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Committee Report No 12

Institutional framework for comprehensive social protection

12.1 Introduction

The term “institution” refers to more than an organisation. Institutions also refer to regularised patterns of behaviour or systems of legitimate enforceable rules embedded in social relations. The development of both institutions and organisational structures is primarily determined by the existing social, political and economic context.

Major shifts become possible, as in the case of South Africa, with changes from undemocratic to democratic forms of government and through the introduction of a Constitution. Such shifts usually preface the development of new policy, organisations and legislation that previously could not evolve due to imbalances in political and economic power. Nevertheless, the degree to which institutions and organisations change, and the manner in which they change, depends on the influence different stakeholders exercise on policy-making.

There is thus an inherent bias in institutional transformation, as there is in all social policy formulation, against vulnerable and marginalized groups. For example, if government introduces legislation to improve the rights of particular groups of vulnerable people, but because of institutional rigidities these rights are not implemented or are unable to be accessed then institutional change is required. International experience shows that this is not an uncommon outcome. As a result, the Committee’s view is that institutional reform processes with regard to socio economic rights and social security in particular, as a rule, should prioritise the participation of vulnerable and marginalized groups.

There are three important considerations to be taken into account:

- First, due to the many domestic structural and capacity imbalances in South Africa, the market cannot be reasonably expected to lead this transformation process. Indeed, with poverty as persistent and pervasive as it is, building the capacity of the State and its public sector institutions is a central starting point for institutional transformation.
- Second, the desired institutional structure must follow the chosen strategic functions and priorities set by the South African government in its role as a developmental State.
- Third, socially and economically sustainable social security arrangements need to increase the integrity of households and communities to cope with socio-economic challenges, reduce dependency on grants, and effectively rationalise the existing social assistance grants system to ensure the policy objectives of government are met.

12.2 Progress achieved in reforming the public sector

The characteristics and capabilities of a country's institutions matter a great deal. It is increasingly recognised that a country's human development index (HDI), as measured by the United Nations Development Programme, often does not correspond with their respective gross domestic product per capita indicator.. Indeed, poor societies, such as Cuba or the Indian State of Kerala, have considerably better HDI outcomes than much wealthier and more developed countries. The institutional arrangements that these societies have adopted often explain these differences. This ability to exact positive human development achievements, despite relatively less favourable levels of economic development or growth, is especially significant for poorer countries seeking to improve the lives of their citizens within the context of a contradictory global economy.

In this regard, South Africa's first democratic elections coincided with increasing economic globalisation. The challenge of achieving fundamental improvements in human development whilst integrating into a global economy is real for South Africa, and requires effective institutions.

The democratic government began its transformation of the public sector with an overhaul of the policy framework inherited from the apartheid era. In 1994 there was a broad agreement on the need for a much more efficient, effective and equitable public service, capable of improving the quantity and quality of service provision and redressing the imbalances of the past.

The Public Service Act of 1994 created the basis for integrating the fragmented system of state administration into a unified public service that would operate at both national and provincial levels. At the same time the White Paper on Reconstruction and Development identified institutional reform as one of the main programmes to drive the implementation of the Reconstruction and Development Programme (RDP). A more comprehensive institutional intervention was the 1995 White Paper on the Transformation of the Public Service (WPTPS) which established a national policy framework for new policies and legislation aimed at transforming the public service in-line with the following vision:

“The [government] is committed to continually improving the lives of the people of South Africa by a transformed public service that is representative, coherent, transparent, efficient, effective, accountable and responsive to the needs of all.”

The White Paper identified eight priority areas for public service transformation. These were:

- Rationalisation and restructuring to ensure a unified, integrated and leaner public service;
- Institution building and management reforms to promote greater accountability and organisational and managerial effectiveness;
- Increased representativity through affirmative action;
- Improved service delivery to meet basic needs and address past imbalances;
- The promotion of internal democracy and external accountability;
- Human resource development and capacity building;

- Improved employment conditions and labour relations; and,
- The promotion of a professional service ethos

To give effect to these priority areas, there have been some important public service developments that are relevant for underpinning a new social security framework. These are listed in Table 12.1.

12.3 Public Service Transformation and Social Security Institutional Reform

The Committee notes that social security and social service functions of government are generally labour-intensive, and therefore require enhanced human resource capacities. The Social Development Department has initiated a much needed process of norms and standards for the delivery of social security. These norms and standards could constitute an element in the reform of the social security framework. Alongside the development of norms and standards for social security delivery is the need to build the capacity of key staff and delivery agents overall. The existing system does not have the capacity nor an appropriate institutional framework to promote a comprehensive, integrated system of social protection as envisaged by the Committee.

The assumptions on which the current social security concept and policy is based are the following:

- There is strategic social security planning capacity, at appropriate government levels, that is able to prioritise, co-ordinate and integrate interventions;
- There is administrative capacity to implement legislation and policies. This includes national, provincial and local governments with the requisite staffing levels, skills, systems and procedures, and financial and other necessary resources. It also includes the ability of these different branches of government to enter into and manage public-private partnerships;
- There is sufficient capacity to monitor and evaluate the implementation and outcomes of policies;
- There is a pre-existing social security infrastructure, both in urban and rural areas, that can be used as a platform from which to roll-out policy and legislative requirements;
- Social security development and planning is sequenced with national budgetary planning. The integrity of social security policies and legislation, once reached, need to be maintained by being provided with requisite fiscal support to, for example, ensure that benefits maintain their real values;
- Significant levels of public debt exist which act as additional limitations on the coverage, extent and characteristics of social security provision that is possible;
- Significant economic growth (at least 3% per annum) with job creating outcomes, thus taking pressure off social security provision; and,
- Capacity of community sector to use new opportunities and to limit their expectations in relation to government programmes

Table 12.1 Major Reforms in the Public Service and Impacts on Social Security System

Policy Intention	Key Mechanisms	Policy Change / Reform Initiative	General Assessment	Impact on Social Security Systems
Devolution and Decentralisation of Decision Making	Public Finance Management Act	<ul style="list-style-type: none"> ▪ Devolves accounting responsibility to Director-Generals; ▪ Makes Ministers and MEC's responsible for policy outcome; ▪ Makes Director-General responsible for policy implementations 	<ul style="list-style-type: none"> ▪ Major shift in operations in the public service; ▪ Improvements in financial management will however require significant training. 	<ul style="list-style-type: none"> ▪ Possible creation of an agency will be bound by the reporting and establishment criteria in the PFMA; ▪ Require the agency to report to parliament via a minister; ▪ Provides a relevant framework in which the agency will work
Performance Improvements	Integrated Provincial Support Programme	<ul style="list-style-type: none"> ▪ Provide national government support to provincial governments. ▪ Aimed at: <ol style="list-style-type: none"> 1. Strengthening capacity to drive transformation; 2. Support corporate reforms aimed at performance improvements; 3. Introduce efficiencies through organisational reviews 4. Support improvements in delivery 	<ul style="list-style-type: none"> ▪ Assessments of the programmes are likely to be incomplete, as the programme is still in its early stages; ▪ Programme however needs a stronger focus on training of public service workers, to improve service delivery. 	<ul style="list-style-type: none"> ▪ Limited to the Eastern Cape, Kwa-Zulu Natal and Northern Province
	Senior Management Service	<ul style="list-style-type: none"> ▪ Creates an elite core of managers within the public service, and provides them with a 'flexible' pay package ▪ Requires senior managers to sign performance contracts 	<ul style="list-style-type: none"> ▪ A similar initiative focussed at managers of institutions (e.g. school principals, hospital managers, head of grant offices) is needed. 	<ul style="list-style-type: none"> ▪ Limited impact at the level of grant offices
	Personnel Performance Management System	<ul style="list-style-type: none"> ▪ To provide an assessment procedure for all public service workers ▪ Introduction of the personnel performance management system (PPMS) 	<ul style="list-style-type: none"> ▪ This initiative has had limited impact due to the complex administrative procedures; ▪ The absence of an agreement on career progression makes implementation difficult. 	<ul style="list-style-type: none"> ▪ System is a 'one size fits all'. Tailoring the system to the social security sector will be required.

Policy Intention	Key Mechanisms	Policy Change / Reform Initiative	General Assessment	Impact on Social Security Systems
Restructuring	Public Service Jobs Summit	<ul style="list-style-type: none"> ▪ Development of simplified disciplinary and incapacity codes, with agreement between unions and governments ▪ Establishment of a restructuring process at the Public Service Jobs Summit 	<ul style="list-style-type: none"> ▪ Management capacity needs to be strengthened to implement the simplified discipline and incapacity codes ▪ Framework provides a basis for more co-operative relationships between unions and government ▪ Detailed procedures for implementation have not yet been finalised. 	<ul style="list-style-type: none"> ▪ Management capacity for enforcement would need to be strengthened ▪ Potential to provide a mechanism for fundamental restructuring of the social security system along developmental lines; and ▪ Redeployment and Retraining of staff.
	Size	<ul style="list-style-type: none"> ▪ Attempts to ‘right-size’ the public service 	<ul style="list-style-type: none"> ▪ Several initiatives have been undertaken but have yielded little results; ▪ The public service has been reduced by 13% since 1996 through attrition, voluntary severance packages and the closing down of posts; ▪ Areas of both over-staffing and under-staffing are however observable 	<ul style="list-style-type: none"> ▪ Continued shortages in key personnel (e.g. social workers, administrative staff) are likely to continue in the social security system; and ▪ Will have a major impact on implementation of policy.

Representations made to the Committee, as well as research indicates that a major obstacle in the access to social assistance grants is administrative incapacity and an absence of social infrastructure. Many of the assumptions made above are being challenged by those who work with and those who are supposed to benefit from the system.

Table 12.2 provides an overview of policy areas with the programme range falling within them. The departmental responsibility is shown by programme.

While the broad structure of government has improved substantially, government is now well placed to incorporate the lessons learned since 1994. Indeed in this regard a substantial number of public and departmental submissions identified service delivery as an urgent priority for institutional reform. At the policy level concerns have been raised at the effectiveness with which government prioritizes policies, programmes and the allocation of resources.

Since 1994 government has clearly been re-orienting itself toward a more developmental role, with all spheres requiring greater responsiveness toward the poor. Consultations with key government departments shows that there is general recognition , that the current institutional basis remains inadequate and, often, inappropriate.

An important feature of the social security system is that the following factors are often overlooked:

- (a) The specialized requirements for a system of social security within the sphere of administration and financing;
- (b) Special needs in relation to skills and management;
- (c) The need to institutionalise co-ordination of policy determination and service delivery;
- (d) The need for an explicit consolidation of policy responsibility;
- (e) The importance of specialised requirements for dealing directly with the public.

In most instances no single government department takes sole responsibility for major areas of policy. This is clearly evident in the “contingency” Old Age where: Social Development has policy responsibility for the means tested Old Age social assistance grant; Department of Labour has responsibility for occupational issues; and the Treasury regulates the private retirement industry.

Here no department has clear and explicit policy or co-ordination responsibility. No clear linkage between policy introduced into private retirement funds, social assistance, and currently excluded groups, e.g. informal sector, domestic workers, etc.

Table 12.2: Overview of Social Security Framework

Field	Means test	Policy responsibility	Delivery responsibility	Key programmes	Services	Social assistance	Social insurance	Voluntary insurance	
Child Benefits	Means test	Social Development	Provincial Departments of Social Development	Social assistance grants		X			
	No means test	Health	Local Authority Health Services	PHC services	X				
			Provincial Departments of Health	Hospital and PHC services	X				
		Labour	Collective agreements	Legislation					
		UIF	Unemployment insurance				X		
Disability	Means test	Social Development	Provincial Departments of Social Development	Social assistance grant		X			
	No means test	Labour	COIDA	Occupational Insurance for IOD			X		
			Private and Public occupational schemes	Legislation				X	
			RAF	Universal MVA Insurance			X		
			Private and Public occupational schemes	Regulatory environment for schemes				X	
	Treasury	Private individual savings	Regulatory environment for schemes				X		
Employment Injuries	No means test	Labour	COIDA	Occupational Insurance for IOD			X		
		Transport	RAF	Universal MVA Insurance			X		
Poverty alleviation	Means test	None	Special employment programmes	(blank)		X			
		Social Development	Provincial Departments of Social Development	Social assistance grants		X			
Health Care	Means test	Health	Provincial Departments of Health	Hospital and PHC services	X				
	No means test		Employer-based medical schemes	Hospital and PHC cover				X	
		Local Authority Health Services	PHC services	X					
		Open medical schemes	Hospital and PHC services					X	
		Labour	COIDA	Occupational Insurance for IOD			X		
			Work-based provisions	Legislation				X	
		SANDF	SAMS	Hospital and PHC services	X				
		Transport	RAF	Universal MVA Insurance			X		
			Treasury	SARS	Tax environment for private medical expenses				X
	Maternity	Means test	Health	Provincial Departments of Health	Hospital and PHC services	X			
No means test		Labour	Occupational Health Schemes	Legislation				X	
			Private formal sector employers	Legislation				X	
		UIF	Unemployment insurance				X		

Field	Means test	Policy responsibility	Delivery responsibility	Key programmes	Services	Social assistance	Social insurance	Voluntary insurance
Old Age	Means test	Treasury	Private insurance	Voluntary and employer insurance				X
		Social	Provincial Departments of Social					
	No means test	Development	Development	Social assistance grant		X		
		Labour	Occupational and Public savings schemes	Legislation				X
Sickness	No means test	Treasury	Occupational and Public savings schemes	Regulatory environment for schemes				X
		Labour	Private savings	Regulatory environment for schemes				X
		Labour	SARS	Tax incentives for private retirement				X
		Labour	Collective agreements	Legislation				X
Survivor and Funeral	Means test	Health	Public and Private Sector Schemes	Legislation				X
			Labour	UIF	Unemployment insurance			X
	No means test	Treasury	Public and Private Sector Schemes	Regulatory environment for schemes				X
		Health	Provincial Departments of Health	Mortuary and burial services	X			
Unemployment	No means test	Labour	COIDA	Occupational Insurance for IOD			X	
			Labour	Private individual and occupational schemes	Legislation			X
		Transport	UIF	Unemployment insurance			X	
		Treasury	RAF	Universal MVA Insurance			X	
Unemployment	No means test	Labour	Private individual and occupational schemes	Regulatory environment for schemes				X
			Labour	Occupational retrenchment packages	Legislation			
			UIF	Unemployment insurance			1	

No clear over-riding policy responsibility has been allocated to deal with the following contingencies:

- (a) Child benefits and support;
- (b) Disability;
- (c) Unemployment;
- (d) Maternity benefits and support;
- (e) Old age and retirement;
- (f) Survivor and funeral benefits;
- (g) General poverty

12.3.1 Standard challenges facing social security institutions internationally

Based on international research, the Committee has identified the following challenges as being relevant for South Africa.

12.3.1.1 Policy Framework

➤ *Fragmentation in the policy-making:*

The absence of a clear lead minister or department will prevent the creation of a coherent policy framework. This is particularly a problem where an inter-departmental policy approach is required.

This fragmentation also exacerbates the problem of policy and political decisions at the highest levels not being translated into implementation, and the consequent accusations of “bureaucratic inaction” on the ground.

➤ *Linkages between policy determination and resource allocation:*

If no clear link exists between the process that deliberates on a policy and the organisation or department that implements, priorities could be misaligned.

12.3.1.2 Public Sector

A central challenge affecting service delivery within the public sector relates to the issue of operational inflexibility. Its impact can be felt on everything from human resource management to procurement. Poorly structured hierarchies, over-centralised decision-making—particularly with respect to basic operational matters—and the lack of performance-related remuneration leads to poor morale and ultimately poor service delivery.

➤ *Budget allocation mechanism:*

Large complex functions within government require careful attention to policy determination and financing. The processes required to formulate policy may not do so in a manner that links

effectively to the budget determination and allocation process. There is therefore a need to better link strategic prioritisation, planning and budgeting processes.

➤ *Decentralisation of operational decision-making:*

The public sector operates with a large array of institutions directly responsible for service delivery. Many suffer from chronic under-performance, amongst other things, due to the lack of a clear model for decentralising the management of these facilities or institutions. The solution largely lies in moving away from the standard hierarchical civil service model of reporting and management toward more decentralised approaches. This involves introducing revised governance models, emphasising the role of Boards with comprehensive responsibilities and chief executive officers with appropriate accountability requirements. Decentralised responsibility for procurement, human resource management, and spending is essential. Such approaches do not involve the decentralisation of policy, merely the carrying out of policy.

There is also a need to create optimum opportunities and processes for interaction with, and feedback from, beneficiaries and potential beneficiaries. This will promote better accountability and hence greater operational efficiency.

➤ *Targeted services:*

Services that are targeted at selected vulnerable groups suffer from the standard problem of having to find and make allocations to those eligible for the support. If managed badly, many eligible people could be excluded from access to goods, services, or grants to which they are entitled. Great attention therefore has to be paid to streamlining targeting criteria, or the provision of certain goods and services on a universal basis if the inefficiency of a targeting system is so great as to prove dysfunctional.

12.3.1.3 Social Insurance

Social insurance is typically offered via a statutory institution lying outside of the conventional civil service structure. In many countries this results in a significant improvement in operational efficiency so essential for direct service delivery to the public. In South Africa certain of the social insurance institutions are operated as if they were part of the civil service structure, despite the fact that these institutions are engaged in, effectively, specialised functions. The consequence is that the public service structures tend to deprioritise key aspects of the social insurance functions, thus contributing to a significant reduction in the institution's ability to achieve basic operational functionality.

➤ *Governance model:*

Internationally, social insurance funds typically operate as autonomous statutory authorities, generating their own revenue and accountable to a Board with fairly comprehensive fiduciary

responsibilities. A chief executive officer would head the fund and also perform the accounting function.

12.3.1.4 Regulated Private Markets

Social security provision in South Africa, historically, in many instances, has placed responsibility for financing and delivery onto a regulated private market. This has created a number of challenges. These include the requirement for strong regulatory authorities, streamlined enforcement mechanisms, regulated governance requirements, regulation protecting consumers from abuse, and protections against unfair discrimination. Without ensuring that these issues are adequately addressed it is likely that policy objectives will be undermined.

➤ *Regulatory authorities:*

Regulatory authorities need to be independent statutory authorities functioning with good oversight. It is important to protect such authorities both from inappropriate government interference and regulatory capture by private stakeholders. Such authorities must not suffer from capacity deficits and need to have sufficient scope to offer attractive career opportunities to high quality staff. The lack of such regulatory authority capacity in most cases is an important factor and undermining factor in South Africa. This regulatory capacity constraint does limit the extent to which social security functions can be outsourced or devolved to private markets.

➤ *Enforcement:*

Regulated markets require efficient methods of enforcement and arbitration by public regulatory authorities. Without this the process of ensuring compliance with legislation or contracts (in the case of functions outsourced by the public sector), or protecting people from abuse, may become a very slow and arduous process, undermining the effectiveness of whatever legislation has been put in place. Having to revert to the High Court for litigation may substantially diminish the speed of enforcement. In this regard, the Committee has proposed options for alternative and more comprehensive processes, including the establishment of an overall Social Security adjudication structure.

➤ *Corporate Governance:*

Poor corporate governance will result in fraud and poor organisational decision-making. Each policy area that relies on the private sector requires a coherent approach to corporate governance. In the case of pension funds, for example, elected boards of trustee and the elimination of conflicts of interest are essential to protect against fraud and corruption. This goes together with a strong regulatory authority and streamlined enforcement.

➤ *Consumer protection:*

Consumers need a fair degree of protection in areas ranging from defective products to corrupt agents and intermediaries. Relying on consumer watchdogs or following up complaints may be insufficient where consumers are placed at a structural disadvantage relative to private agents. The

whole area of consumer protection needs to have a clear policy focus where any aspect of the social security system relies on the private market for delivery.

➤ *Unfair discrimination:*

Where an aspect of the social security system relies on the private market for delivery, legislation typically has to be introduced enforcing minimum solidarity and cross-subsidisation requirements. Without these protections, reliance on the private market will be undermined through unilateral decisions made by the market to exclude certain groups from cover. This is a standard strategy to prioritise high revenue, low cost/ risk groups. Protective mechanisms to address unfair discrimination need to be practical and sufficiently capacitated.

Table 12.3: Summary of key issues affecting the operational and policy effectiveness of different organisational options within the social security system

Public sector	Social Insurance	Regulated Private Markets
o Fragmentation in policy making	o Statutory authority	o Strong and independent regulatory authorities
o Linkages between policy making and resource allocation	o Independent board with fiduciary responsibility	o Efficient enforcement mechanisms
o Efficiency of the budget allocation mechanism	o Chief executive officer (accounting officer)	o Appropriate corporate governance
o Decentralisation of operational decision-making	o Independence from civil service HR and procurement requirements	o Consumer protection
o Targeting of services and grants		o Unfair discrimination

12.4 Findings and recommendations of the committee

12.4.1 Policy development and prioritization

Within the context of social security a fundamental division between policy and implementation occurs between the national and provincial levels of government. Policy is made at the national level, but the mechanisms for achieving the implementation of policy especially with regard to an integrated social policy function appears limited. Processes of interdepartmental and intergovernmental co-ordination have been established to overcome some of these difficulties through the medium-term expenditure framework, the DG clusters and joint Minmec's.. However, the scope and complexity of the work involved in promoting an integrated and responsive social security institution requires a dedicated plan for institutional reform led by a team of appropriate experts.

Moreover, a review of international comparative experience in constructing comprehensive systems for social protection indicate the need for fundamental shifts in the South African context. Countries undergoing similar reform processes tend to have structures with the capacity to undertake policy research, monitor macro policy implementation, advise government on strategic issues and oversee

institutional reform in line with government's policy objectives. South Africa does not yet have this capacity and it is unlikely that it will develop through an organic process.

The establishment of new institutional arrangements to ensure appropriate implementation of social protection generally and social security in particular is an urgent priority.

12.4.1.1 Recommendation:

The Committee suggests that at a macro level, there is a need to establish an independent Commission on Social Protection. It is important to recognise that social security by its very nature operates in contested terrain and with competing claims and interests. Such a Commission, located (outside government and reporting to parliament) would be well placed to advise on how best to align social and economic policies. Taking the form of a Standing Commission, it would play an important role in incorporating international expertise, and advising government on the best ways to link social and economic objectives.

With regard to the administrative and organisational problems experienced in administering and delivering social security, the Committee recommends that government consider the establishment of an agency tasked with this responsibility. Such an agency could be established under the guidance of the National Commission on Social Protection.. This agency (discussed further below) would be responsible for implementing key social security functions.

12.4.2. Allocation of resources

The fragmentation of the social security system and issues related to financing of key programmes also require urgent attention.. Social spending is determined from a predominantly unconditional allocation to provincial and local government. There is a disparity between the ability of national departments responsible for developing and implementing policy to ensure that resources are allocated for implementation of clear policy mandates.. Since government decision making with regard to financial allocations has been constrained by inadequate data and inappropriate analysis of such data where it is available, this is to be expected. However, through its investigation, the Committee has been able to compile a comprehensive baseline of data and analysis that could assist promote better resource allocation and targeting in line with strategic policy options.

12.4.2.1 Recommendation:

The Committee recommends that a strategic framework, focused on socio-economic or more specifically social policy transformation in the medium-term, be developed. Such a framework would be crucial in assisting to align the current medium-term expenditure framework to the achievement of effective and sustainable social policies. This process could form the basis of the work of the Commission on Social Protection.

12.4.3 Ability and willingness to pay

Several aspects of service delivery have been developed with a view to enhancing the willingness-to-pay of communities. This assumed that once the past practices of community payment-boycotts were addressed through demonstrable improvements in service delivery, communities would be more willing to pay and hence ensure a more sustainable platform for cost-recovery.

The cost-recovery model of service delivery, however, has run into serious problems related to communities' inability-to-pay for services. Constrained incomes of the poor, partially a result of high rates of formal sector unemployment and job losses, have contributed to low levels of community and consumer ability-to-pay. Currently, inability-to-pay rather than an unwillingness-to-pay appears to be the primary barrier to the "cost-recovery service delivery model". The recent move by government towards implementing "free basic water" is an acknowledgement of this reality.

12.4.3.1 Recommendation:

The Committee recommends that government focus on ways to promote more affordable services to the poor. The Committee recommends that free basic services (possibly including life-line tariffs and step-tariffs) be continued and enhanced.

12.4.4. Regulating the private sector

The appropriate regulation of the private sector to achieve clear social security policy objectives is needed. Such a need is clearly demonstrated in the unilateral abdication of many employer responses to the provision of effective preventive, cover and treatment options for HIV/AIDS. In the absence of clear guidance from the public sector, unilateral abdication is inevitable in respect of social security benefits. A further concern is the existence of poor corporate governance, discrimination, and the abuse of consumers. Within the area of retirement cover and other forms of insurance, regulation is primarily focused on prudential requirements and market conduct. There is limited attention related to consumer protection and ways designed to keep out so called high risk individuals from benefit systems. Given this many people can be excluded from insurance cover due to their risk of claiming or because of poor advice from brokers.

12.4.4.1 Recommendation:

The Committee recommends that private market regulation, including enforcement capacity, be strengthened to ensure that the considerable role played by the private sector is beneficial to consumers and to wider society.

12.4.5 Contracting model of service delivery

Discussions with the Department of Public Service and Administration revealed the following key problems associated with the contracting out of functions to non-public sector institutions:

- Government has inadequate capacity to develop suitable contracts or ensure appropriate private sector contract compliance. Private operators are not delivering lower-costs services as intended, and are applying contract terms selectively. Crucially, private providers shift the risk and ultimate costs unto the public sector.
- The contracting out to for-profit contractors erodes the potential for cross-subsidies, thus contributing to a more socially exclusionary delivery environment.
- Private providers are gaining privileged access to government processes and structures.
- Contracting out is also leading to an erosion of long-term capacity of government to deliver effective and efficient services.

12.4.5.1 Recommendation:

The Committee recommends that government focus on public-private partnerships that can be shown to strengthen the delivery capacity of the public sector.

12.4.6 Inability to target through means-tests, and the existence of “welfare traps”

Social grants are currently means-tested, requiring the administrative system to acquire adequate information, verify this information, approve payments, and ensure payments. The lack of adequate administrative capacity, and the unstable incomes of the poor, undermines the potential for effective and efficient means-testing. The assessment processes are often long and place the burden of delays on the potential grant recipients rather than the state. This creates additional scope for official corruption in the grant making process.

An associated problem is the “welfare traps” that are created through the process of means-testing. A beneficiary is unlikely to undertake or seek income-generating activities, which invariably have uncertain futures, as these will result in loss of all or part of the already acquired grant. In this manner, means-testing can serve to “trap” the poor in their disadvantaged circumstances.

12.4.6.1 Recommendation:

The Committee recommends that the means tests be avoided wherever possible to take into account the limited capacity to implement these, and the inherent problems associated with “welfare traps”.

12.4.7 Introduction of a national identification and verification system

The current identity system (with bar-coded identity documents) is insecure and easily falsified. Therefore an effective national identification system is needed to underpin the current, and any future, social grant system. Apart from the social grant application, such an identification system will substantially reduce fraud in the banking and general business environment. In this regard, the Committee of Inquiry’s discussion with the Department of Home Affairs has been encouraging.

There are currently identity documents and fingerprints (biometrics) for approximately 96% of all adult South Africans. The Department of Social Development is also in the process of computerizing the remaining half of its 350 offices that are not online. The Committee was informed that with additional funds will ensure that the remaining offices could be updated and brought on line within 18 months. . Once this is achieved the Department will be in a position to access and transmit information simultaneously as part of the Home Affairs National Identification System (HANIS).

The HANIS system, using computerized biometrics, will be able to provide an identification (one-to-many) and verification (one-to-one, at point of grant collection) function. Such a system would drastically reduce current levels of social grant fraud, and any potential for a future universal South African social grant system to be illegally accessed by non-citizens. The completion of HANIS will make South Africa one of few emerging economies to have achieved such a system, and would have considerable investment and governance advantages.

HANIS has already been approved by Cabinet, and will be capturing new ID applications (about 10 000 a day) from December 2001.

12.4.7.1 Recommendation:

The Committee of Inquiry is of the view that the full implementation of the HANIS project should be prioritized. Further, an interface between the Social Development Department and the HANIS programme should be developed as an interim measure for a more comprehensive process. This could act as a central database for cross-referencing by all social insurance and social assistance benefits, and migrate towards an integrated benefit system within the medium-term.

12.4.8 Introduction of a smart card system

HANIS could be supplemented by a smart card system. The development of a smart card, incorporated into the identity document system, presents a substantial opportunity for improved service delivery within the social assistance system, reduction in fraud, and greater access of the poor to the formal banking system. The smart card could substantially reduce the administrative requirements of a future social grant system.

The Haysom Commission is currently exploring the smart card system. According to the Department of Home Affairs, the proposed smart card will have an “electronic purse”, allowing holders to receive grants. Discussions with the Banking Council are taking place to ensure that the card is part of a common standard for all banks (and therefore ATM compatible).

The Committee of Inquiry does not regard the smart card (due for completion 2005) as a necessary prerequisite for the implementation of a future grant system, though it will significantly enhance the system when it is available.

12.4.9 Social Security Agency

Chapter 10 of the Constitution calls for a single public service for South Africa. Within this context the DPSA has enacted public service legislation and regulations that enable flexibility within the framework of the public service. The pattern in the latest management reforms has been towards decentralisation (of operational management), recognising the differentiation among the sectors that comprise the public service. (DPSA, 2001b) In short, there is a move towards structural differentiation within a “unified but not necessarily uniform” public sector. Consultations with key representatives from DPSA confirm this approach.

Part of managing this differentiation is addressed in the DPSA cabinet memo, “Institutional framework for the creation, management and review of public entities.” (DPSA, 2001b) It is in this context that the Committee has conceptualised and developed its proposal for a public sector social protection agency underpinning the future delivery of social assistance grants, UIF, RAF etc.

The establishment of the public sector social protection agency would be consistent with the “structurally differentiated” but “unified” public sector approach being pursued by government, and supported by the Constitution. The business case for creating such a national agency, with a centralised budget, to deliver grants would principally be the following:

- ***Reduction in existing social protection policy fragmentation*** in the policy (National Department) and delivery (national agency) functions. The social security agency would implement existing social security programmes and new programmes as proposed by the Committee of Inquiry and approved by Government.- This should significantly enhance overall efficiency, effectiveness and service delivery to the poor.
- ***Reduction in overall costs to the fiscus***—this would be achieved through better economies of scale, and less duplication of expenditure.
- ***Consolidation of existing institutional and administrative capacity***—through integrating current capacities and human resources, thereby contributing to higher levels of operational management and standards of service delivery.

This agency will be within the public sector, but outside of the public service. The reasons are the following:

1. It would constitute a coherent and unified service delivery agent tasked to perform an explicit task for which it would be held accountable.
2. No additional margin needs to be added to the actual cost of service delivery
3. It would enable the government to step in as a separate entity to monitor and ensure effective contract compliance among private contractors
4. The agency can be guided by the State to fulfil the Constitutional obligations
5. The agency can be audited by the Auditor-general in a comprehensive manner and inefficiencies can be easily identified and more timeously addressed.

6. The agency will have increased flexibility regarding procurement and administrative procedures, thereby ensuring the skills and expertise required for a technically competent delivery system are on board.

12.5 Structure and functions of national public sector protection agency:

1. The national agency will be accountable to Cabinet via the Minister of Social Development.
2. A Board, comprising the representatives from the Social Sector Cluster including DPLG as well as other appropriate stakeholders, will run the national agency. This Board will develop integrated policy proposals to be presented to Cabinet. The board may establish sub-committees to focus on particular relevant issues.
3. A CEO/ National Administrator will manage the national agency.
4. The operational management of the agency will establish an organisational platform for social security covering at least 10 million—23 million. This platform will comprise:
 - i. IT and info systems
 - ii. Human resources
 - iii. Budget and finances
 - iv. Inspectorate
 - v. Research capacity
5. There will be an adjudication structure, independent from the agency, which will hear appeals and make appropriate judgements.
6. The Department of Social Development will focus on policy, monitoring and evaluation. This will be fed into the Board of the National Agency and the Social Sector Cluster.
7. Links to stakeholders and community “voice” will be promoted at a local delivery level (mainly via agency communication and NGOs supporting functions), and at a national level via the “Social Advisory Council”, which will include representation from labour, community and business and international experts.

Based on the situational analysis and issues reviewed by the Committee, the following principles are proposed:

1. The agency will prioritise public sector initiatives that offer complementary and low cost, efficient services
2. The agency will develop partnerships with the private regulated market and NGO sectors for the delivery of different outcomes. These partnerships will be entered into after due consideration of the following:
 - The ability of the agency to monitor and manage contract compliance of the private sector

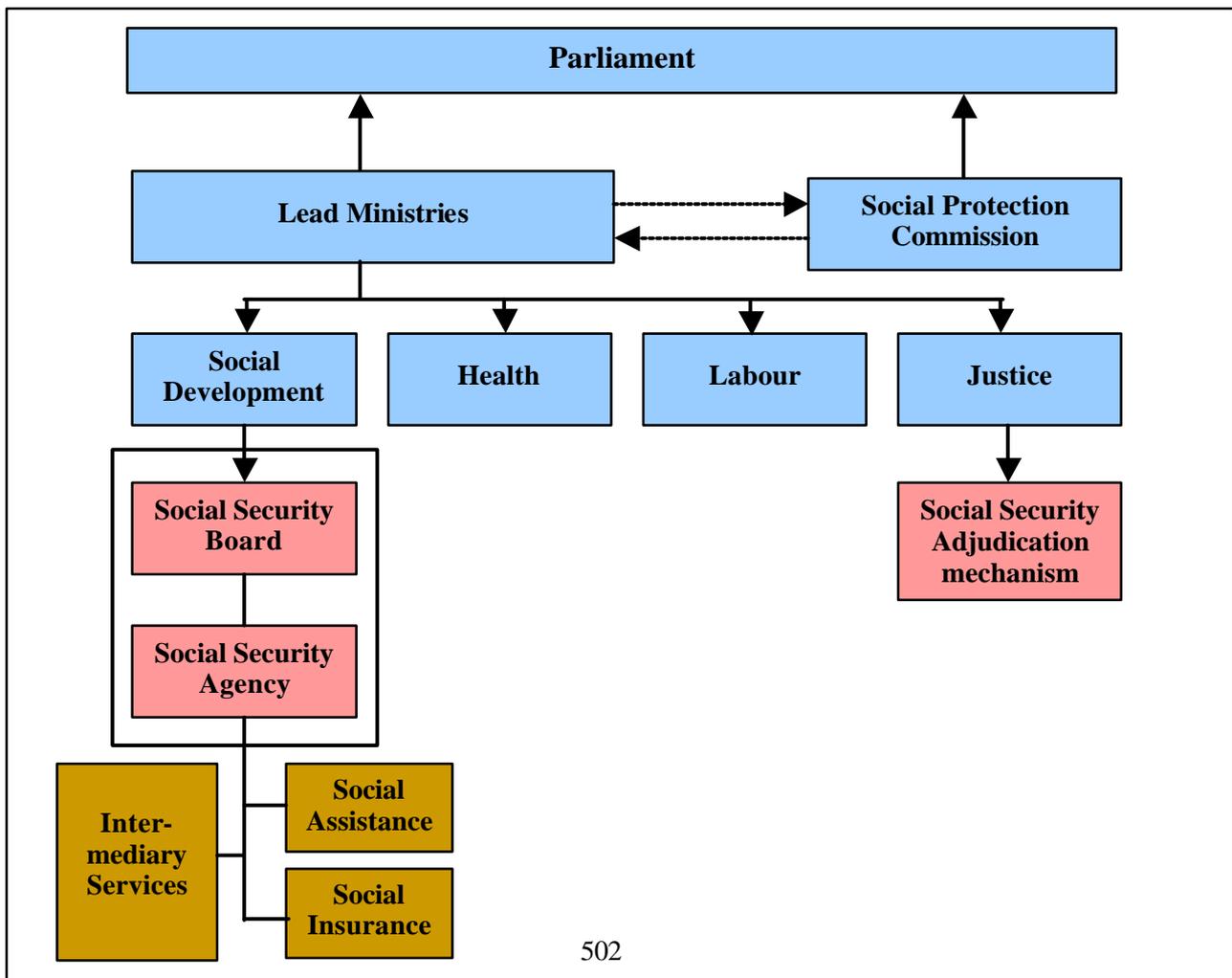
- The impact of the partnership on the ability of the relevant NGOs to promote education, public awareness and communication functions in conjunction with any service delivery role. Service delivery partnership with NGOs should seek to enhance the ability of the NGO sector to create conditions for greater beneficiary and community participation thus increasing accountability and, hence, operational efficiency
3. The agency will focus its service delivery processes on ensuring optimal inclusion. This approach will be complemented by random audits to discourage fraud and corruption.

12.5.1 Integrated Institutional and Organisational Framework

The Committee recommends that consideration be given to a significant revision of the organisational framework and institutions governing social security. This revision should focus on a clarification of roles and responsibilities within the following areas:

- (a) Policy determination;
- (b) Organisational framework for social security and protection;
- (c) Governance structures for Social Insurance Funds;
- (d) Private sector regulation; and
- (e) Enforcement.

Figure 12.1: Recommended Integrated Organizational Framework



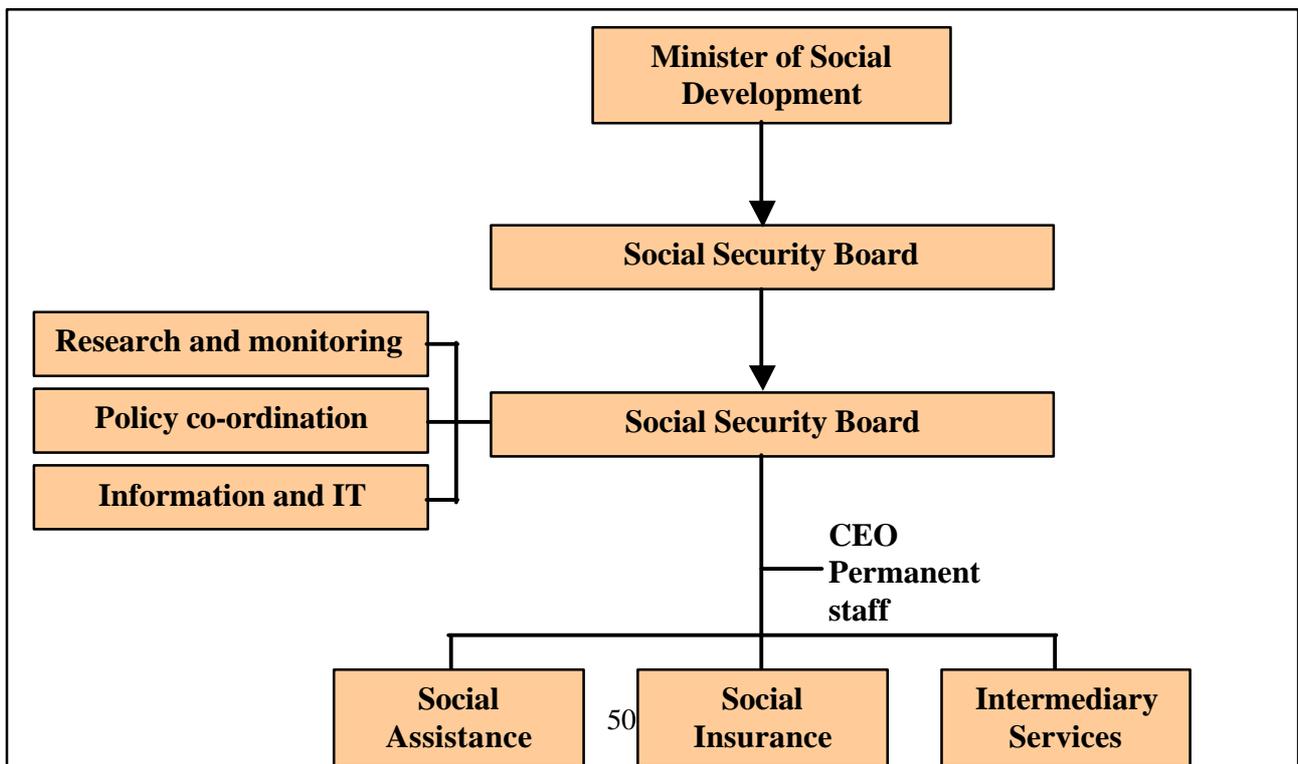
12.5.2 Social Security Board and Agency

A revised operational framework is required to ensure effective service delivery in both social assistance and social insurance. The key recommendation here is for the implementation of a *Social Security Board* (reporting to the Minister of Social Development) and *Agency* (reporting to the Social Security Board) to operationalise various social security functions outside of the civil service. Policy development and determination will remain with the Department of Social Development.

The Committee proposes that consideration be given to the following functions of the Social Security Agency:

- (a) *Social assistance*: The Agency will have the function of managing the non-contributory social assistance fund, including budget determination and grant administration.
- (b) *Social insurance*: The Agency will become the oversight authority for all social insurance funds operating in South Africa. This will not extend to policy control, as this function will rest with the lead ministers responsible for particular policy areas.
- (c) *Intermediary services*: The important interface between the general public and all areas of the social security system, whether contributory or non-contributory, would become the responsibility of the Social Security Agency. The Agency may be developed eventually into an intermediary between the general public and relevant Government departments (e.g. Home Affairs) or social assistance and social insurance institutions (e.g. UIF, COIDA).

Figure 12.2: Proposed structure of a Social Security Board and Agency



12.5.3 Governance Structures for Social Insurance and Related Organisations

The existing social insurance funds require a reconsideration of their governance structure to ensure operational efficiency. It is recommended that new decentralised governance structures be introduced for existing and future social insurance structures, and that they ultimately report to the Social Security Board (although policy responsibility for particular funds will remain with designated ministers, e.g. the policy environment for the Unemployment Insurance Fund will be determined by the Minister of Labour).

12.5.4 Social Protection Commission

It is recommended that a Standing *Social Protection Commission* (SPC) be established which reports to Parliament and has a mandate to review all issues relevant to social protection. This reporting structure is required to preserve its independence in any research, monitoring and investigation it carries out.

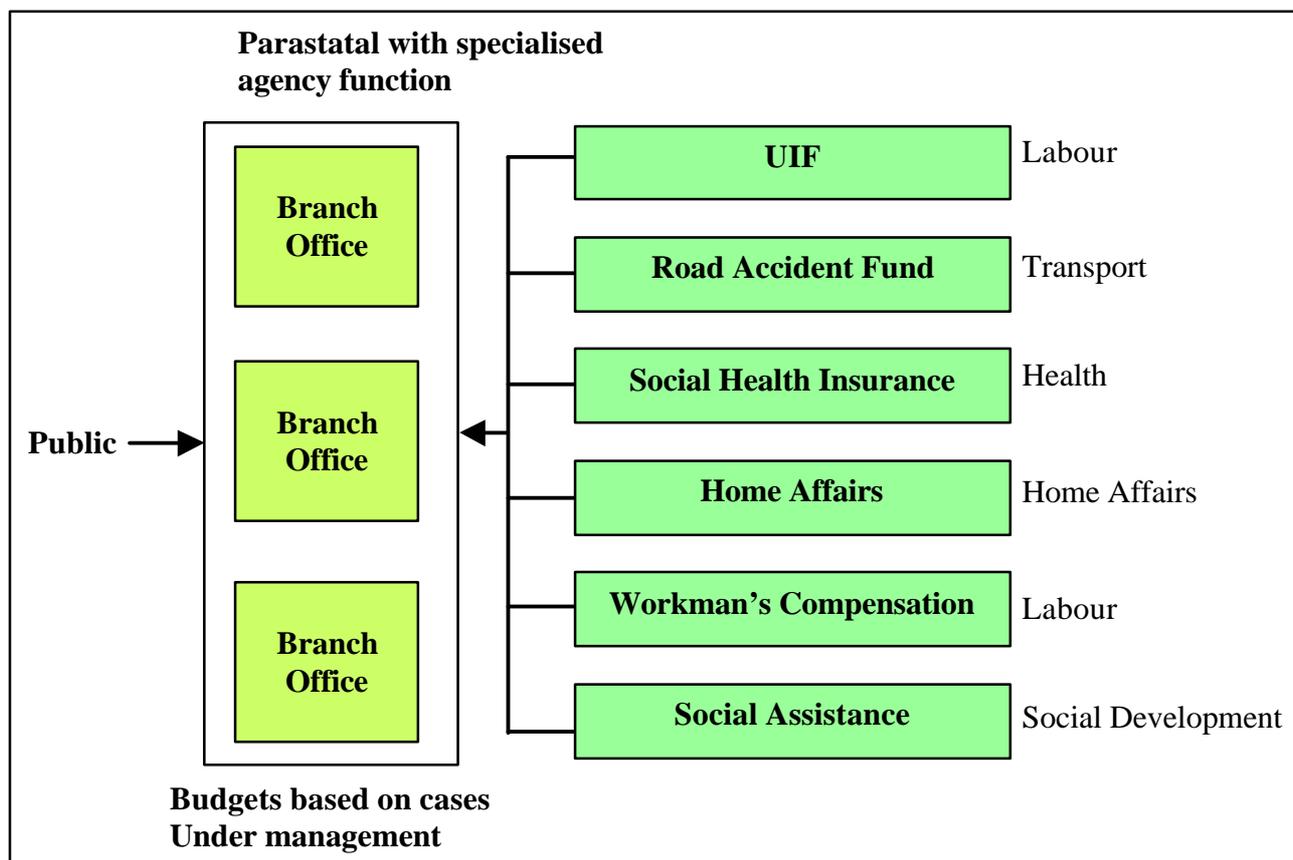
In addition to its broad mandate, it is recommended that the SPC be given specific terms of reference to monitor and review public and private sector social security institutions and regulatory structures. The specific requirement would be to monitor the extent to which social security objectives are either achieved or undermined. Another key area is to develop and monitor employment policy, the relationship between economic and social policy objectives and provide strategic guidance on this. Moreover, the SPC would need to establish research capacity and in the for of a Unit on Social Exclusion, Poverty and Social Protection to provided adequate high level policy guidance to the country.

The SPC should be made up of appointed individuals with the relevant expertise in social and economic policy and especially social protection, stature within the national and international community and professional objectivity. The SPC will be required to consult with relevant Government departments, public institutions and other stakeholders as part of formulating positions and recommendations.

The Commission would work alongside the various economic and labour stakeholder and advisory structures, such as the Investment Council and the Millennium Labour Council. The Commission would promote a balanced and strengthened national focus on social protection issues as part of wider socio-economic policy discussion.

Further the Commission would bring into South Africa the expertise of leading international social protection thinkers, and enhance the domestic debate. It could, create greater international awareness of South African successes and challenges, and enhance South African policy credibility.

As an institution it would strengthen monitoring and feedback and evaluation of social security among the stakeholders and experts represented on the Commission, and thereby promote more informed social dialogue.



Regarding the specific policy areas, Table 12.4 provides a breakdown of both a before and after scenario according to the policy area (health, retirement and old age, etc.) and organizational type (social assistance, social insurance, etc.). It also indicates whether an organisational type is contributory or non-contributory. The table also indicates a suggested lead ministry for a policy area where one currently does not exist.

Table 12.4: Summary of Institutional Implications of the Social Security Framework

Policy Environment	Policy Responsibility	Social Assistance Non-contributory	Social Services/Programmes Non-contributory/contributory	Social Insurance Mandated contributions	Regulated Private Market Mandatory/voluntary contributions	Less regulated Private Market Voluntary
Health						
Before	Minister of Health	None	Services provided to those without sufficient income. Higher income groups required to pay user fees at point of service for hospital services.	No social insurance option exists.	Medical schemes: Not-for-profit Community rated Open enrolment Prescribed minimum benefits	No parallel health insurance
After	Minister of Health	None	Reforms include: Centralisation of health budget Revised governance structure for public hospitals Removal of point-of-service charges	Mandate medical scheme membership as part of establishing a National Health Insurance system. Provide alternative vehicle to a medical scheme for low-cost mandatory cover. Mandate higher income groups first. Only mandate lower-income groups after: Services improved in public hospitals Introduction of differential amenities in public hospitals Revised subsidy system put in place replacing the current tax subsidy	Reforms include: Removal of tax subsidy and conversion into a risk adjusted subsidy, whilst protecting the current overall value of the subsidy Introduction of risk equalisation Eventual mandating of cover starting first with higher income groups Supply-side interventions to contain medical cost increases Improved corporate governance of schemes. A state-sponsored low-cost medical scheme is introduced. This will contract with the public sector for hospital services. This scheme will be open and voluntary.	No parallel health insurance market

Policy Environment	Policy Responsibility	Social Assistance Non-contributory	Social Services/Programmes Non-contributory/contributory	Social Insurance Mandated contributions	Regulated Private Market Mandatory/voluntary contributions	Less regulated Private Market Voluntary
<i>Retirement and Old Age</i>						
Before	No designated Minister	State old age pension is provided subject to a means test.	None	None	Membership of retirement funds is employment related or voluntary and purchased on an individual basis.	Voluntary individual policies are sold to people not able to access an employer-based retirement fund.
After	Minister of Social Development	<p>The pension is not universally available.</p> <p>The value of the old age pension be indexed accounting for: Cost of living index Income changes generally</p> <p>Improve administration: Introduce smart card Centralise budget Introduce systems norms and standards</p>	None	<p>Introduce mandatory contributory system toward either a state-sponsored option or toward regulated private retirement funds.</p> <p>The state-sponsored scheme to be a defined contribution.</p> <p>Asset investment strategy to be determined by government to enhance domestic direct investment.</p>	<p>There is an ETT tax structure in place.</p> <p>Regulate lump sum payments to limit such payments relative to pension payments.</p> <p>Pension funds benefits to be required to compensate for future inflation.</p> <p>Corporate governance to be improved: Removal of conflicts of interest in the case of trustees and investment managers Initiate process to encourage a rationalisation of 11 000 retirement funds into regional or sectoral funds, thus reducing cost structure.</p> <p>Consideration should be given to a demutualisation levy.</p> <p>Tax deductibility be limited to 20% of the employees taxable income.</p>	<p>These products are subject to high administration and commission structures. These products should face competition from the introduction of a state-sponsored option that would have lower administration and commission-related costs.</p>

Policy Environment	Policy Responsibility	Social Assistance Non-contributory	Social Services/Programmes Non-contributory/contributory	Social Insurance Mandated contributions	Regulated Private Market Mandatory/voluntary contributions	Less regulated Private Market Voluntary
<i>Unemployment</i>						
Before	No designated Minister	None	Various job-creation programmes Various active labour market interventions Training levy	The Unemployment Insurance Fund exists with only a limited impact given the number of people in formal employment and the extent of unemployment.	None	None
After	Minister of Labour	None	Active labour market strategies and employment creation have very limited effects on overall employment levels. Key potential interventions are: Youth employment strategies Implementation of an agency co-ordinating employment policy and strategies	Revise the provisions dealing with maternity leave. Revise the governance and operational aspects of the fund: Board with fiduciary responsibility CEO as accounting officer Dedicated revenue collection Creation of a formula-linked government subsidy allocation Full development of a membership and beneficiary database and payment system Interface with smart card ID system	None	None

Policy Environment	Policy Responsibility	Social Assistance Non-contributory	Social Services/Programmes Non-contributory/contributory	Social Insurance Mandated contributions	Regulated Private Market Mandatory/voluntary contributions	Less regulated Private Market Voluntary
<i>Poverty Alleviation</i>						
Before	No designated Minister	Child support grant (CSG) Means tested Qualifying ages 0-7	Various programmes provided on an ad hoc basis by a range of departments. There is no over-riding poverty strategy.	None	None	None
After	Minister of Social Development	Development of a comprehensive anti-poverty strategy		None	None	None
		The poverty strategy is based on the scheduled implementation of a basic income grant (BIG).	Implement via the new public sector social protection agency			
		Phase 1 of BIG roll-out would prioritise children and the most vulnerable The full roll-out of the BIG system would be introduced from 2005.	Coverage to children (0-18)			
		Centralise the budget Link the value of the grant to the poverty line Eventually link to smart card ID system	Rationalise other poverty and social assistance grants			

Policy Environment	Policy Responsibility	Social Assistance Non-contributory	Social Services/Programmes Non-contributory/contributory	Social Insurance Mandated contributions	Regulated Private Market Mandatory/voluntary contributions	Less regulated Private Market Voluntary
<i>Disability</i>						
Before	No designated Minister	A disability grant is in place. The assessment process is based on the medical model.				
After	Minister of Social Development	A single responsible Minister needs to take the lead in co-ordinating disability policy.				
		The linkages between national and provincial government needs to be revised in accordance with the introduction of a lead department.				
		It is proposed that a DDG level post be created within the Department of Social Development to co-ordinate national disability policy.				

Policy Environment	Policy Responsibility	Social Assistance Non-contributory	Social Services/Programmes Non-contributory/contributory	Social Insurance Mandated contributions	Regulated Private Market Mandatory/voluntary contributions	Less regulated Private Market Voluntary
<i>HIV/AIDS</i>						
Before	Minister of Health	None	Basic prevention strategies are in place.		No co-ordination of private sector responses to HIV/AIDS exists.	
After	Minister of Health	Expansion of the CSG should be regarded as a key intervention preventing vulnerable women supporting children from being exposed to HIV/AIDS. However, no dedicated HIV grant is regarded as practical.	A special focus should occur on all core government services that impact on or can impact on HIV/AIDS. A home-based care programme based on community caregivers should be introduced Services preventing mother-to-child transmission should be expanded to cover the entire population in need There is currently no dedicated focus on the development of an effective orphan strategy that caters adequately for the new needs emerging from HIV/AIDS. This needs to become a key focus of government, led by the Department of Social Development. There is a need for a co-ordinated local government strategy.		Minimum cover is provided through a prescribed minimum benefit required in medical schemes. The requirement does not include anti-retrovirals. The co-ordination of private sector responses to HIV/AIDS needs to become a specific responsibility of the lead department. Prescribed minimum benefits need to be expanded to include anti-retroviral therapy—taking note of the reduced costs of drugs, and the low prevalence within medical schemes. Companies need to be encouraged to introduce treatment programmes, and to check prevalence.	

Policy Environment	Policy Responsibility	Social Assistance Non-contributory	Social Services/Programmes Non-contributory/contributory	Social Insurance Mandated contributions	Regulated Private Market Mandatory/voluntary contributions	Less regulated Private Market Voluntary
			<p>Treatment of STDS has to focus on as a co-ordinated strategy; Currently there is no clear programme in this regard, although it is approved policy to expand access to STD services.</p> <p>Surveillance is currently inadequate and a revised strategy needs to be put in place.</p>			
Road Accidents						
Before	Minister of Transport	None		<p>Third-party cover is provided by the Road Accident Fund on a fault basis for third parties injured or killed in road accidents. The cover includes both medical expenses incurred and future loss of earnings.</p>		
After	Minister of Transport	None		<p>Consideration needs to be given to a shift to a no fault system for medical cover.</p> <p>The cover would exclude people already covered by a medical scheme. Cover would be provided to all people involved in the road accident and not just third-parties.</p> <p>Medical treatment would be provided in contracted in trauma facilities, with payment on a capitation and not a fee-for-service basis.</p> <p>A revised governance structure should be put in place: Board with fiduciary responsibility CEO as the accounting officer</p>	Require medical schemes to fully cover all trauma-related costs in respect of road accidents.	

Policy Environment	Policy Responsibility	Social Assistance Non-contributory	Social Services/Programmes Non-contributory/contributory	Social Insurance Mandated contributions	Regulated Private Market Mandatory/voluntary contributions	Less regulated Private Market Voluntary
<i>Injury on Duty</i>						
Before	Minister of Labour	None	None	Fund (COIDA) currently operates for all injuries on duty.	Employers that opt out of the medical benefits provided through COIDA are required to provide the equivalent protection either through private insurance funds (e.g. Rand Mutual) or directly through services made available to employees.	
After	Minister of Labour	None	None	<p>The fund needs to introduce a revised governance structure: Independent board with no conflicts of interest Board must have fiduciary responsibility CEO appointed as the accounting officer</p> <p>Fund needs to develop a case management system to facilitate early return to work and for medical cost containment</p> <p>A medical cost containment strategy needs to be introduced. Consideration should be given to a combined medical service purchasing strategy with the Road Accident Fund.</p>		

12.6 Conclusion

The institutional arrangements serve to support a social protection end state that is a comprehensive and integrated response to poverty.

The institutional arrangements, and the array of social protection interventions, seek to address the Constitutional and socio-economic imperatives and obligations on the democratic state, whilst keeping within the fiscal parameters. It does this by:

- Recognising that destitution must be addressed as a priority, and in so doing other public policies are supported and socio-economic multipliers enhanced. The interventions seek to use existing fiscal space to extend coverage, improve access by the poor, and rationalise the current grants.
- Phasing in implementation an optimal mix of interventions to be implemented according to a reasonable time schedule. The time schedule prioritises the need to address destitution and the most vulnerable and the Constitutional obligation to children first, and then government's commitment at the Copenhagen Social Development Summit to eradicate poverty by 2015.

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