirement benefits to those formal sector employees who reach retirement age without having had to withdraw their benefits prematurely. Describing these funds as 'private sector' funds obscures two respects in which the state is very involved.

Pensions for government employees are managed through a specific scheme, the million-member Government Employees' Pension Fund, funded largely by the state. Secondly, membership of pension and provident funds is mandatory for employees in many sectors or industries, because the state extends across entire industries or sectors the agreements reached between employers and trade unions through collective bargaining. Many employees in the mining industry, for example, are required to be members of either the old Mine Employees Pension Fund or the newer Mineworkers Provident Fund. South Africa thus has a substantial system of 'semi-

social' insurance, which provides a range of benefits to formal sector employees.¹³²

The interdependent relationship between private and public sectors in the provision of insurance is essential to consider. For example, with regard to pensions, if one considers the proportion of the formally employed population that earn enough to contribute to voluntary social insurance schemes, and the small proportion of these that preserve their retirement funds and can therefore maintain pre-retirement level of consumption on retirement, it can be estimated that over 80 per cent of those currently employed in the formal and informal sectors will be reliant on the state old age grant in retirement.¹³³ With regard to medical insurance it is estimated that only sixteen per cent access voluntary medical insurance schemes.¹³⁴

3.2 Compliance by Government at different spheres

In relation to social security, the government treads a thin line between its mandate to provide social security for all, and the constitutionally recognised reality that this right should be expanded progressively.¹³⁵ With this tension in mind, we here review the major steps that have characterised government action over the past twenty years.

A budgetary overview provides a helpful way of assessing government commitment to social security. Social welfare¹³⁶ spending increased significantly in the early 1990s to address racial disparities in social grants. It has continued to grow with the expansion of social grants. Social grants in South Africa are fully publicly funded. Expenditure on social grants increased from R20 billion in 2001/02, to R113 billion in 2012/13, with an expected increase to R149 billion in budget year 2017/18, which is mostly due to growth in number of beneficiaries and adjustment to the value of grants.¹³⁷ Cash transfer programmes now amount to 3.1 per cent of GDP (this is a decline from 3.4 per cent in the past few years, which is largely a reflection of economic growth outpacing growth in recipients¹³⁸), 10.5 per cent of total govern-

ment expenditures, and 84% of total spending on social assistance and welfare services.¹³⁹

Table 3: Expenditure on social assistance and welfare services, budget year 2014/15

	EXPENDITURE (BILLION RAND)	SHARE OF TOTAL SA EXPENDITURE
Old Age Pension	49.4	34.8%
Disability Grant	19.0	13.4%
Child Support Grant	43.4	30.6%
Other grants	8.1	6.0%
Provincial welfare services	15.3	10.8%
Policy oversight, grants and benefits administration	6.7	4.7%
Total social assistance and welfare services (SA)	141.9	

Source: (RSA 2015) and authors' own calculations

In monetary terms, the OAP, DG and CSG carry the most weight; costs for the other grants cover only six per cent of total social protection expenditure (Table 3). Although the CSG of R330 is small compared to the OAP and DG of R1410, the expenditure for the CSG is almost as high as for the OAP (R43.4 billion and R49.1 billion respectively), reflecting the large number of CSG recipients.

Numerically, as well as financially, there has been tremendous growth in the social assistance sphere. In terms of both expenditure and coverage, South Africa has one of the most extensive cash transfer programmes in the developing world.¹⁴⁰ The number of grant holders increased from 2.4 million in 1998 to 10.2 million in 2006 and to 16.8 million in 2015.¹⁴¹ Growth in grants has been primarily driven by the expansion of CSGs which increased from 150 366 recipients in 1999/2000 to almost 11.8 million in 2015.¹⁴² These figures provide strong evidence of progressive realisation of the right to social security in the field of social assistance.

The expansion of social insurance has followed a more conservative trajectory, reaching only a fraction of the population in comparison with social assistance funds relative to expenditure. Between 2009/2010 and 2011/2012, combined expenditure on the UIF, the RAF and Compensation Fund increased from R22.7 billion to R23.9 billion. However, large increases are projected for the next three years, up to R42.9 billion in 2015/2016, thus increasing expenditure of the large surplus accumulated in these contributory funds.¹⁴³

Over the past twenty years, the South African Social Security system has undergone a number of policy reviews and revisions, often resulting from court cases and developing jurisprudence, as well as in response to advocacy and litigation by civil society.

A number of major milestones are significant in tracking the government's commitment to realising the constitutional right to social security:

Administrative justice

According to M. Olivier '[a]dministrative law requirements [...] have perhaps played the most profound role as far as jurisprudential intervention is concerned.'¹⁴⁴ The Social Assistance Act and the South African Social Security Agency Act, both of 2004, were introduced to reduce administrative barriers while still aiming to limit opportunities for fraud. The establishment of SASSA as a specialised social assistance delivery institution, under the leadership of the national Department of Social Development, aimed to standardise and strengthen the administration and delivery of social assistance transfers, thus overcoming provincial inequity in funding, access and implementation.¹⁴⁵ The subsequent development of national data and management systems, including the recent shift to a biometric system of registration, has increased efficiency and reduced opportunities for fraud.¹⁴⁶

In many cases, the courts have held that delays in processing grants have been unreasonable,¹⁴⁷ or emphasised that the unilateral withdrawal or suspension of grants is unlawful.¹⁴⁸ In 2008, following litigation by the Alliance for Children's Entitlement to Social Security (ACCESS), the High Court ordered the Department of Social Development to allow alternative forms of identification, in

the absence of documentation.¹⁴⁹ However, implementation of the ruling has been limited, with only 11 184 children in the time period 2009–2013 referring to Regulation 11(1) of the Social Assistance Act, a small number compared to those who are still unable to access the CSG.¹⁵⁰

Right of appeal

Court cases have also been instrumental in improving the processes of appeal when grant applications have been declined. Thus, courts have held that written reasons have to be given in cases where it has been decided to suspend or cancel a grant; the reasons given must be adequate and objectively sufficient; grant beneficiaries must be granted the opportunity to make representation before a grant is suspended; and affected persons should be informed about their right to appeal.¹⁵¹ As from September 2010, both applicants and beneficiaries are entitled to access the internal reconsideration and appeal mechanisms if they were aggrieved by a decision taken by SASSA. Following the internal appeal, if the applicant disagrees with the outcome of the internal appeal, they may make an external appeal through the Independent Tribunal for Social Assistance Appeals (ITSAA).¹⁵²

The phasing out of the State Maintenance Grant and the introduction of the Child Support Grant

This major policy shift responded to the recommendations of the Lund Commission and established a non-racial grant available to all eligible South Africans. It also signalled the government's commitment to children living in poverty, and to poor households (rural households in particular) who had been previously excluded from access to social security. It communicated an understanding of the realities of the South African context, in which significant numbers of children are raised in extended family circumstances, or even with caregivers who are not related to them.¹⁵³

The age-extension of the Child Support Grant

Initially only children under the age of seven were eligible for the CSG. Coverage of this grant has gradually been extended to children in older years, reaching children under the age of fourteen in 2005, and with a further

extension to 15–17 year olds in 2010. This effectively extended the Child Support Grant to all children under the age of eighteen years.¹⁵⁴ These extensions suggest a commitment to an important human rights concern, namely that the methods of targeting must be implemented with the intention of progressively providing universal coverage.¹⁵⁵

From 1 January 2010, soft conditionalities for the Child Support Grant were introduced. This meant that primary caregivers had to ensure that a child, aged 7–18 years of age, had to be enrolled at or attend school. However, the legislation did not introduce punitive consequences for non-compliance with this requirement.¹⁵⁶

Changes to means tests

The original CSG means-test thresholds were unrevised until 2008, so in real terms the income thresholds declined and eligibility criteria became stricter. This weakness has since been rectified, and the rural bias in means tests has been removed, even increasing the amount above inflation.¹⁵⁷ On 1 April 2011, the means test thresholds for the adult grants (older persons, war veteran's and disability grants) were increased through a change in the formula that was applied. This meant that subsequent increases in the grant values would automatically increase the thresholds.

Age equalisation of OAP

In 2006, four men aged between 62 and 64 challenged the constitutionality of the eligibility to OAP, which at the time provided old age pension to women at the age of 60 and men at the age of 65.¹⁵⁸ The Social Assistance Amendment Act (2008) amended the eligibility criteria so that as from 2010 both men and women can receive the OAP at 60 years of age (provided that they also meet the means test requirements). Further, with regard to the OAP, in the Budget Speech 2013, the Finance Minister proposed that the old age grant means test should be phased out by 2016, effectively universalising the state old age pension.¹⁵⁹ However there have not been any follow-up statements substantiating the change.

Changes to DG eligibility criteria

In 2004 and 2008, the amendments to the Social Assistance Act were intended to move the DG eligibility requirements away from a medical model which focused on severe need, to a social model based on a human rights perspective on disability, which encouraged full and equal participation.¹⁶⁰ However, in practice the implementation has not supported these amendments.¹⁶¹

Extension of social assistance to permanent residents and refugees

Initially, with some limited exception, social assistance was available to South African citizens only. However, in the *Khosa and Others v The Minister of Social Development and Others* case,¹⁶² the Constitutional Court interpreted the constitutional right to social assistance for 'all people in our country'¹⁶³ as inclusive of permanent residents (but not temporary residents).¹⁶⁴ Again, in *Scalabrini Centre of Cape Town and Others v Minister of Social Development and Others*,¹⁶⁵ the High Court held that refugees may also apply for disability grants and social relief of distress.¹⁶⁶ As from 1 April 2012 refugees could access all the social grants, with the exception of the War Veteran's Grant.

Changes in the social insurance environment

Extensions in the social insurance realm have been more modest. Unlike in the case of social assistance, the Constitutional Court has been more reluctant to interfere with the financial affairs of social insurance schemes.¹⁶⁷ Nevertheless, in 2003, the government extended its social security framework by making provision for domestic workers under the unemployment insurance scheme. Subsequently, because of two Sectoral Determinations covering the taxi and hospitality sector, the Unemployment Insurance Act framework was extended to include these two industries.¹⁶⁸ Both the UIF and the COIDA funds currently have a growing surplus.¹⁶⁹ During the 2013/14 financial year, the UIF accumulated a surplus of R72.3 billion.¹⁷⁰ In view of the growing surplus and the persistent unemployment problem, the Department of Labour is considering proposals to utilise more funds in order to provide better protection for the unemployed, including, for example, the options of extending the

period of benefit payments or increasing the amount of the benefits.¹⁷¹ While the government considers long-term reforms, the National Treasury proposed a once-off relief for UIF contributors (employers and employees in 2015/16).¹⁷²

Proposals are also underway to update the COIDA and extend its coverage to include domestic workers. In 2013, the Minister of Transport published the Draft Road Accident Benefit Scheme Bill for comment, to replace the existing Road Accident Fund Act, in order to address some of the limitations noted earlier, for example to provide benefits on a no-fault basis.¹⁷³

As has been intimated, while much progress has been made in the realms of social assistance and some in the area of social insurance, the greatest gap in the realisation of the right to social security remains the achievement of an overarching comprehensive social security system in order to account for the needs of the population as a whole. A critical gap in the social security system is its lack of coverage of the unemployed and a lack of social insurance coverage for people employed in the informal sector, independent contractors and those who are self-employed. If anything, the remaining rigid divisions between social assistance and social insurance have reinforced the disparities between those with access to unemployment benefits and those who remain marginalised from it. For example, those in formal employment and eligible for unemployment benefits are also often in a position to supplement their insurance with private coverage against the risk of sickness, disability and old age.¹⁷⁴

Steps have undoubtedly been taken towards this ambitious goal of comprehensive social security, yet its realisation remains elusive. In recognition of these shortfalls, in 2000 the Taylor Committee was established to make proposals for a comprehensive social security system (as discussed in Section 2.4).¹⁷⁵ The Committee defined a broader agenda for reform, and outlined the need for comprehensive social protection based on the need to address the multiple dimensions of poverty such as income, asset, and capability poverty. The Taylor Committee recommended a greater co-ordination between social assistance and social insurance, recognising the need for integration between social and eco-

nomics policy. The recommendation to expand benefits to all children under the CSG has been approved and implemented as explained earlier. In an effort to link social security and labour policies, the expansion of public works programmes and small business development was also approved in 2004. A further recommendation of the Taylor Committee was for a Basic Income Grant, as a way of accelerating the realisation of the right to social security for all, while eliminating the administratively laborious means test, investing in human capital and indirectly stimulating the economy. While this policy recommendation is still supported by a national coalition of civil society organisations, it was rejected by the government on the basis of fiscal unsustainability.¹⁷⁶ A further issue which still requires much progress to be made, is the lack of synergy between social insurance and social assistance provisions.

3.3 Participation and information

Foundationally, social welfare provision in South Africa is rooted in deeply held values of partnership between four parties: government, the voluntary sector (civil society organisations), informal networks (e.g. support by family, friendship and other social networks) and the commercial sector (profit-oriented firms that are involved in social welfare) – through which social provision could be financed and delivered.¹⁷⁷ The realisation of socio-economic rights requires ‘a collaborative and interactive process involving the legislature, the executive, the courts, the South African Human Rights Commission, NGOs, CBOs and ordinary people in South Africa.’¹⁷⁸ These entities together are essential to the enforcement and monitoring of the right to social security.

Each year the relevant organs of state are required, for example, to provide the Human Rights Commission with information regarding the measures they have taken towards the realisation of different rights for which they are responsible.¹⁷⁹ In contrast with social services and service delivery, in which the voluntary sector plays a much more active role, the state is the principal actor and direct financier in the provision of social assistance through grants. Non-profit organisations, however, have by no means been absent from shaping and

development of social security. Consistent pressure from dedicated civil society organisations and movements has resulted in a number of the changes elaborated earlier. Advocacy through collegial and adversarial channels has been very influential in providing active monitoring of the implementation of existing policies, and in redirecting policy in line with constitutional entitlements, contributing to the progressive realisation of the right to social security. Major advocacy organisations have played a key role in the social security environment. They include Lawyers for Human Rights (LHR), the Legal Resources Centre (LRC), the Child Law Centre, University of Pretoria and several refugee institutions/groups. They have worked through dissemination of information, engagement with state entities around social security issues and through court action where necessary.

ACCESS was formed as an alliance of around 400 organisations working to secure children's rights to a better life through a comprehensive social security system. ACCESS campaigned to raise the age limit on the CSG and initiated a number of court cases to facilitate other changes. For example, in response to an ACCESS-initiated court case, a court order was given that SASSA should give grants to children (and their caregivers) that do not have birth certificates or identity documents while they are still waiting for their documents from Home Affairs.¹⁸⁰ Black Sash is another non-profit organisation with a long history of advocacy in social security, and a strong record of monitoring the state's track record in the realisation of the right to social security and of assisting individuals with para-legal support to secure social security benefits to which they are eligible.¹⁸¹ Civil society has also engaged with the recent re-registration process, while embracing the aim to reduce wastage and increase efficiency, focusing attention to monitoring that no eligible person in need should be disadvantaged by the process.¹⁸²

3.4 Quality: Impacts of the grants and linkages with other human rights

We here review some of the impacts of social security measures in South Africa. The impact of social grants in particular has been extensively researched in South Africa, and demonstrates strong linkages between the

right to social security and the achievement of other human rights. The following provides a brief overview of some of the main findings as regards the effect of grants on poverty, wellbeing and livelihoods strategies.

There is a consensus in the literature that social grants have had a considerable impact on poverty.¹⁸³ Samson and colleagues concluded that, while the magnitude of poverty alleviation effects are sensitive to methodological issues (whether the poverty line is absolute or relative, whether it is scaled for household composition, and whether it measures income or expenditure), South Africa's system of social security has substantially reduced deprivation.¹⁸⁴ More recently, similar conclusions were reached by Woolard et al, who found that the social grants system has had significant and substantial impacts on poverty.¹⁸⁵ Improvements in material living standards are recorded for the OAP, the CSG and the DG respectively.¹⁸⁶ Bhorat emphasises the inequality-reducing effects of the social grants system, by observing that, in the absence of grants, income inequality as measured by the Gini coefficient would have measured 0.74 instead of 0.69, a very significant difference.¹⁸⁷

In many countries, including South Africa, growing evidence indicates that social transfers can help households improve livelihoods by investing some of the transfers they receive.¹⁸⁸ The regularity of payments facilitates access to credit and avoidance of inefficient insurance mechanisms. Particularly in rural contexts, beneficiaries strategise to use grant income to secure credit, hire equipment and buy agricultural inputs. There is evidence of similar economic synergies in urban contexts, though these are more complex and less easy to capture.¹⁸⁹ Other evidence from South Africa shows how savings from the state pension allows people to buy consumer durables and invest in productive assets.¹⁹⁰

Even though the CSG is significantly smaller than the OAP, research shows evidence of savings and investment. CSG recipients (predominantly female) are more likely to have bank accounts and some form of savings than those who are eligible but non-receiving.¹⁹¹ Focus group data suggests that while savings levels are low, the CSG does enable recipients to participate in stokvels (informal mutual savings schemes).¹⁹²

There is general consensus that pension receipt enables households to overcome both financial and child care constraints to job-seeking¹⁹³ and provides some opportunity for younger individuals to convert grant income into secondary income through entrepreneurial activities.¹⁹⁴ The presence of recipient (female) pensioners enables working-age mothers to afford the costs associated with urban migration and active job search, and makes it possible for grandmothers to support and look after grandchildren.¹⁹⁵

While the relatively smaller CSG, primarily received by working-age women, is clearly not intended as an employment support scheme, a number of studies have examined its impact on labour market participation as an ancillary outcome.¹⁹⁶ Available evidence provides strong confirmation that social grants do not create dependency and that any potential disincentives coexist with stronger positive effects,¹⁹⁷ where grant recipients actually have higher probability of being employed.¹⁹⁸

A social grant provides a reliable and predictable source of income which can increase the capacity of households to invest in human capital and help break the intergenerational cycle of poverty.¹⁹⁹ Thus, studies show that social grants have positive health and nutrient benefits for children,²⁰⁰ as well as positive effects on school enrolment, attendance and schooling outcomes.²⁰¹ In this context, however, it is important to note that the remarkable positive impacts achieved by the CSG (much smaller than other grants) in particular are limited from reaching their full potential by the low monetary value compared to poverty lines and the costs of feeding a child.²⁰²

In South Africa, the belief that grants incentivise childbirth is often expressed, mostly in relation to the CSG. Other concerns often cited are lack of responsibility among young mothers for their children, and inappropriate use of the grants for personal consumption.²⁰³ However, there is now a well-established and convincing body of evidence that refutes these claims.²⁰⁴ The reality is that the vast majority of grant recipients spend the monies well to the benefit of their own livelihoods and the wellbeing of their household members.

With regard to social insurance, human rights impacts are limited by their restricted accessibility to the

majority of those living in poverty. Yet even so it is important to note the important supportive role that the UIF, for example, played during the global financial crisis.²⁰⁵

3.5 Gendered dimension

In South Africa, expectations of gender equality are established in the Constitution. Yet their realisation in the context of social assistance policy has perhaps been accorded secondary importance in comparison with critical priorities such as racial and socio-economic inequalities. However, while social assistance programmes are 'gender-neutral', they have demonstrated considerable sensitivity to the disproportionate vulnerability experienced by women in South Africa.

Women are typically poorer than men, more vulnerable and at higher risk of domestic violence and abuse. They generally work more for less pay in both the formal economy and informal spheres.²⁰⁶ Given their responsibilities for the welfare and health of (extended) family members, women often struggle to access the labour market and maintain their position therein.²⁰⁷

Reflecting women's greater vulnerability, Table 4 shows how social grants in South Africa reach more women than men (with the exception of the War Veteran's Grant). The majority (98.1 per cent) of CSG recipients are women, although it should be noted that in terms of child beneficiaries, the numbers are evenly split between girls and boys.²⁰⁸ In the past, the OAP favoured women, since the age-eligibility criterion was 60 years for women and 65 for men. To align these criteria with gender equality dimensions, this was changed to 60 years for all in 2010. Even with this change, more women than men receive the OAP (66 per cent of OAP recipients are women) because women tend to live longer than men and also because women are more likely to pass the means test.²⁰⁹ Women also benefit more from the DG and the OAP, though for different reasons. The DG is gender-neutral as receipt is dependent on a medical condition. However, in recent years there has been a huge increase in the take-up rate, specifically by women, which can partly be explained by the fact that more women than men are infected with HIV in South Africa.²¹⁰

Table 4: Grant recipients, by gender

	MALE	FEMALE
Old Age Pension	34.0%	66.0%
Disability Grant	45.4%	54.6%
Child Support Grant	1.9%	98.1%
Foster Child Grant	6.0%	94.0%
Care Dependency Grant	3.2%	96.8%
Combination ²¹¹	2.9%	97.1%
War Veterans' Grant	79.2%	20.8%
Total	15.4%	84.6%

Source: as informed by SASSA official Dianne Dunkerley, 11–12 June 2013

The CSG comprises interesting design features in the South African context: the concepts of ‘follow the child’ and ‘primary caregiver’. The idea is that the grant follows the child in that the child is the immediate beneficiary, yet the recipient of the CSG is the primary caregiver, who is defined as the person who takes primary responsibility for the child. This design accounts for the complex household structures in poorer households in South Africa where mothers are not always able to live with the child (for instance due to the need to migrate for work).²¹² While the provisions allow for a wide range of caregivers to be assisted, biological mothers continue to comprise the overwhelming majority of CSG applicants.²¹³ In cases where a CSG recipient is not the biological mother, they are often the grandmother, aunt or other female relative of the child.²¹⁴

Grants are not intended to support the wellbeing and empowerment of women, yet it is assumed that women generally spend grants altruistically for the benefit of the family and that grant receipt is empowering for women.²¹⁵ Yet there has been an increasing recognition that such expectations place heavy burdens on women, with little support in the area of employment or social services. This can have the effect of reinforcing traditional gender norms and weakening women’s position in the labour market.²¹⁶

Social grant income has been important in reducing the extent and depth of poverty for female-headed households – more so than for male-headed households.

Grant receipt reduced poverty in female-headed households by 16% compared to eight per cent in male-headed households in 2006.²¹⁷ However, despite the mitigating effect of social assistance, the gender gap has widened. In 1997 the difference in poverty rates between males and females was 4.7 percentage points (61.8 per cent of females lived in poor households compared 57.1 per cent of males), while the gap expanded to 7.3 per cent by 2006 (59.6 per cent for females and 52.3 per cent for males). There is moderate evidence that grants assist women in gaining some power in household decisions, in accessing the labour market and in providing options for income-generating activities. Yet these should not be exaggerated in the light of the small amounts represented by the grants (in particular the CSG), the lack of compensation for women of their caring roles, and the broad distribution of benefits to the household as a whole (rather than to women specifically).²¹⁸

With regard to social insurance claims between 2005 and 2011, there were fewer female claimants compared to their male counterparts. Female claimants were under-represented in the UIF system compared to their representation in the contributor sample. The fact that the representation ratio is less than one throughout the period may point to the vulnerability of females in formal non-government employment. Female contributors may, on average, have less stable employment and thus less credit days with which to claim unemployment insurance, with the result that they claim less often than males. Alternatively, females may find it more difficult than males to access the UIF system, due perhaps to location or other responsibilities, with the result that they claim less often.²¹⁹ Lastly, the retirement fund environment is not structured in a way that recognises the fact that women often temporarily or permanently exit the labour market due to family responsibilities.

Conclusion

The report has provided an overview of social security in South Africa through a human rights lens. The international and regional legal framework, as well as national law, jurisprudence, policy and spheres of government

responsibility, have been outlined. This was followed by a review of the current status of social security through the analysis of systemic fault lines.

Taking a bird's-eye view of social assistance and social insurance, we have compared the broad right to access social security in South Africa with the reality of who benefits. Almost one-third of the population are accessing social assistance benefits. Social insurance schemes, most notably unemployment insurance, have provided essential income support to many, particularly during times of economic recession. Furthermore, through the combined efforts of civil society, the South African courts and the state, the overall trajectory of social security over the past twenty years has moved in the direction of the progressive realisation of the right to social security, in line with national, regional and international human rights legislation. Yet social security remains compartmentalised to narrow categories, such as children, the elderly, the disabled and those in formal employment. Fragmentation in the social security systems limits integration between social assistance and social insurance schemes.

Vast sections of the population, including parts of the urban poor and the rural poor, the structurally unemployed and those working in the informal economy, remain unable to access social security benefits, notably under the UIF and the Compensation Fund, as they are bound to a narrow definition of employment that does not reflect the South African reality. Thus, we conclude that the legislative foundations for a comprehensive social security system are in place, but that while considerable progress has been made towards the goal of realising social security for all, many challenges still remain for the full realisation of that right.

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Bibliography

- Ardington E and Lund F 'Pensions and Development: Social Security as Complementary to Programmes of Reconstruction and Development' (1995) *Development Southern Africa* 12, 557–77
- Ambler K 'Bargaining with Grandma: The Impact of the South African Pension on Household Decision Making' (2011) *Population Studies Center Research Report 11–741* Institute for Social Research, University of Michigan
- Bachelet M *Social Protection Floor for a fair and inclusive globalization*. (2011) Geneva, ILO
- Barrientos A *Social Assistance in Developing Countries* (2013) New York: Cambridge University Press
- Bhorat H and Cassim A 'South Africa's welfare success story II: poverty-reducing grants' (2014) *Brookings, Africa in Focus*
- Bhorat H, Goga S and Tseng D 'Unemployment insurance in South Africa. A descriptive overview of claimants and claims' (2013) Working Paper 8. Washington, DC, Africa Growth Initiative, Brookings Institute
- Black Sash *Annual Report* (2012) Cape Town, Black Sash
- Brockerhoff S *Monitoring the Progressive Realisation of Socio-Economic Rights: a Review of the Development of Social Security Policy in South Africa* (2010) Johannesburg, Studies in Poverty and Inequality Institute (SPII)
- Budlender D and Lund F 'South Africa: A Legacy of Family Disruption' (2011) *Development and Change* 42, 925–946
- Burger R, Von Fintel D and Grün C *The nexus between social grants and participation rates: Dynamics across generations in the South African labour market* (2009) Pretoria, National Planning Commission
- Casale D and Posel D 'Women and the economy: how far have we come?' (2005) *Agenda: Empowering women for gender equity* 19, 21–29.
- Cichon M 'Is the Good the Enemy of the Better? Or are Social Protection Floors a Minimalist Approach' (2014) *International Council on Social Welfare* Global Cooperation Newsletter, January 2014

- De Koker C, De Waal L and Vorster J 'A profile of social security beneficiaries in South Africa' in *Development*, D. O. S. (ed.) (2006)
- Dean H 'The Translation of Needs into Rights: Reconceptualising Social Citizenship as a Global Phenomenon'(2013) *International Journal of Social Welfare* 22 (October): S32–S49
- Delany A, Ismail Z, Graham L and Ramkisson Y *Review of the Child Support Grant: Uses, Implementation and Obstacles* (2008) Johannesburg, Department of Social Development, CASE, SASSA and UNICEF
- Devereux S 'Social protection in South Africa: exceptional or exceptionalism?' (2011) *Canadian Journal of Development Studies/Revue canadienne d'études du développement* 32, 414–425
- Devereux S, Adato M, Sabates-Wheeler R, McConnell J and Becker E *Child Support Grant Evaluation 2010: Qualitative Research Report* (2011) Pretoria, South Africa, Department of Social Development
- DoL *Annual Report of the Department of Labour* (2013) Pretoria, Department of Labour
- DoSD *Transforming the present – protecting the future: consolidated report of the Committee of Inquiry into a Comprehensive System of Social Security for South Africa* (2002) Pretoria, Department of Social Development, South Africa
- DoSD *Social Assistance Act of 2004, GG 31356, Notice R.898, 22 August 2008* (2008) Pretoria: Department of Social Development, Government Printer
- DoT GG 37612, *General Notices 337, 9 May 2014* (2014) Pretoria: Department of Transport, Government Printer
- Du Toit A and Neves D *Understanding Self-Employment at the Margins of the South African Economy: Findings from a Pilot Study on Qualitative Approaches to Self-Employment* (2007) A Report for the National Income Dynamics Study Steering Committee, Office of the Presidency, Bellville, PLAAS
- Duflo E 'Child Health and Household Resources in South Africa: Evidence from the Old Age Pension Program' (2000) *The American Economic Review* 90, 393–398
- Edmonds E, Mammen K and Miller D 'Rearranging the Family? Income Support and Elderly Living Arrangements in a Low Income Country' (2005) *Journal of Human Resources* 40, 186–207
- Eyal K and Woolard I 'Female Labour Force Participation and South Africa's Child Support Grant' (2011) CSAE 25th Anniversary Conference 2011: Economic Development in Africa. 8 March, 2011
- Goldblatt B 'Gender and Social Assistance in the First Decade of Democracy: A Case Study of South Africa's Child Support Grant' (2005) *Politikon* 32, 239–257
- Goldblatt B 'Gender, Rights and the Disability Grant in South Africa' (2009) *Development Southern Africa* 26, 369–382
- Gordhan P Budget Speech, 26 February 2014 (2014) Cape Town: National Treasury
- Grosh M, Del Ninno C, Tesliuc E and Ouerghi A *For protection and promotion: The design and implementation of effective safety nets* (2008) Washington, DC: The World Bank
- Heinrich C, Hoddinott J, Samson M, Mac Quene K, Van Niekerk I and Renaud B *The South African Child Support Grant Impact Assessment* (2012) Pretoria: UNICEF, SASSA, DSD
- Keswell M 'Social Networks, Extended Families, and Consumption Smoothing: Field Evidence from South Africa' Working Paper No. 58 (2004) Cape Town, Centre for Social Science Research, University of Cape Town
- Kruger J 'Social protection in South Africa – recent achievements and future prospects' in Midgley J and Piachaud D (eds) *Social protection, economic growth and social change* (2013) Cheltenham, UK: Edward Elgar
- Kumitz D 'Scoping Social Protection' Platform for Social Protection Zambia Policy Brief (2013) Friedrich-Ebert Stiftung, Lusaka
- Lombard A 'The implementation of the White Paper for Social Welfare: a ten-year review' (2008) *The social work practitioner-researcher* 20, 154–173
- Lund F 'Working People and Access to Social Protection' in Razavi S and Hassim S (eds) *Gender and Social*

- Policy in a Global Context: Uncovering the Gendered Structure of the 'Social'* (2006) Basingstoke: Palgrave
- Lund F *Changing social policy. The Child Support Grant in South Africa* (2008) Cape Town, Human Sciences Research Council
- Makiwane M 'The Child Support Grant and teenage childbearing in South Africa' (2010) *Development Southern Africa* 27, 193–204
- Martin P, Lane A, Ngobane C and Voko B *Rapid review of the implementation of the Regulation 11(1) to the Social Assistance Act, 2004* (2013) Cape Town, Alliance for Children's Entitlement to Social Security
- Mirugi-Mukundi G 'Reaffirming the social security rights of children in South Africa with particular reference to the child support grant' (2010) *Economic and Social Rights in South Africa Review* 11, 7–8
- Møller V *Perceptions of Fortune and Misfortune in older South African Households: Social Pensions and the 'Good Life'* (2011) Grahamstown: Institute of Social and Economic Research, Rhodes University
- Mpedi L and Fourie E 'Unemployment portection in South Africa' in Olivier M and Kuhnle S (eds) *Norms and institutional design. Social security in Norway and South Africa* (2008) Stellenbosch: Sun Press
- Neves D, Samson M, Niekerk I, Hlatshawayo S and Du Toit A *The use and effectiveness of social grants in South Africa* (2009) FinMark Trust
- NPC *National Development Plan 2030: Our future – make it work* (2013) Pretoria, National Planning Commission
- Olivier M 'Revisiting the social security framework in South Africa' (2000) *Law, Democracy and Development* 4, 101–108
- Olivier M 'Some constitutional reflections' in Olivier M and Kuhnle S (eds) *Norms and institutional design. Social security in Norway and South Africa* (2008) Stellenbosch, South Africa: Sun Press
- Olivier M and Van Rensburg L 'Protection and enforcement of the right to social security' (2000) *Law, Democracy and Development* 4, 87–99
- Olivier M 'Social security: Framework' (2012) *LAWSA (The Law of South Africa) – Labour Law and Social Security Law* Vol. 13, Part 2 (LexisNexis, Durban, 2012)
- Olivier M 'Social security: Core elements' (2013) *LAWSA (The Law of South Africa) – Labour Law and Social Security Law* Vol. 13, Part 3 (LexisNexis, Durban, 2013)
- Patel L *Social welfare and social development in South Africa* (2005) Oxford: Oxford University Press
- Patel L 'Poverty, Gender and Social Protection: Child Support Grants in Soweto, South Africa' (2012) *Journal of Policy Practice* 11, 106–120
- Patel L (forthcoming) *Social Welfare and Social Development in South Africa* (2nd ed.) Cape Town: Oxford University Press Southern Africa
- Pauw K and Mncube, L *Expanding the social security net in South Africa: opportunities, challenges and constraints* (2007) New York, International Poverty Centre
- Posel D, Fairburn, J and Lund, F 'Labour migration and households: A reconsideration of the effects of the social pension on labour supply in South Africa' (2006) *Economic Modeling*, 23, 836–853
- Posel D and Rogan M 'Gendered Trends in Poverty in the Post-Apartheid Period, 1997–2006' (2012) *Development Southern Africa* 29, 96–113
- Proudlock P *South Africa's progress in realising children's rights: a law review* (2014) Cape Town, Children's Institute
- RSA *Provincial Budgets and Expenditure Review: 2001/02-2007/08* (2005) Pretoria: National Treasury
- RSA *Budget Review 2013* (2013) Pretoria, National Treasury
- RSA *Budget Review 2015* (2015) Pretoria, National Treasury
- Sabates-Wheeler R and Roelen K 'Transformative social protection programming for children and their carers: a gender perspective' (2011) *Gender and Development* 19, 179–194

- Samson M 'Social Cash Transfers and Employment A note on empirical linkages in developing countries' in OECD (ed.) *Promoting pro-poor growth – employment* (2009) Paris: OECD
- Samson M, Lee U, Ndlebe A, Mac Quene K, Van Niekerk I, Gandhi V, Harigaya, T and Abrahams, C *The social and economic impact of South Africa's Social Security System* (2004) Cape Town: Economic Policy Research Institute
- SASSA *Annual Report 2007/8* (2008) Pretoria, South African Social Security Agency
- SASSA Fact sheet: Issue No. 6 of 2015 – 30 June 2015 (2015) Pretoria, South African Social Security Agency (SASSA)
- Smit, N and Mpedi L 'Social protection for developing countries: Can social insurance be more relevant for those working in the informal economy?' (2010) *Law, Democracy and Development* 14
- SSA *Census 2011: Census in Brief* (2012) Pretoria, Statistics South Africa
- SSA *Poverty trends in South Africa. An examination of absolute poverty between 2006 and 2011* (2014a) Pretoria, Statistics South Africa
- SSA *Statistical Release P0211. Quarterly Labour Force Survey. Quarter 1, 2014* (2014b) Pretoria, Statistics South Africa
- Seekings J 'Deserving Individuals and Groups: The Post-Apartheid State's Justification of the Shape of South Africa's System of Social Assistance' (2008) *Transformation: Critical Perspectives on Southern Africa* 68(1): 28–52
- Sepúlveda M and Nyst C *The Human Rights Approach to Social Protection* (2012) Ministry for Foreign Affairs, Finland
- Steele M *Report on Incentive Structures of Social Assistance Grants in South Africa* (2006) Pretoria, Department of Social Development
- Thebeeapelo G, Moloko M, John Tebeila J and Mlate S *An Overview of South Africa's Social Security System* (2010) Department of Social Development, Pretoria
- UNICEF/SASSA *Preventing Exclusion from the Child Support Grant: a study of exclusion errors in accessing the CSG benefits* (2013) Pretoria, UNICEF South Africa
- WHO (2010) Bridging the gap in South Africa. *Bulletin of the World Health Organisation*, 88, 797–876.
- Williams M *The Social and Economic Impacts of South Africa's Child Support Grant* (2007) Cape Town, South Africa, Economic Policy Research Institute
- Woolard I, Harttgen K and Klasen S 'The history and impact of social security in South Africa: experiences and lessons' (2011) *Canadian Journal of Development Studies/Revue canadienne d'études du développement* 32, 357–380.
- Woolard I and Leibbrandt M *The evolution and impact of unconditional cash transfers in South Africa* (2010) Cape Town, Southern Africa Labour and Development Research Unit, University of Cape Town

Treaties and international instruments

- African Union, Social Policy Framework for Africa, First Session of the AU Conference of Minister in Charge of Social Development, Windhoek, Namibia, 27–31 October 2008, CAMSD/EXP/4(I)
- African Union, Ouagadougou Declaration and Plan of Action on Employment Promotion and Poverty Alleviation, Ouagadougou 2004
- African Union, Social protection plan for the informal economy and rural workers 2011–2015 (SPIRE-WORK), Yaounde, Cameroon 2013
- C102 – Social Security (Minimum Standards) Convention, 1952 (No. 102), Convention concerning Minimum Standards of Social Security (Entry into force: 27 Apr 1955), Adoption: Geneva, 35th ILC session (28 Jun 1952)
- Convention on the Elimination of all forms of Discrimination Against Women (CEDAW, 1979)
- Convention on the Rights of the Child (CRC) (1989)
- International Covenant on Economic Social and Cultural Rights (1966)
- International Convention for the Protection of Migrant Workers and their Families (1990)

International Convention on the Elimination of all forms of Racial Discrimination (ICERD, 1965)

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (18 December 1990)

International Labour Conference, 89th session, report of the Committee on Social Security, resolutions and conclusions concerning social security

R202 – Social Protection Floors Recommendation, 2012 (No. 202), Recommendation concerning National Floors of Social Protection Adoption: Geneva, 101st ILC session (14 Jun 2012)

SADC (Southern African Development Community), Charter of the Fundamental Social Rights in SADC, Windhoek, Namibia, 1 August 2003

SADC (Southern African Development Community), Protocol on Employment and Labour, Victoria Falls, Zimbabwe, 2014

The Code on Social Security in the SADC (2007)

UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 19: The right to social security (Art. 9 of the Covenant), 4 February 2008, E/C.12/GC/19

Universal Declaration of Human Rights (1948)

Domestic legislation and policies

Compensation for Occupational Injuries and Diseases Act 108 of 1993

Constitution of the Republic of South Africa, 1996

National Development Plan 2030 (*Our future – make it work*, National Planning Commission 2012)

Occupational Diseases in Mines and Works Act 78 of 1973

Road Accident Fund Act 56 of 1996

Social Assistance Act 13 of 2004

Social Assistance Amendments Act 6 of 2008

Social Assistance Amendments Act 5 of 2010

South African Social Security Agency Act 9 of 2004

Taylor Report, 2002 (*Transforming the Present. Protecting the Future*. Report of the Committee of Inquiry into a Comprehensive System of Social Security for South Africa)

The Occupational Diseases in Mines and Works Act 78 of 1973

Unemployment Insurance Act 63 of 2001

Unemployment Insurance Amendment Act 32 of 2003

White Paper for Social Welfare, 1997

Cases

CASE NAME	SALR
<i>Alliance for Children's Entitlement to Social Security (ACCESS) v Minister of Social Development</i>	Case No 5251/2005
<i>Bacela v MEC for Welfare (Eastern Cape Provincial Government)</i>	1998 1 All SA 525 (E)
<i>Bushula v Permanent Secretary, Department of Welfare, Eastern Cape</i>	2000 7 BCLR 728 (E)
<i>Government of the RSA v Grootboom</i>	2000 11 BCLR 1169 (CC)
<i>Jooste v Score Supermarket Trading (Pty) Ltd (Minister of Labour Intervening)</i>	1999 2 BCLR 139 (CC)
<i>Kebogile Lobisa Ngamole v South African Social Security Agency</i>	Case Nos 1033/08, 1025/08, 1024/08, 1038/08 and 1039/08
<i>Khosa and Others v The Minister of Social Development and Others; Mahlaule and Others v The Minister of Social Development and Others</i>	2004 (6) BCLR 569 (CC)
<i>Mahlangu v Minister of Social Development and Minister of Finance</i>	Case No 25754/05
<i>Mashavha v President of the RSA</i>	2004 12 BCLR 1243 (CC)
<i>Mpofu v MEC for the Department of Welfare and Population Development in Gauteng Provincial Government</i>	(unreported WLD case no 2848/99 of 18 February 2000)
<i>Ngxuzza and Others v Secretary, Department of Welfare, Eastern Cape Provincial Government and Another</i>	2000 12 BCLR 1322 (E)
<i>Njongi v MEC, Department of Welfare Eastern Cape</i>	2008 6 BCLR 571 (CC); 2008 4 SA 237 (CC)
<i>Nomala v Permanent Secretary, Department of Welfare</i>	2001 8 BCLR 844 (E)

CASE NAME	SALR
<i>Rangani v Superintendent-General, Department of Health and Welfare, Northern Province</i> [1999] JOL 5494 (T)	
<i>Roberts and Others v Minister for Social Development and Others</i>	Case No: 32838/05
<i>Treatment Action Campaign v Minister of Health</i>	2002 4 BCLR 356 (T)
<i>Tsotetsi v Mutual and Federal Insurance Co Ltd</i>	1996 11 BCLR 1439 (CC); 1997 1 SA 585 (CC)
<i>Vumazonka and Others v MEC for Social Development and Welfare for Eastern Cape</i>	2005 (6) SA 229

Glossary

		CoGTA	Department of Co-operative Governance and Traditional Affairs (previously DPLG)
		Comtask	Communications Task Group
		COO	chief operating officer
		COSATU	Congress of South African Trade Unions
		CRC	Convention on the Rights of the Child
		CSIR	Council for Scientific and Industrial Research
		CSSR	Centre for Social Science Research
		DA	Democratic Alliance
		DBE	National Department of Basic Education
		DHS	Department of Human Settlements (previously National Department of Housing or NDoH)
		DMA	Disaster Management Act 57 of 2002
ACCESS	Alliance for Children's Entitlement to Social Security	DMMA	Digital Media and Marketing Association
ACHPR	African Charter on Human and Peoples' Rights	DORA	Division of Revenue Act (renewed annually)
ADSL	asymmetric digital subscriber line	DPLG	Department of Provincial and Local Government (now CoGTA)
ANC	African National Congress	DPME	Department of Planning, Monitoring and Evaluation
ARV	Anti-retroviral	DWA	Department of Water Affairs (previously DWAF)
ASIDI	Accelerated schools infrastructure delivery initiative	DWAF	Department of Water Affairs and Forestry (now DWA)
BCCSA	Broadcasting Complaints Commission of South Africa	ECA	Electronic Communications Act
BNG	Breaking New Ground	ECDoE	Eastern Cape Department of Education
CALS	Centre for Applied Legal Studies	ECS	electronic communications service
CCC	Complaints and Compliance Committee	ECT	electronic communications and transactions
CCL	Centre for Child Law	EEA	Employment of Educators Act 76 of 1998
CDE	Centre for Development and Enterprise	EFF	Economic Freedom Fighters
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women	EHP	Emergency Housing Programme
CESCR	(United Nations) Committee on Economic, Social and Cultural Rights	ES	equitable share
CFO	chief financial officer	ESTA	Extension of Security of Tenure Act 62 of 1997
		FBSan	free basic sanitation

FBW	free basic water	MDDA	Media Development and Diversity Agency
FICA	Financial Intelligence Centre Act 38 of 2001	MEC	Member of the Executive Council (provincial 'cabinet minister')
FHR	Foundation for Human Rights	MIG	Municipal Infrastructure Grant
FLISP	Finance Linked Individual Subsidy Programme	NDoH	National Department of Housing (now called Department of Human Settlements or DHS)
FXI	Freedom of Expression Institute	NDP	National Development Plan
GCEO	group chief executive officer	NERSA	National Energy Regulator of South Africa
GCIS	Government Communication and Information System	NGO	non-governmental organisation
GDE	Gauteng Department of Education	NHFC	National Housing Finance Corporation
GEC	General Education Certificate	NHSDB	National Housing Subsidy Database
GG	Government Gazette	NHSS	National Housing Subsidy Scheme
HDA	Housing Development Agency	NIA	National Intelligence Agency
HOD	head of department	NPC	National Planning Commission
HSDG	Human Settlements Development Grant	NSC	National Senior Certificate
IBA	Independent Broadcasting Authority	Nurcha	National Urban Reconstruction and Housing Agency
ICASA	Independent Communications Authority of South Africa	NUSP	National Upgrading Support Programme
ICCPR	International Covenant on Civil and Political Rights	NWSRS	National Water Services Regulation Strategy
ICERD	International Convention on the Elimination of all forms of Racial Discrimination	OBE	Outcomes Based Education
ICESCR	International Covenant on Economic, Social and Cultural Rights	OECD	Organisation for Economic Co-operation and Development
ICTs	information and communications technologies	PAJA	Promotion of Administrative Justice Act 3 of 2000
IDP	Integrated Development Plan	PCSA	Press Council of South Africa
IEC	Independent Electoral Commission	PDMSA	Print and Digital Media South Africa
IP	Internet protocol	PDMTTT	Print and Digital Media Transformation Task Team
IPTV	Internet protocol television	PED	Provincial Education Department
IRDP	Integrated Residential Development Programme	PIE	Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998
ISP	Internet service provider	PMSA	Print Media South Africa
ISPA	Internet Service Providers' Association	POCDATARA	Protection of Constitutional Democracy against Terrorist and Related Activities Act 33 of 2004
LDoE	Limpopo Department of Education	R2K	Right to Know Campaign
LRC	Legal Resources Centre		
LSM	Living Standards Measurement		
LTSM	Learning and Teaching Support Materials		
MAT	Media Appeals Tribunal		

RDP	Reconstruction and Development Programme	TIMSS	Trends in International Mathematics and Science Study
RGA	Regulation of Gatherings Act 205 of 1993	TRU	temporary residential unit
RHIG	Rural Household Infrastructure Grant	TV	television
RHLF	Rural Housing Loan Fund	UISP	Upgrading of Informal Settlements Programme
RICA	Regulation of Interception of Communications and Provision of Communications Related Information Act	UKZN	University of KwaZulu-Natal
SA	South Africa	UN	United Nations
Saarf	South African Advertising Research Foundation	UPM	Unemployed Peoples' Movement
SABC	South African Broadcasting Corporation	UPR	Universal Periodic Review
SACMEQ	Southern and Eastern Africa Consortium for Monitoring Educational Quality	USAASA	Universal Service and Access Agency of South Africa
SADF	South African Defence Force	USDG	Urban Settlements Development Grant
SADTU	South African Democratic Teachers' Union	VIP	ventilated improved pit latrine
SAHRC	South African Human Rights Commission	Waspa	Wireless Applications Service Providers' Association
SAICE	South African Institution of Civil Engineering	WSA	water services authority
SANDU	South African National Defence Union	WSDP	water services development plan
Sanef	South African National Editors' Forum	WSP	water services provider
SAPS	South African Police Service		
SASA	South African Schools Act 84 of 1996		
SATRA	South African Telecommunications Regulatory Authority		
SCA	Supreme Court of Appeal		
SCOPA	Standing Committee on Public Accounts		
SERI	Socio-Economic Rights Institute of South Africa		
SERs	social and economic rights		
SGB	school governing body		
SHF	Social Housing Foundation		
SHI	Social Housing Institution		
SHP	Social Housing Programme		
SHRA	Social Housing Regulatory Authority		
SIU	Special Investigating Unit		
SSA	State Security Agency		

Notes

1. L Patel *Social welfare and social development in South Africa* (2005) Oxford, Oxford University Press Lombard A 'The implementation of the White Paper for Social Welfare: a ten-year review. *The social work practitioner-researcher* 20 154–173.
2. H Bhorat and A Cassim 'South Africa's welfare success story II: poverty-reducing grants' (2014) Brookings, Africa in Focus.
3. According to CESCR, the right to social security refers to measures that are to be used to provide social security benefits, including a) 'Contributory or insurance-based schemes...'; and b) 'Non-contributory schemes such as universal schemes [...] or targeted social assistance schemes.' UN Committee on Economic, Social and Cultural Rights (CESCR) *General Comment No. 19: The right to social security (Art. 9 of the Covenant)* (4 February 200) E/C.12/GC/19 para 4a and 4b: <http://www.refworld.org/docid/47b17b5b39c.html>.

4. NPC 'National Development Plan 2030: Our future – make it work' (2013) Pretoria, National Planning Commission (2013).
5. Olivier M 'Revisiting the social security framework in South Africa' (2000) *Law, Democracy and Development* 4, 101–108.
6. Universal Declaration of Human Rights (1948).
7. International Covenant on Economic, Social and Cultural Rights. The *General Comment No. 19* by the supervisory UN organ, tasked with supervising compliance with and interpreting the ICESCR, also affirms the right to social security (UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 19: The right to social security (Art. 9 of the Covenant)*, 4 February 2008).
8. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), article 5(e)(iv); Convention on the Elimination of all forms of Discrimination against Women (CEDAW), articles 11, para. 1(e) and 14, para. 2(c); Convention on the Rights of the Child (CRC), article 26; and the International Convention for the Protection of Migrant Workers and their Families (CMW), article 27.
9. Social Security (Minimum Standards) Convention, 1952 (No. 102).
10. ILO 2012, Recommendation Concerning National Floors of Social Protection, No. 202.
11. AU, *Ouagadougou Declaration and Plan of Action on Employment Promotion and Poverty Alleviation*, Ouagadougou 2004.
12. AU, *Social Policy Framework*, Windhoek 2008.
13. *Ibid.*: 17.
14. *Ibid.*
15. AU 'Social protection plan for the informal economy and rural workers 2011–2015' (SPIREWORK) Yaounde, Cameroon 2013.
16. SADC, *Charter of Fundamental Social Rights in SADC*, Windhoek 2003.
17. The Code on Social Security in the SADC, Article 4(1).
18. SADC *Protocol on Employment and Labour*, Victoria Falls, Zimbabwe 2014.
19. Michael Cichon, 'Is the Good the Enemy of the Better? Or are Social Protection Floors a Minimalist Approach', *International Council on Social Welfare*, Global Cooperation Newsletter, January 2014.
20. International Labour Conference, 89th session, report of the Committee on Social Security, resolutions and conclusions concerning social security.
21. *Ibid.*: 3
22. Barrientos, A. 2013. *Social Assistance in Developing Countries*. New York: Cambridge University Press.
23. As advocated by WIEGO, see website: <http://wiego.org/wiego/core-programmes/social-protection>.
24. Cichon (note 19 above).
25. ILO (note 10 above), para. 1.
26. *Ibid.*, para. 5.
27. *Ibid.*, paras 1(b), 3(g), 13(2) and 14(e).
28. *Ibid.*, paras 3(a), 4, 5(a), 5(b), 7 and 8(a).
29. *Ibid.*, para. 3. Cichon (note 19 above). The ICESCR also has the understanding that 'all States have a minimum core obligation to provide some form of basic social security'; see Sepúlveda, M. and Nyst, C. 2012. *The Human Rights Approach to Social Protection*, Ministry for Foreign Affairs, Finland, 22.
30. See also Dean, H. 2013. 'The Translation of Needs into Rights: Reconceptualising Social Citizenship as a Global Phenomenon: The Translation of Needs into Rights.' *International Journal of Social Welfare* 22 (October): S32–S49, S6.
31. Sepúlveda and Nyst (note 29 above), 22–23.
32. Sepúlveda and Nyst (note 29 above), 22.
33. M. Bachelet *Social Protection Floor for a fair and inclusive globalization* (2011) Geneva, ILO.
34. In developing countries, the terms social protection and social security are often used interchangeably. However, please note that the actual definition of social protection varies considerably; see Kumitz, D. (2013) 'Scoping Social Protection', Platform for Social Protection Zambia Policy Brief, Friedrich-Ebert-Stiftung, Lusaka.
35. Sepúlveda and Nyst (note 29 above), 26.
36. Olivier, M. and Van Rensburg, L. 'Protection and enforcement of the right to social security' *Law, Democracy and Development*, 4, 87–99 (2000), 95.
37. Olivier, M. 2012. 'Social security: Framework.' *LAWSA (The Law of South Africa) – Labour Law and Social Security Law Vol 13, Part 2* (LexisNexis, Durban, 2012), para. 48.
38. Constitution, section 231(2).
39. Constitution, section 39(1)(b); Olivier 2012 (note 37 above).
40. Constitution, section 233.

41. Olivier 2012 (note 37 above), para. 39. Olivier and Van Rensburg (note 36 above), 87.
42. Constitution, Preamble.
43. Constitution, section 27(1)(c).
44. Constitution, section 27(2).
45. Olivier and Van Rensburg (note 36 above), p. 95.
46. Although the South African Social Security Agency Act, (2004, section 2(3)(b)) does provide for 'the prospective administration and payment of social security' by SASSA (that currently administers the payment of social assistance), where social security is understood to include both social assistance and social insurance.
47. Social Assistance Act 13 of 2004.
48. Social Assistance Amendments Act 6 of 2008; Social Assistance Amendments Act 5 of 2010.
49. South African Social Security Agency Act, section 2(3)(a).
50. Olivier, M. 2013. 'Social security: Core elements'. *LAWSA (The Law of South Africa) – Labour Law and Social Security Law* Vol. 13, Part 3 (LexisNexis, Durban, 2013), para. 178.
51. Seekings, J. 2008. 'Deserving Individuals and Groups: The Post-Apartheid State's Justification of the Shape of South Africa's System of Social Assistance' *Transformation: Critical Perspectives on Southern Africa* 68(1): 28–52, 34.
52. Unemployment Insurance Act 63 of 2001 (as amended).
53. Compensation for Occupational Injuries and Diseases Act 130 of 1993. The Occupational Diseases in Mines and Works Act 78 of 1973 also relates to this category.
54. Road Accident Fund Act 56 of 1996.
55. The Constitutional Court stressed this when certifying the draft text of the 1996 Constitution; see Olivier 2012 (note 37 above), para. 37. This position has since been affirmed by the Constitutional Court, *Government of the RSA v Grootboom* 2000 11 BCLR 1169 (CC).
56. Olivier 2012 (note 37 above), para. 87.
57. Ibid. and Mirugi-Mukundi, G. 2010. Reaffirming the social security rights of children in South Africa with particular reference to the child support grant. *Economic and Social Rights in South Africa Review*, 11, 7–8.
58. Seekings (note 51 above), 36.
59. *Khosa and Others v The Minister of Social Development and Others; Mahlaule and Others v The Minister of Social Development and Others* 2004 (6) BCLR 569 (CC) para. 40; see also Olivier 2013 (note 50 above) para. 178.
60. Olivier, M. 2008. Some constitutional reflections. In: Olivier, M. and Kuhnle, S. (eds.) *Norms and institutional design. Social security in Norway and South Africa*. Stellenbosch, South Africa: Sun Press, 9.40.
61. *Government of the Republic of South Africa v Grootboom* para. 53; *Khosa and Others v The Minister of Social Development and Others; Mahlaule and Others v The Minister of Social Development and Others* para. 40.
62. *Government of the Republic of South Africa v Grootboom* para. 36.
63. Olivier and Van Rensburg (note 36 above), 92.
64. Ibid.; *Khosa and Others v The Minister of Social Development and Others*.
65. Olivier 2013 (note 50 above) para. 178.
66. *Government of the Republic of South Africa v Grootboom* para. 44; *Treatment Action Campaign v Minister of Health* 2002 4 BCLR 356 (T) par 66, quoting from *Grootboom*.
67. Olivier 2012 (note 37 above) para. 64.
68. Ibid., para. 65.
69. Social welfare includes not only social security, but also the provision of welfare services.
70. Patel, L. (forthcoming), *Social Welfare and Social Development in South Africa* (2nd ed.). Cape Town: Oxford University Press Southern Africa.
71. 'The Government will take steps to ensure the progressive achievement of social security for all including appropriate social assistance for those unable to support themselves and their dependants', *White Paper for Social Welfare* 1997, chapter 2, para. 8.
72. Patel forthcoming (note 70 above).
73. *White Paper for Social Welfare*, 1997, chapter 2, para. 3.
74. Patel forthcoming (note 70 above).
75. Ibid.
76. *The White Paper for Social Welfare*, 1997, Chapter 2, para. 26.
77. Called the Taylor Committee after its chairperson, Vivienne Taylor; *Transforming the Present. Protecting the Future; Report of the Committee of Inquiry into a Comprehensive System of Social Security for South Africa*, 2002.
78. Taylor 2002 (note 77) 60.
79. Ibid.
80. Seekings (note 51 above), 36.
81. Kruger J. (2013) Social protection in South Africa – recent achievements and future prospects. In: J. Midgley and D.

- Piachaud (eds) *Social protection, economic growth and social change*. Cheltenham, UK: Edward Elgar.
82. Patel, forthcoming (note 70 above).
83. Ibid.
84. National Development Plan (note 4 above), 359.
85. Sepúlveda and Nyst (note 29 above), 30.
86. Patel, forthcoming (note 70 above).
87. Brockerhoff, S. 2010. *Monitoring the Progressive Realisation of Socio-Economic Rights: a Review of the Development of Social Security Policy in South Africa* Johannesburg, Studies in Poverty and Inequality Institute (SPII).
88. See Section 3.1; Devereux, S., Adato, M., Sabates-Wheeler, R., McConnell, J. and Becker, E. 2011. *Child Support Grant Evaluation 2010: Qualitative Research Report*, Pretoria, South Africa, Department of Social Development.
89. Thebeeapelo, G., Moloko, M., John Tebeila, J. and Mlate, S. 2010. *An Overview of South Africa's Social Security System*, Department of Social Development, Pretoria; ODMWA, Act 78 of 1973 (see footnote 53).
90. Ibid.
91. See Table 1.
92. From the 2011 census data that is available it is unfortunately not possible to obtain the number of South Africans aged between 0 and 18 years (the data divide at 15–19 and 20–24 years of age). The share of child grants (11 044 494) to the population from 0–19 (20 103 566) is 54.9 per cent, which is consequently a slight underestimation.
93. The share of grant recipients to the whole population aged between 19 and 60 is 4.1 per cent.
94. Population above 60 years = 4 151 760. SSA 2012. *Census 2011: Census in Brief*, Pretoria, Statistics South Africa.
95. This amount increases to R1430 for persons over the age of 75.
96. SASSA 2015. Fact sheet: Issue No. 6 of 2015 – 30 June 2015, Pretoria, South African Social Security Agency (SASSA).
97. South African government web page on social benefits: <http://www.gov.za/services/services-residents/social-benefits>.
98. Pauw, K. and Mncube, L. 2007. Expanding the social security net in South Africa: opportunities, challenges and constraints, New York, International Poverty Centre.
99. De Koker, C., De Waalk, L. and Vorster, J. 2006. A profile of social security beneficiaries in South Africa. In: Development, Department of Social Development, Republic of South Africa; Delany, A., Ismail, Z., Graham, L. and Ramkissoo, Y. 2008b. Review of the Child Support Grant. Uses, Implementation and Obstacles, Johannesburg, Community Agency for Social Enquiry.
100. Pauw and Mncube (note 98 above).
101. UNICEF/SASSA 2013. Preventing Exclusion from the Child Support Grant: a study of exclusion errors in accessing the CSG benefits, Pretoria, UNICEF South Africa.
102. Mirugi-Mukundi (note 57 above).
103. UNICEF/SASSA (note 101 above).
104. Neves, D., Samson, M., Niekerk, I., Hlatshawayo, S. and Du Toit, A. 2009. The use and effectiveness of social grants in South Africa, FinMark Trust.
105. Pauw and Mncube (note 98 above).
106. Mirugi-Mukundi (note 57 above); Proudlock, P. 2014. South Africa's progress in realising children's rights: a law review, Cape Town, Children's Institute.
107. Social Assistance Act 13 of 2004 (Regulation 11(1)).
108. Martin, P., Lane, A., Ngobane, C. and Voko, B. 2013. Rapid review of the implementation of the Regulation 11(1) to the Social Assistance Act, 2004, Cape Town, Alliance for Children's Entitlement to Social Security.
109. Neves, Samson, Niekerk, Hlatshawayo and Du Toit (note 104 above).
110. Proudlock (note 106 above).
111. Ibid.
112. Mirugi-Mukundi (note 57 above).
113. Ibid.
114. Goldblatt, B. 2009. Gender, Rights and the Disability Grant in South Africa. *Development Southern Africa*, 26, 369–382.
115. Bhorat, H., Goga, S. and Tseng, D. 2013. Unemployment insurance in South Africa. A descriptive overview of claimants and claims. Working Paper 8., Washington, DC, Africa Growth Initiative, Brookings Institute. The Unemployment Insurance Amendment Bill (11 March 2014) proposes the removal of these exclusions.
116. Patel 2005 (note 1 above).
117. NPC (note 4 above).
118. SSA 2014b. Statistical Release Po211. Quarterly Labour Force Survey. Quarter 1, 2014, Pretoria, Statistics South Africa.
119. All figures in the report are rounded to the nearest '000.

120. This refers to the narrow definition of the workforce, excluding those not economically active. Using this conservative definition the unemployment rate is 25.2 per cent.
121. Smit, N. and Mpedi, L. 2010. Social protection for developing countries: Can social insurance be more relevant for those working in the informal economy? *Law, Democracy and Development*, 14.
122. Bhorat, Goga and Tseng (note 115 above); The removal of exclusions for public servants and part-time workers has been proposed in the Unemployment Insurance Amendment Bill (11 March 2014).
123. DoSD 2002. Transforming the present – protecting the future: consolidated report of the Committee of Inquiry into a Comprehensive System of Social Security for South Africa, Pretoria, Department of Social Development, South Africa.
124. DoL 2013. Annual Report of the Department of Labour, Pretoria, Department of Labour.
125. Bhorat, Goga and Tseng (note 115 above).
126. Martin, Lane, Ngobane and Voko (note 108 above).
127. Bhorat, Goga and Tseng (note 115 above).
128. Patel 2005 (note 1 above).
129. Ibid.
130. NPC (note 4 above).
131. Act 78 of 1973 as amended.
132. Seekings, J. 2008 (note 51 above), 34
133. NPC (note 4 above).
134. WHO 2010. Bridging the gap in South Africa. *Bulletin of the World Health Organisation*, 88, 797–876.
135. Olivier and Van Rensburg (note 36 above) 95.
136. We use this term to refer to social assistance and social welfare services spending combined.
137. RSA 2015. *Budget Review 2015*. Pretoria, National Treasury, (p. 66); RSA 2013. *Budget Review 2013*. Pretoria, National Treasury. (p. 84); RSA 2005. *Provincial Budgets and Expenditure Review: 2001/02–2007/08*. Available online at www.treasury.gov.za.
138. Ibid., Gordhan, P. 2014 *Budget Speech, 26 February 2014*. Cape Town: National Treasury.
139. Authors' own calculation, RSA 2013 (see note 135 above). Social grants expenditures include costs for grants as well as policy oversight and administration but exclude welfare services.
140. Devereux, S. 2011. Social protection in South Africa: exceptional or exceptionalism? *Canadian Journal of Development Studies/Revue canadienne d'études du développement*, 32, 414–425, Woolard, I., Harttgen, K. and Klasen, S. 2011. The history and impact of social security in South Africa: experiences and lessons. *Canadian Journal of Development Studies/Revue canadienne d'études du développement*, 32, 357–380.
141. SSA 2014a. Poverty trends in South Africa. An examination of absolute poverty between 2006 and 2011, Pretoria, Statistics South Africa. See also Table 1.
142. SASSA 2008. *Annual Report 2007/8*. Pretoria, South African Social Security Agency; RSA 2013 (note 138 above); Table 1.
143. RSA 2013 (note 138 above) 93 (own calculations).
144. Olivier 2012 (note 37 above).
145. See the *Mashavha* judgment on 'shifting the locus of social security service delivery from provincial to national government, in order to ensure effective and efficient social security service delivery in the area of, in particular, social assistance', Olivier 2013, para. 56; *Mashavha v President of the RSA* 2004 12 BCLR 1243 (CC).
146. Pauw and Mncube (note 98 above).
147. Mirugi-Mikundi (note 57 above). Examples include *Vumazonka and Others v MEC for Social Development and Welfare for Eastern Cape* 2005 (6) SA 229, in which the High Court found the delay in dealing with a disability grant application to be unreasonable. In the case of *Kebogile Lobisa Ngamole v South African Social Security Agency* Case Nos 1033/08, 1025/08, 1024/08, 1038/08 and 1039/08, the High Court noted that applications should have been timeously communicated by SASSA to avoid unreasonable delays.
148. *Bacela v MEC for Welfare* (Eastern Cape Provincial Government) 1998 1 All SA 525 (E); *Ngxuzza and others v Secretary, Department of Welfare, Eastern Cape Provincial Government and Another* 2000 12 BCLR 1322 (E).
149. *Alliance for Children's Entitlement to Social Security v Minister of Social Development*. Case no. 5251/2005.
150. Martin, Lane, Ngobane and Voko (note 108 above); Proudlock (note 106 above).
151. Olivier 2013 (note 50 above), refers to the following cases: *Rangani v Superintendent-General, Department of Health and Welfare, Northern Province* [1999] JOL 5494 (T); *Mpofu v MEC for the Department of Welfare and Population Development in Gauteng Provincial Government* (unreported WLD

- case no 2848/99 of 18 February 2000); *Bushula v Permanent Secretary, Department of Welfare, Eastern Cape* 2000 7 BCLR 728 (E); *Njongi v MEC, Department of Welfare Eastern Cape* 2008 6 BCLR 571 (CC); 2008 4 SA 237 (CC); *Nomala v Permanent Secretary, Department of Welfare* 2001 8 BCLR 844 (E).
152. Olivier 2012 (note 37 above).
153. Lund, F. 2008. *Changing social policy: The Child Support Grant in South Africa*. Cape Town, Human Sciences Research Council.
154. The last extension was the subject of a challenge in the court case *Mahlangu v Minister of Social Development and Minister of Finance* Case No 25754/05, where the High Court was asked to order the government to extend the grant to all poor children under the age of eighteen years (note 57 above).
155. Sepulveda and Nyst (note 29 above), 37–8
156. Proudlock (note 106 above).
157. Heinrich, C., Hoddinott, J., Samson, M., MacQuene, K., Van Niekerk, I. and Renaud, B. 2012. *The South African Child Support Grant Impact Assessment*, Pretoria, UNICEF/SASSA/Department of Social Development.
158. Seekings 2008 (note 51 above); Case *Christian Roberts and Others v Minister for Social Development and Others* Case No: 32838/05.
159. Gordhan (note 139 above).
160. Department of Social Development (2008) *Social Assistance Act of 2004*, GG 31356, Notice R.898, 22 August 2008, Pretoria: Government Printer.
161. Proudlock (note 106 above).
162. 2004 6 BCLR 569 (CC).
163. Section 27(i)(c) paras 46 and 47.
164. Olivier 2008 (note 60 above).
165. Case No. 32056/2005.
166. Mirugi-Mukundi, G. 2010 (note 57 above).
167. Olivier 2012 (note 37 above), para. 52; cases such as: *Jooste v Score Supermarket Trading (Pty) Ltd (Minister of Labour Intervening)* 1999 2 BCLR 139 (CC); *Tsotetsi v Mutual and Federal Insurance Co Ltd* 1996 11 BCLR 1439 (CC); 1997 1 SA 585 (CC).
168. Mpedi, L. and E. Fourie. 2008. Unemployment protection in South Africa. In: Olivier, M. and Kuhnle, S. (eds.) Norms and institutional design. Social security in Norway and South Africa. Stellenbosch: Sun Press.
169. DoL 2013 (note 125 above).
170. Minister dishes out some good news amid taxing times (25 February 2015) <http://www.sanews.gov.za/south-africa/minister-dishes-out-some-good-news-amid-taxing-times>.
171. NPC (note 4 above).
172. See note 171.
173. Department of Transport (2014) GG 37612, General Notices 337, 9 May 2014, Pretoria: Government Printer, 3.
174. Olivier 2000 (note 5 above).
175. DoSD (note 124 above).
176. Patel 2005 (note 1 above).
177. Ibid.
178. Olivier and Rensburg (note 36 above), 95.
179. Olivier 2000 (note 5 above).
180. Mirugi-Mukundi (note 57 above).
181. Black Sash 2012. *Annual Report*. Cape Town, Black Sash.
182. Proudlock (note 106 above).
183. Neves, Samson, Niekerk, Hlatshawayo and Du Toit (note 104 above); Woolard, Harttgen and Klasen (note 141 above).
184. Samson, M., Lee, U., Ndlebe, A., Mac Quene, K., Van Niekerk, I., Gandhi, V., Harigaya, T. and Abrahams, C. 2004. *The social and economic impact of South Africa's Social Security System*. Cape Town: Economic Policy Research Institute.
185. Woolard (note 141 above).
186. Møller, V. 2011. *Perceptions of Fortune and Misfortune in older South African Households: Social Pensions and the 'Good Life'*, Grahamstown, Institute of Social and Economic Research, Rhodes University.; Delany, Ismail, Graham. and Ramkisson (note 99 above); Steele, M. 2006. *Report on Incentive Structures of Social Assistance Grants in South Africa*, Pretoria, Department of Social Development.
187. Bhorat and Cassim (note 2 above).
188. Grosh, M., Del Ninno, C., Tesliuc, E. and Ouerghi, A. 2008. *For protection and promotion: The design and implementation of effective safety nets*, Washington, DC, The World Bank.
189. Du Toit, A. and Neves, D. 2007. *Understanding Self-Employment at the Margins of the South African Economy: Findings from a Pilot Study on Qualitative Approaches to Self-Employment. A Report for the National Income Dynamics Study Steering Committee, Office of the Presidency*, Bellville, PLAAS.
190. Ardington, E., and Lund, F. (1995). Pensions and development: Social security as complementary to programmes of

- reconstruction and development. *Development Southern Africa*, 12(4) 557–577.
191. Delany, Ismail, Graham and Ramkisson (note 99 above); Patel, L. 2012. Poverty, Gender and Social Protection: Child Support Grants in Soweto, South Africa. *Journal of Policy Practice* 11, 106–120.
192. Neves, Samson, Niekerk, Hlatshawayo and Du Toit (note 104 above).
193. Devereux 2011 (see footnote 141 above); Duflo, E. 2000. Child Health and Household Resources in South Africa: Evidence from the Old Age Pension Program. *The American Economic Review* 90, 393–398; Edmonds, E., Mammen, K. and Miller, D. 2005. Rearranging the Family? Income Support and Elderly Living Arrangements in a Low Income Country. *Journal of Human Resources* 40, 186–207.
194. Burger, R., Von Fintel, D. and Grün, C. 2009. *The nexus between social grants and participation rates: Dynamics across generations in the South African labour market*. Pretoria: National Planning Commission.
195. Keswell, M. 2004. *Social Networks, Extended Families, and Consumption Smoothing: Field Evidence from South Africa*. Working Paper No. 58. Cape Town: Centre for Social Science Research, University of Cape Town; Neves, Samson, Niekerk, Hlatshawayo and Du Toit (note 104 above); Posel, D., Fairburn, J. and Lund, F. 2006. Labour migration and households: A reconsideration of the effects of the social pension on labour supply in South Africa. *Economic Modelling* 23, 836–853; Samson, M. 2009. Social Cash Transfers and Employment: A note on empirical linkages in developing countries. In: OECD (ed.) *Promoting pro-poor growth: employment*. Paris: OECD.
196. Samson (note 196 above).
197. Williams, M. 2007. *The Social and Economic Impacts of South Africa's Child Support Grant*, Cape Town: Economic Policy Research Institute.
198. Eyal, K. and Woolard, I. 2011. Female Labour Force Participation and South Africa's Child Support Grant. CSAE 25th Anniversary Conference 2011: Economic Development in Africa. 8 March, 2011, University of Cape Town.
199. Woolard, I. and Leibbrandt, M. 2010. *The evolution and impact of unconditional cash transfers in South Africa*. Cape Town: Southern Africa Labour and Development Research Unit, University of Cape Town.
200. Neves, Samson, Niekerk, Hlatshawayo and Du Toit (note 104 above).
201. Heinrich, Hoddinott., Samson, Mac Quene, Van Niekerk and Renaud (note 158 above); Samson, Lee, Ndlebe, Mac Quene, Van Niekerk, Gandhi, Harigaya and Abrahams 2004 (note 185 above); Woolard, Harttgen and Klasen (note 141 above).
202. Proudlock (note 105 above).
203. Neves, Samson, Niekerk, Hlatshawayo and Du Toit (note 104 above).
204. Makiwane, M. 2010. The Child Support Grant and teenage childbearing in South Africa. *Development Southern Africa* 27, 193–204; Steele (note 187 above).
205. Bhorat, Goga and Tseng (note 114 above).
206. Casale, D. and Posel, D. 2005. Women and the economy: how far have we come? *Agenda: Empowering women for gender equity* 19, 21–29.
207. Lund, F. 2006. Working People and Access to Social Protection. In: Razavi, S. and Hassim, S. (eds.) *Gender and Social Policy in a Global Context: Uncovering the Gendered Structure of the 'Social'*. Basingstoke: Palgrave.
208. As informed by SASSA official Dianne Dunkerley, 8 June 2013.
209. Budlender, D. and Lund, F. 2011. South Africa: A Legacy of Family Disruption. *Development and Change* 42, 925–946.
210. Goldblatt (note 114 above).
211. Combination is where a beneficiary receives more than one type of child grant, i.e. a combination of Foster Child Grant and the CDG or Foster Child Grant and CSGs for different children.
212. Lund 2006 (note 205 above).
213. Delany, Ismail, Graham and Ramkisson (note 98 above).
214. Budlender and Lund (note 207 above).
215. Sabates-Wheeler, R. and Roelen, K. 2011. Transformative social protection programming for children and their carers: a gender perspective. *Gender and Development* 19, 179–194.
216. Goldblatt, B. 2005. Gender and Social Assistance in the First Decade of Democracy: A Case Study of South Africa's Child Support Grant. *Politikon* 32, 239–257.
217. Posel, D. and Rogan, M. 2012. Gendered Trends in Poverty in the Post-Apartheid Period, 1997–2006. *Development Southern Africa* 29, 96–113.

218. Ambler, K. 2011. *Bargaining with Grandma: The Impact of the South African Pension on Household Decision Making*. *Population Studies Center Research Report 11-741*, Institute for Social Research, University of Michigan; Delany, Ismail, Graham and Ramkisson (note 99 above).
219. Borat, Goga and Tseng (note 115 above).