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### Navigating the route to social development

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# Social policy in South Africa: Navigating the route to social development

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## Abstract:

This paper reflects on the trajectory of social policy in South Africa (1994–2017) and on which policy levers present opportunities for cross-country policy transfer, in order to address current social development challenges. The current direction of social policy is described as the result of a compromise between two distinct alternative paradigms whereby the statist transformative and market-oriented residual paradigms are held in tension. On the one hand, a transformative policy perspective draws on human rights and views redistribution as a necessary premise for and means of economic growth. On the other hand in the residual framework, redistribution is envisaged as a secondary function that is dependent on economic growth. Several instances are outlined in which this tension is evident, together with the implications for social policy across the policy cycle: in legislation; in social compact formation; in the selection of social programmes and in their implementation; in gender-mainstreaming and in the engagement of the private sector in social policy.

Overall we highlight areas of hybrid policy overlap between these bifurcated ideological, political and institutional frameworks, for example around social transfers and corporate social investment. We also describe instances of conflicting and at times unexpected outcomes, such as the National Health Insurance.

Several factors are concluded to be of relevance to the Global South more generally: the importance of constitutionally-legislated rights as a basis for advancing socio-economic claims; the emergence of new social compacts in contexts where there are significant levels of informal employment and unemployment and lastly, the influence of fiscal and institutional capability factors in shaping the direction of social policy and its implementation.

## 1. Introduction

Social policy and programme innovations in developing countries have attracted widespread international attention. The emergence, nature and effectiveness of recent social policy pathways are therefore of interest, to understand whether these represent substantive approaches to the social development challenges faced in low and middle income contexts. Understanding the linkages between social policy and development outcomes is a theme of current relevance in South Africa, since longitudinal studies have shown that poverty rates have recently begun rising again (to 55% in 2015), after significant gains over the past two decades (StatsSA, 2017a). This paper draws on a survey of existing literature in order to chart the trajectory of social policy formulation (and to some degree implementation) in the 1994-2017 period. By examining to what extent South African social policy is leaning in new directions, in policy and in practice, this paper contributes to cross-national policy thinking and the compilation of evidence to inform global debates.

A transformative paradigm was established by the ruling party in South Africa's fledgling democracy in 1994 which anticipated substantial reengineering of the economic and social sector, through high levels of redistribution towards a deracialised, equitable and inclusive society, with poverty and inequality reduction as

central goals. This paper reflects on the trajectory of this vision and how it has played out in practice within the broader political and social environment.

Two key arguments of cross-national relevance frame this paper. The first is that, while Esping-Andersen's welfare regime typology (Esping-Andersen, 1990) carried an assumption that each national regime type was underpinned by a dominant ideology, in South Africa in reality social policy is being carved out in contexts defined by multiple concurrent ideologies. Arguably, in the rapidly changing global political and economic climate, the repercussions of economic crises and high levels of inequality, such policy pluralism is likely to increase and has become a common backdrop against which social policies need to be designed, implemented and evaluated in many countries. As Murray Li (2016) notes, "Contradictions between the demands of capital and the need for legitimation make welfare states dynamic sites of contestation in the global North and South alike" (p.1254).

The second key argument is that the contexts in which the social compacts between the state, labour and capital were forged in the cases of several established European welfare regimes, are fundamentally different from those of many low and middle-income countries. Assumptions regarding the availability of work and the correspondent absorption of able-bodied workers no longer hold. In South Africa, access to jobs is stratified by geography, race, gender and age, with large sections of the population at the periphery or excluded from labour markets. This highlights the need for new and context-specific approaches to distribution: "The need for assistance, then, is not about being "between jobs" or correcting for dips in the business cycle; it is part of a world in which many, or even most, people, for the foreseeable future, will lack formal sector employment" (Ferguson, 2009).

The South African pluralistic social policy landscape displays features characteristic of both a transformative and a residual framework. A transformative framework is built on norms of solidarity, and provides services and transfers based on rights, envisages state intervention as a channel for the reversal of structural inequalities and for redistribution of income and opportunities, and considers social and economic policies as complementary. The residual framework on the other hand has a minimal form of social policy; it is based on norms of individual responsibility for the care of dependents, education, and the maintenance of health, gives provisions based on narrow forms of reciprocity, considers social policy as subordinate to economic policies, and regards the market as the primary welfare provider, with the state taking the final responsibility as a provider of last resort (often delegated or abrogated to civil society institutions).

In South Africa, robust and vocal advocates and adversaries of both ideological paradigms are present. A firmly redistributive paradigm was established in 1994 which envisioned a substantial role for the state in many areas of policy,

including fiscal, industrial, economic, as well as social. Though the broad consensus has weakened, this stance has consistently been promoted by significant sections of the ruling party (African National Congress) and its political allies in the labour movement and the Communist Party of South Africa which enjoyed strong electoral support over the past two decades. Conversely at the other extreme, a belief that the pursuit of economic growth is the most effective driver of both social and economic development, has also been an influential stance taken to different degrees by stakeholders including senior government officials, foreign and domestic businesses and investors, international financial institutions and large sections of the media. Economic policies of the late 1990s were strongly influenced by the conventions of international financial institutions, and these ideas still hold a dominant position in economic discussions in South Africa today (Seekings & Nattrass, 2015). New party leadership since 2009 advocated more radical transformation but has been embroiled in allegations of corruption which has eroded its potential to achieve transformative change. Political divisions in the ruling party paved the way for leadership contestation at the end of 2017. The new leadership promises to reassert the country's constitutional ideals as well as to court economic growth and private sector investment. It is still uncertain whether this signals a more transformative direction in future.

The variety of policies that occur between the extreme poles of transformative and residual policy frameworks can have complementary, conflicting and variable elements (Ulriksen & Plagerson, 2017). In South Africa, we illustrate how this unresolved tension is visible across the spectrum of the policy process and relationships: in the role of legislation, the courts and civil society (Section 2); in social compact formation (Section 3); in the selection of social programmes (Section 4) and in their implementation (Section 5); in gender-mainstreaming (Section 6) and in the engagement of the private sector in social policy (Section 7). We conclude (Section 8) that the substantive policy changes in South Africa over time do suggest the emergence of a social policy core.

Yet the analysis shows how social policy is not static and we acknowledge the role of broader political and economic trends in contributing to the direction of social policy, such as dwindling state resources, job losses and the formulation of demands by the marginalized. Among these factors, we specifically discuss how institutional and capability challenges of the state interact with the ongoing contestations around the politics of distribution. In the past decade in South Africa, the central set of social policy programmes, forged at the cross-section between pluralistic frameworks, has been increasingly undermined, destabilized and weakened through a process of systemic political corruption in which private interests have significantly influenced the state's decision-making processes to their own advantage (Bhorat et al., 2017). This unforeseen potential for 'state capture', even within a vibrant democracy, cannot be

ignored, and must form part of discussions around the future directions of social policy and social development in the global South.

## **2. Legislation, the courts and civil society: a strong foundation**

The most distinct expression of the transformative paradigm is in the Constitution of the Republic of South Africa (1996), itself an embodiment of struggles to chart a way forward for the country after the negotiated settlement and creation of a democratic society. We argue in this section firstly that the Constitution has ensured broad continuity in the overall transformative and redistributive direction of social policy. This has occurred despite ongoing contestation reflected in subsequent policy documents over the optimal relationship between social and economic policy. Second, the Constitution has provided a rallying point for civil society movements and a compass for the judiciary to keep the country orientated towards a vision of integrated social policy and the centrality of human wellbeing.

Together with the Bill of Rights and South Africa's commitments to international human rights, the Constitution makes provision for the right to housing, health care, food, water, shelter and social security and education (R.S.A., 1996). The Constitution requires the state to progressively achieve the full realisation of these rights within its available resources<sup>1</sup>. The Constitution overturned racially discriminatory apartheid policies, affirmed the interconnectedness and indivisibility of social and economic rights, institutionalised the principle of concentrating resources on the most disadvantaged sectors of the population and laid the foundation for the restructuring of the welfare system according to principles of justice and equity (Patel, 2015; Woolard, Harttgen, & Klasen, 2011). This vision exceeded alternative views of social and economic policy as a zero-sum formula. Instead, it envisaged multiplicative effects for those who have been historically disadvantaged and excluded, and the realisation of reciprocal benefits for all citizens through coordinated planning.

The Constitution embraces a liberal-egalitarian vision for society (Klare, 1998). The firm legislative basis established in the Constitution as the supreme law of the land has restrained excessive oscillations away from the central goal of overcoming poverty and inequality. Nonetheless, while subsequent policy approaches since its adoption have sought to achieve both economic growth *and* social redistribution, they have differed in their views on the best route to achieve both aims, and prioritised social and economic policy differently (Van Niekerk, 2013). The Reconstruction and Development Programme (RDP), the development policy framework of the ruling party, the African National Congress, was closely aligned with the Constitution, socially oriented with a

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<sup>1</sup> In the case of children (Section 28), the state's obligation to meet their needs and rights these qualifications do not apply.

strong redistributive remit, and advocated a vision for an engaged state (R.S.A., 1994). This led to real and genuine attempts to shift from a remedial to a redistributive and rights-based approach in the realm of its welfare regime, at a time when global swings were heading in the reverse direction in order to overcome the distorted and unequal nature of development. Yet, early seeds of disagreement concerning the relationship between economic growth and social development can already be detected in the RDP. While the original draft proposed by the trade unions argued for 'growth through redistribution', under pressure from international and national investors, this was reversed to 'redistribution through growth' (van der Westhuizen, 2015). The subsequent macro-economic policy, the Growth, Employment and Redistribution programme (GEAR), adopted in 1997 was an attempt to attract foreign investment, regenerate economic growth, liberalise the economy and reduce the country's debt inherited from the apartheid era. This occurred in a globalising world marked by global economic downturns and increased economic volatility and in the aftermath of the collapse of the Soviet block of countries. Initially, the GEAR did not lead to increased economic growth although this improved between 2002 and 2008 when an average growth of 4.5% was achieved. However, this was not matched with significant employment growth. Economic growth declined sharply after the global economic crisis of 2009 and between 1993 and 2017, South Africa recorded on average GDP growth rate of 2.3% (Trading Economics, 2018). GEAR was severely criticised by the trade unions and civil society groups as reflecting a neo-liberal turn in economics and shift to a residual approach to social policy. Despite this shift, social spending (for example in health and education) did not decline, in fact social assistance spending grew as a new social protection programme for children, the Child Support Grant, was adopted and implemented in 1998. The downside of the government's drive for global competitiveness was that employment for low skilled workers stagnated, leading to increased rates of unemployment and social exclusion of large sectors of the economically active population.

Leadership changes in the ruling party in 2009 resulted in a turn away from the GEAR policy and the reassertion of the idea of the 'developmental state' driving social and economic development. During this period, the National Development Plan was devised and adopted (NPC, 2011). The NDP (re)established a broad, unifying and compelling base for public policy in South Africa. The NDP highlights the importance of national planning and envisages a leading role for the state as coordinator and mediator of social, economic and environmental policy channelled towards poverty and inequality elimination by 2030 (NPC, 2011). Yet, economic growth, increased productivity, poverty reduction and the building of social cohesion are all equally present in the NDP's policy vision (Patel, 2015). Critics have suggested that it holds both to a 'redistribution through growth' paradigm, as well as a normative approach to social and economic justice. Van der Westhuizen (2015) argues that because of these tensions between economic and social policy, the NDP lacks a coherent strategy to identify these synergies and overcome intersectoral tensions. The notion of the

'developmental state' endorsed by the NDP disguises an uneasy symbiosis of ideas. Prized because of its achievement in several South East Asian countries in terms of both economic and social development, the question as to how best to construct a developmental state in a Constitutional democracy such as South Africa and what the appropriate balance should be between economic and social investments remains a key challenge (Evans, 2010). Several authors have cautioned about the lack of a clear model for progress towards the developmental state in the South African context, which could limit its application in practice (Edigheji, 2012; Lincoln, 2016).

Importantly for the realisation of rights in the everyday lives of a country's citizens, the Constitution has served to create an expectation of solidarity among the citizenry that their needs should be met by the state (Murray Li, 2016). Itself the result of significant grassroots mobilisation, the Constitution has provided civil society organisations with leverage to monitor access to socio-economic (and environmental) rights and to advocate for their extension. In many instances civil society networks have enlisted public interest lawyers to defend social and economic rights against encroachment from other state and private interests (Proudlock, 2014). The courts (particularly the Constitutional Court) have gained a reputation for fairness while actively affirming the obligation of the state in giving effect to social rights, and interpreting the law in ways sympathetic to the poor. Several rulings have symbolically indicated a reversal of previous racial and economic discrimination. Significant court interventions in the areas of housing (protection from eviction) and health (the provision of anti-retroviral treatment for people infected with HIV and AIDs), as well as rulings on water access, the funding of municipal services and access to social assistance (for example to refugees), have contributed to increasing access to social rights in line with the Constitutional mandate (Plagerson & Ulriksen, 2017; Seekings & Matisonn, 2012).

These rulings have increased public trust in the judiciary and independent institutions such as the Public Protector, established under Chapter Nine of the Constitution to address maladministration in the public sector. Rulings against corruption by public officials and politicians have also contributed to growing public confidence in independent institutions (Constitutional Court of South Africa, 2016; Madonsela, 2016). Social movements such as the student movement, *Fees Must Fall*, successfully waged mass protests on university campuses during 2016 and 2017 demanding free higher education for low and middle-income students. Thus, social mobilisation and pressure from social and labour movements and civil society organisations have influenced the expansion of socio-economic rights, subject to trade-offs between different social policies.

Overall, the constitutionally mandated rights-based approach to which many developing countries aspire is a significant new direction in social development. It has withstood to a large extent the buffeting of alternative paradigms. It has served to retain poverty reduction as a central national priority and provided a legal platform for

the incremental expansion in some areas of policies which politicians might otherwise have been unlikely to promote.

### **3. Social compact formation: the old rules don't apply**

The transformative paradigm espoused by eminent development theorists (such as Mkandawire (2012)), draw on the need for social compacts brokered by the state between capital and labour as a premise for integrated social and economic policy. We argue in this section that in many contexts in the Global South, including South Africa, the clear appeal of such compacts is constrained in practice by two factors: the reality of a dualistic policy milieu described in the introduction; and the fact that even if they were politically feasible, traditional social compacts would exclude large sections of the population who are unemployed (currently 35% of the labour force in South Africa) (StatsSA, 2017b). We outline the tentative ways in which social policy is being directed in this context.

The absence of a hegemonic set of ideas within the state, among other factors, has placed enormous strain on the political task of maintaining a broad coalition and reconciling the diverse interests of government departments and interests (Seekings & Nattrass, 2015). For example, while the Treasury has argued for greater workplace flexibility, the Department of Labour has supported calls for the expansion of the number and coverage of bargaining councils (Webster, 2013). Friedman and Groenmeyer (2014) suggest that this bifurcated approach between government departments can be explained in part by an implicit bargaining arrangement in the political arena between the ruling party and trade unions, whereby the union movement has a veto over labour law but does not interfere on macroeconomic policy. While corporatist structures have had some successes in areas such as the negotiations for a national minimum wages, many unresolved issues and tensions remain. The tendency of state entities to pursue a bipolar approach with business and labour has resulted in the coexistence of a relatively market-friendly environment with a vocal and powerful labour movement that has preserved a generous set of rights and high levels of wages for workers.

The situation has been exacerbated by the fragmentation of the labour movement, as the gap between established trade unions and their constituencies has widened, and new trade unions have emerged appealing to discontented unskilled workers. Furthermore, the rigid structures of trade unions, focused on defending labour rights and benefits, have become largely inaccessible to an increasingly outsourced and informalised workforce as well as large numbers of unrepresented unemployed job-seekers. Several factors characterise the context in which, social policy is being forged which highlight the inadequacies of social protection for working age adults based solely on employment (or citizenship) status. Firstly, a somewhat parallel and



independent relationship between social and economic policy has resulted in economic growth that has adapted towards a capital-intensive, relatively jobless growth path, characterized by high labour costs (Webster, 2013). Secondly sizeable sections of working age adults are 'surplus' to the economy, without access to employment or other sources of income. Thirdly, despite efforts to develop regional level instruments and policies, national structures have taken precedence in practice and struggled to harness international economic migration flows towards inclusive growth (Crush, Dodson, Williams, & Tevera, 2017).

This context has created new social policy dilemmas (which extend well beyond South Africa) with no well-worn paths to follow. Both transformative and conservative policy frameworks are scrambling for answers regarding how to determine on what basis benefits and social protection should be extended, as they come to terms with the notion that social compacts need to extend beyond their traditional constituencies related to formal employment structures. As the direct and natural overlap between social security and labour policy is diminishing, the primary response has considered unemployment as a temporary issue to be addressed through the scaling up of employment opportunities. A renewed emphasis on job creation has been pursued in different ways, including public works schemes. For those unable to work due to age or disability, social assistance has provided a regular channel of social protection. We argue that an additional response is emerging implicitly on account of the reality of large numbers of un- and under-employed surplus labour. This is the recognition that categorical grants in South Africa are pooled and serve households rather than individuals, thereby providing social protection de-linked from workfare pressures to obtain work. The sheer scale of cash transfers (received by more than one third of the population) implies tacit recognition that cash transfers have served to support households with no other income.

In summary, since traditional social compacts built on expectations of inclusive formal employment are unsuitable, social policy is obliged to pursue new pathways. Disjunctures between social/labour and macro-economic policy have created an uneven platform on which clusters of discrete redistributive social security measures such as public works and large scale social assistance programmes are being constructed. However, to date it has not been possible to achieve a broad-based social compact which can integrate social and economic policy, and formulate an overarching comprehensive social protection framework. Indeed the state's credibility as custodian of a social compact has become increasingly compromised as evidence has accumulated in the public domain of corruption and a widening gap between state rhetoric and real alignment with long term development goals (Bhorat et al., 2017).

#### **4. Selection of social programmes: cash transfers lead the way**

We argue in this section that the primacy accorded in legislation to poverty alleviation (Section 2) has translated into a rich portfolio of social programmes that reach a large proportion of the South African population. Yet, as a result of the constraints described in Section 3, these have remained largely within the ambit of the social sector. While this cluster of social interventions represents an intersection between transformative and residual ideological standpoints, the specific contours are still contested. This is revealed both in the inclusion and exclusion of certain initiatives, and in the ‘success’ of cash transfers despite conflicting political and social narratives.

The prioritization of redistribution is evident in the investment of large financial resources in public education, primary health care, children’s nutrition, housing, municipal services, welfare services and social assistance for children, people with disabilities and older persons (Patel, 2015), equivalent to 60% of national government expenditure in 2017/18 (R.S.A., 2018). Several factors distinguish this social package as overtly redistributive. Firstly, it gives a concrete demonstration of the intention to realise the constitutional mandate to provide a rights-based entitlement to a minimum standard of living and to ensure equal opportunity to services and benefits particularly for the socially and economically disadvantaged. This paradigm has necessitated a substantial expansion of the role of the state in service provision. Secondly, the source of funding of social programmes is significant in terms of revealing a redistributive mandate. In contrast with many other low and middle income countries, social policies in South Africa have been largely funded through domestically mobilised resources, in a context of fiscal constraint but also improved tax compliance and expansion of the tax-base (Ulriksen, 2014). Thirdly, the sheer scale of expenditure and coverage of social grants in particular has led to tangible redistributive effects. There are now more than 17 million grant recipients (about one third of the population) in receipt of grants for older persons, persons with disability and children (SASSA, 2017). Social assistance has had a substantial impact on the incidence and depth of poverty and inequality (Inchauste, Lustig, Maboshe, Purfield, & Woolard, 2015). These findings contribute to a rich international literature on the efficacy of cash transfers in the global South (Bastagli et al., 2016). Successes in Latin America (Adato & Hoddinott, 2010) and more recently in Africa (Davis et al., 2016), have cemented cash transfers as a social protection mechanism of choice in the twenty first century.

However the trajectory of social grants in particular belies significant policy contestation in South Africa. There have been recent concomitant policy shifts towards both universality and towards the introduction of conditionality. In 2010, conditionalities related to school attendance were attached to the Child Support Grant (CSG) despite the high levels of school attendance (Lund, 2011). Yet the CSG has been gradually extended from children under the age of seven to all children under the age of 18 in poor households. Cash transfers have trumped a conservative discourse on

self-reliance that continues to appear in policy documents (Sevenhuijsen, Bozalek, Gouws, & Minnaar-McDonald, 2003). While South Africa has a long history of informal and community-based social protection, apartheid, migration, and structural unemployment among other issues have stretched and in some cases eroded these support mechanisms (Mokomane, 2013; Patel, 2015; Patel & Ulriksen, 2017). Limits to the progressive extension of rights come into view when considering the lack of traction of proposals by a labour union federation for a basic income grant for all adult citizens, endorsed in the early 2000s by a government-appointed commission (DSD, 2002). There are still clear distinctions between social provisions for those unable to work (social assistance) and those that target the able-bodied working age population (social insurance programmes such as the Unemployment Insurance Fund and public works schemes), which suggest a negotiated compromise between rights, and the balance between the state and the individual's responsibilities for their own welfare. Social insurance programmes remain primarily tied to formal sector structures (Plagerson & Ulriksen, 2017).

The ambiguities that surround political and social discourses concerning social grants, may also explain their disproportionate rise compared to other programmes, with a close connection between their success and the ambivalence that they attract. Cash transfers are criticised on one hand as neoliberal interventions that do not tackle structural inequalities, and on the other as hand-outs that foster dependency and laziness (Surender, Noble, Wright, & Ntshongwana, 2010; Ulriksen & Plagerson, 2014). Yet equally they represent a point of convergence between productivist and inclusive narratives, defended by political antagonists both as rights-based entitlements and as a social intervention that valorises market efficiency and individual choice (Ferguson 2009). The example of cash transfers in South Africa suggests that the introduction and expansion of programmes which can be justified by both a transformative and a residual paradigm may have a politically more straightforward trajectory than other programmes.

## **5. Implementation of social programmes: challenges of politicization**

We examine in this section how ideological transformative-residual fault-lines – reverberate not just in the selection of social programmes but also in policy implementation processes, specifically regarding the role of the public vs. the private sectors in social policy. Ideally, in a stable policy environment, pluralistic private/public sectors implementation models would optimise both equity and efficiency in service delivery, as initially appeared to be the case with the South African Agency for Social Security (SASSA). However, we discuss how the transformative/residual, public/private and equity/efficiency tensions become more volatile when the state is vulnerable to political interference and when public sector administrative competencies are unreliable (as both the case studies in this section illustrate). This instability due to a lack of professionalism in public sector agencies and

their lack of insulation from clientelism compromises service delivery and the achievement of national development goals such as poverty alleviation. We use the examples of the establishment of the South African Agency for Social Security (SASSA) and the slow progress towards the realisation of the National Health Insurance (NHI).

The South African Social Security Agency (SASSA) was established in 2006 to centralize the administration of the social grants, previously administered by provincial governments (Lund, 2008). Increased coverage and administrative improvements have been widely attributed to SASSA's role and drive to fulfil its stated objectives (Devereux, Adato, Sabates-Wheeler, McConnell, & Becker, 2011). At arms' length from political machinations, as an implementing institution, SASSA has since its establishment affected the direction taken by the CSG (Child Support Grant) in particular by advocating incremental policy changes, and by introducing pragmatic administrative changes. These changes have improved the delivery of social grants and have, over time, come to constitute a substantial shift in the eventual social policy paradigm. However, since 2014, events have highlighted SASSA's vulnerability to political interference, which has overridden the benefits of its administrative independence. In a non-transparent manner, ministerial intrusion has sanctioned the appointment of a private service provider to implement social assistance delivery mechanisms, thereby jeopardizing the legitimacy of SASSA. The courts have been forced to intervene in the case which has pitted an efficient but overly profit-driven, exploitative, illegitimate and politically protected service provider against the appointment of a publically mandated institution (such as the South African post office) with insecure administrative credentials (Tilley, 2018).

In another example, the radical National Health Insurance (NHI) policy aims to develop a "health care financing system [...] to pool funds to actively purchase and provide access to quality, affordable personal healthcare services for all South Africans based on their health needs, irrespective of their socioeconomic status" (R.S.A., 2017, p. 16). This involves the integration of two vastly different and internally complex health systems whereby private and public service providers have operated largely independently. Despite a surprising level of (superficial) agreement with the overall idea of health as a common good, responses by private medical facilities, insurers and providers to the perceived institutional and professional threats, have articulated the need to impose limits on the decommodification of health, and have pitted market-oriented strategies for delivery against state-centric approaches. The ideological fault-lines on the role of public vs. private sectors in social policy are also exacerbated by the interests and politicization of actors within each sector (Ulriksen & Plagerson, 2017). The progress to date of the radical NHI strategy, now in its pilot phase is testament to the resilience of the transformative policy paradigm rooted in the government's legislative and political clout, and popular support for equity-driven policy. Yet its realisation is and will be largely determined by the state's capacity to manage sector specific interests and politicization. Evidence of weaknesses of the state to manage

health services structures have been seized upon by the private sector which has contested the state's assumed role as strategic overseer of health systems (Surender, 2017). The private sector has identified its own managerial effectiveness and efficiency as a basis for expanding its services and making them affordable to a larger proportion of the population (Niekerk 2014).

Thus, both cases above illustrate the challenges of state institutions in implementing social policy in contexts where state agencies are not fully insulated from political interests, and where the appropriate role of public institutions vis-à-vis that of private agencies are continuously debated.

## **6. Gender and social policy: uneven integration of productive and reproductive roles**

The assessment of social policy directions is specifically examined here with reference to the gendered dimensions of social protection as this provides an important lens to comment on the intersection between a transformative and a residual policy paradigm. A gendered policy evaluation considers whether structural inequalities are addressed beyond income alone (Patel, 2018), and to what extent men and women's social and economic roles are considered holistically. With regard to social security interventions, we argue that in South Africa, policy has been informed by a multidimensional view of gender and poverty, which has led to some gender-redistributive effects. However this falls short of realising a transformative paradigm. We argue the failures are in part due to a very uneven understanding of the interdependence of productive and reproductive roles, especially for women, and how the burdens of reproduction have led to social exclusions that have not been sufficiently understood or addressed. In addition, the stark implementation failures in especially the EPWP (discussed later), point to a mismatch between the progressive ideals of policies and the realities of bureaucratic practices (von Holt, 2010).

In South Africa, the care of the old, young and ill is still largely left to women within the household who are expected to play the double role of active labour market participants and unpaid domestic caregivers. Women still often struggle to access and maintain their position in the labour market and are overrepresented among the least protected, and within the least lucrative strata of the informal economy (Budlender & Lund, 2011). The double burden of production and reproduction render women particularly vulnerable and contributes to continued gender inequality (Sepúlveda Carmona & Donald, 2014).

Within the social security realm, the Child Support Grant (CSG) is an example of a programme that attempts to engage with gender inequality. It is a means-tested monthly cash grant paid to the primary caregivers of children living in poverty. The grant was designed to be gender-neutral yet relevant to the realities and challenges of

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, and high levels of HIV/AIDS) (Budlender & Woolard, 2006; Lund, 2008). However, due to the strongly gendered nature of care in South Africa, the vast majority of CSG beneficiaries are female, with the result that it supports greater levels of financial independence for women. The CSG has for example supported many women's ability to participate in existing informal social protection systems such as burial societies and community savings schemes (Patel, 2015). The CSG is designed to specifically respond to the care needs of children, and thus has positive outcomes for women as caregivers. However, the CSG does not recognise women outside of this role, and therefore the productive uses some women make of the grant, such as assisting women to look for work, or starting one's own small business, erodes its value as a tool of reproduction (Plagerson & Ulriksen, 2015). This points to the manifest lack of support for women's productive roles from other sources. In addition, the CSG does not challenge the disproportionate role women play in giving care to children, leaving the heavy burden of reproduction unchallenged. Such findings resonate with in-depth analyses of cash transfers (conditional and unconditional) in other settings (such as Cookson (2018)).

The Unemployment Insurance Fund (UIF) offers six months of unemployment benefits to those who have lost their jobs (Bhorat, Goga, & Tseng, 2013). However, women are registered in low numbers for the UIF, given its eligibility restriction to jobs in formal labour markets, and limited expansion into temporary and informal labour markets where the majority of women are located (Orr & van Meelis, 2014). This unintended exclusion of women impacts on the protection they can leverage when they lose their livelihoods. Positive developments intended to try and reach more disadvantaged workers have helped balance out the unequal gendered benefits of UIF, such as extensions to domestic workers and seasonal workers, and provisions for higher unemployment benefit payments to lower-income workers, all areas where women dominate. Maternity benefits recognize women's reproductive role and have been critical to allow many women to exercise their right to maternity leave. However, difficulties in accessing the benefit and very late payments often undermine these gains, and force women back to work before they have taken the four months to which they are legally entitled, impacting negatively on the care of infants.

The inclusion of the social sector in the Expanded Public Works Programme (EPWP) in 2009, was born from an innovative idea that the lack of services in the Early Childhood Development (ECD) and Home Based Care (HBC) sectors (among others) could be met by a public works programme, simultaneously providing social services, employment and training opportunities, particularly for women (Budlender and Lund, 2011; Jacobs et al., 2010). This idea had the potential to be an example of integrative social policy in action, doubly benefiting women as workers and beneficiaries and therefore contributing significantly to improving gender equality (Antonopoulos, 2009). However, other poor design features of the programmes have unfortunately

countered the gender-redistributive potential of the EPWP social sector. These workers are remunerated at particularly low levels, even within the EPWP, earning so little that improvements to their lives are very small and short-term. This is compounded by serious underfunding and weak resourcing administration, with direct gendered effects. Precisely because the sector participants are largely female, the major implementation problems, such as delayed payments, disproportionately affect women and the families they support (Plagerson, Hochfeld, Stuart, & Patel, 2017). In addition, there are extremely limited opportunities for employment after participation in the programme, as this sector is already over-supplied with similarly qualified workers. Finally, some have argued that the inclusion of the social sector in the EPWP is opportunistic (Budlender, 2009), as many women were already doing HCBC and ECD work, and that the deepening of caring skills among women will not challenge traditional gender relations (Parenzee & Budlender, 2015).

Combined, these instruments do suggest a leaning towards more gender-sensitive policies, but enormous challenges limit their realisation in practice. Responses to the complex interlinking needs attributable to women's productive and reproductive roles, have been piece-meal and have not amounted to a significant attempt to engage with gender issues across the social sector to ensure gendered social exclusion is not perpetuated. In addition, the institutional failures identified across the post-apartheid state is suggested to be as a result of, among other issues, contradictory and contested bureaucratic ideologies and practices of the state (von Holt, 2010). This is relevant in the case of the social sector of the EPWP and the unsatisfactory functioning of maternity benefits in the UIF, and results in the paradox of progressive social protection policies with poor, and even conservative, outcomes.

Therefore there is a lack of social/economic policy synergies between measures to facilitate women's access to employment, skills training, social security and social services. These are needed to overcome system failures, structural unemployment of women and provision for childcare in order to establish a continuum of short-term to long-term benefits for women.

### **7. Private sector engagement in social policy: too little or too much?**

The pluralist approach to social policy subscribed to in South Africa acknowledges the role of actors in development beyond the social sector. In this section, we turn to the South African mining sector, to assess the scope and contours of the private sector's involvement in social policy through Corporate Social Investment (CSI) and through public regulation of the social and environmental responsibilities of mining companies. It is apparent from this brief review that there is a convergence conceptually between the transformative and residual approaches to social policy alluded to earlier. However, in practice, critics ask whether these interventions have resulted in tangible social and economic benefits for communities in areas where mining companies

operate or whether these were compensatory and served to appease the conscience of mining houses through mere compliance (van Wyk et al., 2008).

Historically, mining companies effectively divorced the responsibility for economic production from provision for social reproduction of labour. The prosperity of the mining sector and the accumulation of large profits was dependent on the supply of cheap migrant labour, which resulted in the super-exploitation of workers and the impoverishment of their families dating back to the latter part of the 19<sup>th</sup> century. In the post-1994 democratic dispensation, Corporate Social Investment (CSI) and Social and Labour Plans (SLP) have been considered to be vehicles for restorative justice to redress the legacy of apartheid. This represents a shift away from the earlier stance of mining companies where they took no responsibility for social reproduction of their labour force and the impact of mining on communities (Siyobi, 2015).

Corporate Social Investment (CSI) or corporate philanthropy predates the end of apartheid, but has matured over the past two decades into a significant component of the socioeconomic landscape, with companies allocating budgets and departments to CSI, often developing partnerships with NPOs and having formal monitoring and evaluation systems in place. In line with the introduction in 2003 of the Broad-Based Black Economic Empowerment Codes of Good Practice, listed companies, including those in the mining sector, voluntarily contribute up to one percent after tax profits to social and developmental priorities and spending (CoM, 2017b). In 2016/17, the mining sector accounted for 32% of CSI expenditure (9.1bn in total), the highest contribution across sectors (Rockey, 2017).

In addition to CSI, the Mineral and Resources Act of 2004 requires mining companies that seek mining rights from the state to submit Social and Labour Plans (SLP) to promote human resources and local economic development planning. SLPs were conceived as a corrective measure to address the past legacy of disparity between mine workers and communities on the one hand and mine owners and managers on the other hand (CALS, 2014). Mining companies are required to provide plans on how they intend to share the benefits derived from their mining rights to communities such as contributing to infrastructure development, education, housing among others. Once a mining right is awarded, the SLP is legally binding.

As a significant effort to re-direct market-based approaches and business interests towards the achievement of explicitly social objectives, these initiatives do represent an intersection between transformative and residual policy frameworks. They also serve to some extent to influence the role of non-state actors and markets in social provisioning and protection (Capps, 2013; Cronje et al., 2014). The existence and scale of CSI programmes and SLPs demonstrates some commitment to the post-apartheid consensus and transformative constitutional policy framework embodied in mining legislation, regulations and codes of conduct. CSI and the regulation of mining



companies' contribution to local social and economic development has also extended the expectations of local communities about the social responsibilities of mining houses during and after operations have ceased, and in mitigating the effects of economic fluctuations, particularly in the declining gold mining sector (Capps, 2013). However, as we show, CSI and SLPs are also contested in several ways.

Despite the growing normative stance that companies should contribute to CSI as a mechanism to facilitate private sector engagement in social policy and its implementation, this is also a point of strain between stakeholders. In this regard, mining houses argue that they are over-burdened with responsibility for transformative socio-economic outcomes (that it sees as falling under the state's remit), in an industry that is already under pressure (CoM, 2017a; Cronje et al., 2014). Many mining companies tend to hold the view that their primary contribution to the nation's redistributive mandate is through employment creation and tax revenues, which the government is then responsible to redistribute in line with its social goals in the alleviation of poverty and inequality (Cronje et al., 2014). Consequently, private sector social involvement initiatives may be perceived to directly contradict the prevailing market paradigm that favours growth maximisation and higher economic returns through greater regulatory freedom and productive incentives. Market friendly initiatives of this kind are considered by some mining companies to be the best route to promoting secondary redistributive social spending.

Conversely, a critical 'transformative' view interprets CSI as a palliative response that justifies the externalisation of social and environmental costs by mining houses (Humby, 2015). CSI activity has been criticised as providing a 'cloak of legitimacy' which allows mining activity to continue with minimal disruption and cost (Kloppers & du Plessis, 2008). According to Mushonga (2012) in South Africa, "Corporate Social Responsibility involvement is premised on the fact that business (in this case mining houses) take resources from society for their own use; therefore they have a responsibility to return to society the value of these resources" (p.57). These claims have been supported by evidence that CSI initiatives remain largely separate to the structures and daily operations of most companies, without substantially redirecting them towards socially and environmentally responsible business practices.

The fundamental role of regulatory measures in directing the sector towards a more transformative stance, also appears to be limited by their application in practice. Preliminary evidence regarding the impact of SLPs suggests that compliance is partial, that requirements are vague, do not lend themselves to rigorous impact assessments, that they provide limited scope for community participation and overall that they have limited potential to achieve the intended social and economic objectives set out in the Constitution (CALS 2014). This was evident in the failure of the Lonmin mining company to meet the housing targets set in the company's SLP at Marikana. Housing and labour related issues among others fuelled the dispute between trade unions and

management which subsequently culminated in the death of over 40 mineworkers in 2014.

In conclusion, we argue that, despite the challenges, corporate involvement and regulatory initiatives such as SLPs are viable mechanisms for engaging private companies in realising constitutionally mandated social and economic rights. Instead of relying purely on private markets to generate and distribute wealth and promote human well-being, the state actively directs mining companies through regulation and enabling measures to enlist their support for social development. An inherent tension continues to exist between proponents of a residual approach and the transformative vision and goals of the constitution referred to above, and it is this tension that underlies much of the contestation between the labour movement, the private sector and government. Although community and civil society groups in mining communities do play a role, they are often poorly organised, and consequently their needs and interests are under-represented. At the same time, private companies also do not have the expertise to work collaboratively with communities and government capacity to enforce regulatory provisions such as the SLPs is severely constrained. The violence at Marikana has brought these tensions sharply to the fore in a context of a lack of trust between the parties, ideological divisions as well as fragmentation within the labour movement itself. Overcoming these tensions through negotiations and compromise will require good will, strong leadership, common purpose, shared rules and fairness in labour and business relations. While there is significant potential for promoting collective responsibility for social development through private sector engagement, the challenges remain daunting.

## **8. Conclusion: Toward transformative social policy?**

South Africa's constitutionally guaranteed rights-based approach to social policy placed the country on a liberal-egalitarian path to social and economic development. While a redistributive paradigm remains the policy platform of the ruling party and its allies, in practice a range of factors and structural constraints contributed to a weakening of this broad consensus in the policy trajectory since 1994. Different configurations of contextual, ideological, political and economic tensions and pressures have been discussed that influenced the oscillations between residual and transformative policies. Ideological contestation among key actors coming from different perspectives in the labour movement, business and civil society have resulted in compromises and hybrid policies which do not always fit together neatly.

South Africa is not unique in this regard as this is increasingly the norm in the real world of policy and politics. However, hybrid policies have been criticised by the labour movement and some sectors of civil society for leaning to the reformist side of the policy arc and for not sufficiently advancing the redistributive ideals that were envisaged at the outset. Other actors take a more pragmatic stance and contend that the outcomes achieved are based on what is possible at a given point in time and that

incremental changes that tackle systemic and structural barriers could over time lead to cumulative and progressive change.

Several key lessons may be learnt from the South African case relate to the following: first, is the positive role played by the judiciary, the Constitutional Court and civil society organisations and social movements in defending the realisation of social and economic rights. Second, it is evident that twenty years into the country's democracy, a core package of social programmes have been institutionalised, are publicly funded and benefit the most disadvantaged in the society. Social rights pertaining to social assistance (cash transfers), education, health and housing are widely supported and enjoy significant legitimacy among the populace. These gains will be hard to reverse should the erosion of these rights be under threat. Third, weak implementation of the delivery of this package of social development programmes has resulted in limiting access to services and in the delivery of poor quality services. This has prompted social unrest in many communities. Weak state capacity to deliver basic and social services has undermined progress toward the achievement of social and economic rights and gender mainstreaming of social development policies and programmes. Fourth, state capacity is further constrained by low levels of economic growth over the past two decades and persistently high rates of structural unemployment. Although the phenomenon of 'surplus labour' is rising in some countries around the globe and is likely to continue due to the changing nature of employment and labour markets in the information and digital age, South Africa has inordinately high rates of structural unemployment especially among youth and women. What social policies are best able to mitigate this phenomenon remains a significant local and global challenge. Fifth, formal social compacts in South African are institutionalised to negotiate agreements between government, labour and business with some participation of civil society organisations. There is limited accommodation of unorganised workers and those who are unemployed in these social compacts. There is scope for new thinking around innovative social pacts to respond to specific social issues about how to include those who are excluded from participation. Sixth, the complexity and need to translate macro-policies and plans into practical programmes yielding tangible social improvements in people's everyday lives, cannot be under-estimated.

Finally, a salutary lesson that emerged from the South African case is that despite the constitutional safe guards that were established, state capture and corruption by political elites in the ruling party and businesses occurred on an extraordinary scale over the past decade. Not only did this result in loss of public funds which could have been directed to social goals; the mismanagement of public enterprises, indebtedness by the state and loss of investor confidence spiralled into successive investment downgrades and economic decline. In this context, the need to regenerate the economy and create employment in an inclusive way is high on the national agenda. How to best achieve the reconciliation between social and economic policies in a constrained economy and with weak state capacity to delivery services in a highly

contested political environment remains a key conundrum. New political constituencies benefiting from expansionist social protection policies including increased access to higher education, are emerging in post-apartheid South Africa and what their influence will be on electoral politics is still unclear. Looking ahead, it is anticipated that claims for social rights expansion will pivot on the socio-economic rights embedded in the Constitution. It is unlikely that political parties currently and in future will be able to significantly erode the rights achieved thus far without electoral consequences. However, this will have to be matched with improved capacity to deliver these rights.

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