SOUTH AFRICAN SOCIAL ASSISTANCE FRAMEWORK: AFRICA’S SOCIO-ECONOMIC AND POLITICAL STABILITY MODEL?

Nelson Ojukwu-Ogba
Nelson R Mandela School of Law
University of Fort Hare, East London, South Africa

Nombulelo Lubisi
Nelson R Mandela School of Law
University of Fort Hare, East London, South Africa

Abstract

Relative socio-economic stability engenders political stability. It is imperative for states to strive to bridge the socio-economic divide by providing relative assistance to the very poor and vulnerable. Modern constitutional law recognizes the imperative of fundamental rights, including the right to social security. Such policy is especially germane for African states in light of endemic poverty in the continent. This paper examines South Africa’s social assistance framework, which, due to its comprehensive and universal nature, represents a remarkable model for other African states to address endemic socio-economic challenges faced by the needy, through the institutionalization of an effective social assistance mechanism.

Key words: Social security; socio-economic rights; poverty, social assistance; stability

JEL: K39
1. Introduction

A chain is as strong as its weakest point. Political cohesion and social stability could best be guaranteed where there is relative economic stability for all strata of society. The relative empowerment of people in the society would engender reduction in the propensity for involvement in criminality as persons who are gainfully employed in one trade or the other, or provided with basic social assistance benefits, might not be attracted to negative activities. A major challenge in the pursuit of an ideal society is to close, or at least narrow, the wide gap in socio-economic opportunities and alleviating poverty. In stretching the reasoning further, it could be argued that under an unwritten (or sometimes written) social contract, society owes it to the very poor and the vulnerable to provide a measure of social protection to ensure the sustenance of basic living standards, through social assistance (Galston, 2007: 8). That a person is poor or vulnerable does not make that person less of a human being and therefore must be assisted by the state, through a non-discriminatory social assistance programme, where the need arises. Social assistance has been identified as a system of state-funded basic protection, usually a non-contributory mechanism, typically distributed through cash or kind benefits, to relieve poverty, especially of the poorest and the most vulnerable (African Union, 2008: 41). Beneficiaries of social assistance are usually those whose state of poverty or vulnerability might be occasioned by old age, physical or mental disability, natural disasters or tenderness of age: such as infants and children (Olivier et al., 2004).

Economic empowerment across the populace would have macroeconomic effects, as the resultant enhanced purchasing powers available to beneficiaries are re-injected into the economy as the beneficiaries spend on getting basic needs, thereby positively affecting and stimulating the larger economy (Brockerhoff, 2013). Under such environment, those living below the poverty line and the ones that unfortunately suffered mishap or are affected by any form of congenital disability get the assurance of relative support or assistance. The support manifests by way of the state providing for stabilization factors that guarantee equilibrium of social services, social assistance and sustenance of basic conditions of living. Payment of tax-based social assistance benefits, as opposed to contributory-based payment, represents the best means of empowering those belonging to the pre-identified class due to the system’s universality, simply because the
state must have streamlined the eligibility criteria for collection of the benefits (Helmrich, 2014: 85).

This paper x-rays the South African social security system, especially its social assistance template, and its implementation mechanism. The paper further examines the South African system’s potential to serve as a model capable of adoption and adaptation by other African states to aid the containment of debilitating socio-economic challenges faced by a section of their populace. The potential of the social assistance system as a veritable tool to drive poverty alleviation commends it for implementation by other countries in Africa that have not considered such policy at all and those who have implemented limited social protection programmes that are not universal and inclusive enough.

2. Literature review

Modern constitutional law acknowledges the imperative of guaranteeing fundamental rights for all persons in the state (Rautenbach, 2012; Nyenti, 2013; de Vos and Freedman, 2014). In most cases, these constitutional rights not only encapsulate the basic rights to life, property and the related freedoms but also include the right to essential services such as social security, medical care, housing and education (Brand, 2005; 1996 Constitution of the Republic of South Africa: chapter 2). These latter genres of rights are referred to as socio-economic rights. Socio-economic rights give meaning and essence to the traditional fundamental rights. This is because, without food, shelter, good health and basic living condition, life might not have real meaning for a person. According to de Vos and Freedman (2014: 667), socio-economic rights are rights to the conditions and resources necessary for the material well-being of people. Realistic and effective sustainable development can best be guaranteed under an environment of socio-economic stability, which is ideally feasible under a condition of an efficient social protection. That stability would best be nurtured in an environment of universal, not selective, implementation of social protection. However, most African countries implementing social protection programmes do so on a non-universal platform, for example Kenya, Botswana and Mauritius, making eligibility criteria employment-related, contributory-based or determined based on some other defined exclusive criteria (Kunzler, 2016; Hagen-Zanker and Mallett, 2016). Emphasis should rather be on a universal social assistance, not on social insurance due to
the exclusivity of its application as acknowledged by Corujo (2017: 294) in his examination of the situation in southern European countries. Basing access to social security on employment, for example pension benefits or unemployment insurance, puts some members of the society at serious disadvantage, including the uneducated, the hard-to-be-employed and those facing complicated disability, conditions that might put them at a disadvantage in securing employment (Andersen et al., 2017).

In contemporary thinking, globalization and economic cooperation has given rise to positive programmes of greater competition and integration of ideas, which also favours predilection for balanced social development. This has particularly played out more in the implementation of public governance measures that seek to engender emphasis on the elevation of socio-economic rights by states, particularly social security policies, as a tool for socio-economic stabilization. Triegaardt (2006: 1) agrees with the unity of opinion that social security is a potent poverty-prevention tool in both emerging and developed economies, a position also supported by Caracciolo (2011: 44) and Cichon et al. (2006: 21). Armstrong and Burger (2009), in their paper, demonstrated that social grant has proved to be a very important instrument for the alleviation of poverty in South Africa. African states have keyed in to this idea of cooperative engagement in addressing the challenges of social development through greater continental and regional cooperation (Taylor, 2015: 331). The institutionalization of such socio-economic stabilization policies as easy access to social assistance and to medical care is especially relevant for African states in the light of endemic poverty and the wide gap between the rich and the poor (Strydom et al., 2017; Samson et al., 2015). The fundamental challenge remains the perception and appreciation of the enormity of the problem by governments in Africa.

The South African social security system, though having its own challenges, presents a remarkable model for poverty alleviation and enhancing the standards of living (Strydom et al., 2017; Patel, 2016; Millard, 2008; Rossouw, 2017). Du Toit (2017) reasons that even in the face of the importance of the social assistance mechanism in addressing the future of millions of vulnerable beneficiaries, the administration of the social grant system in South Africa has continued to face crisis after crisis, resulting from ineffective systemic management, a position supported by Ngcobo (2017). These crises could be managed and effectively contained, if the system is properly administered and monitored (Parliamentary Monitoring Group, 2006). It is without doubt that the South African social assistance model represents a veritable template for
other African states to institutionalize the assurance of social assistance benefits, on a comprehensive and universal platform, for the defined class of persons qualifying for such assistance. Such environment should ensure relative ease of access to socio-economic rights, which will in turn engender socio-political stability and relative economic development.

The more inclusive, comprehensive and universal nature of the South African social security system was demonstrated by the landmark decision of the Constitutional Court in *Khosa and Others v. Minister of Social Development and Others; Mahlaule and Others v. Minister of Social Development and Others* 2004 (6) BCLR 569 (CC). That watershed decision held that foreign nationals holding South African permanent residence permit qualify for social assistance benefits. The decision gave section 27(1)(c) of the 1996 Constitution a supranational interpretation to accommodate not only South African citizens but also permanent residents of South Africa as persons contemplated by the Constitution in its application of the term “everyone” as persons qualifying for social security. The reasoning in the judgement is sound and accords with contemporary thinking on the importance of the universality of social security benefits (van de Water, 2008). Moreover, in the present age of globalization, addressing social development challenges becomes more imperative, which success Taylor (2015: 331) acknowledges as feasible only if states are able to manage the global integration process in the overall interest of the poor and vulnerable. However, Millard (2008: 38) points out cross-border migration as a major obstacle to effective implementation of social protection programmes. This is understandably so as the state, for example in South Africa, grapples with the challenge of providing social protection benefits for her citizens and additionally for a class of migrants that the state might be obligated to cater for (taking into account the implications of the decision in *Khosa*).

3. **The social security imperative in Africa and the South African template**

The implementation of social security policies not only alleviates poverty in the society but also stimulates the economy, which are compelling reasons why states should pursue the full implementation of the programme (Brockerhoff, 2013). States that implemented varying forms of social security programmes including social assistance benefits, such as cash transfers and
distribution of food parcels, are witnessing positive results evidenced by enhanced reduction of destitution and deprivation of the poorest and the most vulnerable in the society, and growth in economic development; manifested by increased consumption and productivity (African Union, 2008: 50). Collectable social assistance benefits might be considered very low or even too modest, yet they constitute the only source of income for many households and individuals or principal source of income for many beneficiaries.

South Africa remarkably stands out as one good example in Africa in the adoption and implementation of a comprehensive, more inclusive and universal social assistance benefits distribution system (Liebenberg, 2002). Also, the country could probably be the only state or one a few in the continent to have implemented and sustained a real term and relatively more inclusive and effective system of social assistance, founded on comprehensive statutory instruments. These landmark statutory instruments target the alleviation of poverty, addressing disability challenges and redressing societal imbalance. The clear policy of redressing the socio-economic imbalance in South Africa is borne out of the desire to close the chapter on the dark history of apartheid, empower the historically disadvantaged class and alleviate the endemic poverty that was prevalent at the advent of constitutional democracy (Thurlow, 2002; van der Berg, 1998). These reasons were the influencing factors behind the unique universality and comprehensiveness of the South African social security system, especially the very inclusive nature of the social assistance framework.

The African Union (AU), at its Extraordinary Summit on Employment and Poverty Alleviation held in Ouagadougou, Burkina Faso in 2004, acknowledged the fundamental imperative of combating poverty and enhancing social development, which influenced it to commission a study on the issue (African Union, 2008). The positive outcome of that important meeting was the Ouagadougou Declaration and Plan of Action in which governments of African states gave their commitment to pursue the improvement of the conditions of living of vulnerable people through better social protection services, including improved pensions, health care and other social security schemes (African Union: 2008). However, that laudable objective might have been hampered by the absence of a common understanding of the essence of social security, especially the unconditional social protection of the poor and the vulnerable and the inability of African states to develop an effective and coherent policy framework for the desired social
protection (Taylor, 2015). That situation, symptomatic of gross dilatory tendencies on policy implementation in most African states, has resulted in confusion and irregular responses to the problem of addressing social protection responsibilities, including social inequalities, poverty and vulnerability. The varied forms and levels of implementation of social protection programmes in the different states of Africa may also be evidence of this lack understanding of the real essence of social security, especially social assistance.

Member states of the Southern African Development Community (SADC) have exhibited better commitment towards implementing social security measures in their respective states, more than states of other regions of Africa. This they have done through the conclusion of several instruments and protocols, with the objective of promoting effective social protection programme in the region (Nyenti and Mpedi, 2012). However, in terms of the SADC Treaty, the commitment of actually implementing the identified policies comprehensively remains so on paper. The reason is that not all the protocols of the Treaty are legally binding on member states, for example the SADC Code on Social Security (Nyenti and Mpedi, 2012: 249). The Code on Social Security merely signposts broad guidelines on the implementation of social security policies, which gives room for failure or delay in implementing the programmes by some states. Moreover, the desire by these states to implement social assistance programmes might be hampered by availability of resources. Save for South Africa, most other states of the region that implemented social protection programmes did so in parts, and the policies were not comprehensive enough, which could be attributed to paucity of funds. Some of the states; namely Namibia, Mauritius and Botswana, implemented universal schemes for the elderly and the disabled (Nyenti and Mpedi, 2012). Mauritius also operates a non-contributory, tax-based benefits programme, aptly referred to as the Unemployment Hardship Relief. Most of these programmes are employment-related, making them rather exclusive. It fails to accommodate those that never worked or are incapable of working due to mental or physical incapacity.

South Africa, on the other hand, implemented universal and comprehensive schemes that provide for payment of social assistance benefits to children, the elderly, the disabled and even to persons that suffer natural disasters (Social Assistance Act 2004: section 4; Kelly, 2017). However, the universality of the South African social assistance template is not insulated from challenges (Patel, 2016; Liebenberg, 2002). Being class-targeted, the social grants payment
system has been bedevilled by widespread cases of fraud, occasioned by collection by un-targeted persons and insider corruption (Reddy and Sokomani, 2008: 34; du Toit, 2017), which problems Rossouw (2017) emphasizes is a looming crisis that could disrupt the system in light of government’s inability to contain the challenge. In order to guard against abuse and to ensure that the social assistance benefits are actually collected by persons in the target class, beneficiaries are required to meet with defined criteria, including being means-tested and showing evidence of indigence. However, the means-testing eligibility criteria has been identified by many commentators as being rather exclusive and restrictive, thereby denying many prospective beneficiaries the needed access to social assistance due to its complicated process (Plagerson and Ulriksen, 2016; Nyenti and Mpedi, 2012; Liebenberg, 2002; van der Berg, 1998).

Under the South African jurisdiction, the Constitution of the Republic laid the foundation for the institutionalization of a comprehensive and inclusive social security system (1996 Constitution of South Africa). The policy was implemented in compliance with the intendments of section 27(1)(c) and (2) of the 1996 Constitution, supported by the issue-specific enabling legislation focusing on social assistance (Social Assistance Act No. 13 of 2004; South African Social Security Agency Act No. 9 of 2004). That implementation of the constitutional provisions and supporting statutes has strengthened the institutionalization of the provision of social assistance and related social security benefits to the class of persons deserving of them. In the spirit of chapter two of the 1996 Constitution, on the Bill of Rights, such social security benefits as free medical care, free housing and payment of social grants are captured under section 27. Samson et al. (2006) acknowledge that the payment of social grants and related social security benefits has contributed in alleviating poverty and empowering many South African citizens and permanent residents who belong to the class of persons that would have been living below the poverty line in the absence of the implementation of the policy.

4. The African social protection challenge

The overwhelming dysfunctionality or absence of the social protection system in most African states is an indubitable reality. However, the fact that lip service is paid to this grave challenge by almost all the affected states calls for serious concern, considering the fundamental role of social protection as an instrument for the alleviation of poverty and maintenance of
societal equilibrium. It is imperative that African states accord serious attention to the
development of an efficient and realistic system of social protection of the very poor and
vulnerable in their respective societies, through an effective social assistance mechanism. This
objective is assailable through a purely tax-based social assistance framework, which sustains
universality of access, as opposed to the ubiquitous contributory-based system prevalent in most
African states. South Africa already operates a relatively effective policy of universal and
comprehensive social assistance, which is non-contributory, and it has contributed immensely in
poverty alleviation and socio-economic stability in the country. It should be desirable that other
African states consider adopting and adapting the South African social assistance template to
address unique social protection challenges peculiar to their respective situations and
environments.

5. Methodology

The methodology adopted in this paper is a theoretical, non-empirical approach. The
paper interrogates primary and secondary materials through the review of literature and statutory
instruments related to the subject matter. These include national constitutions, government
gazette, international conventions, national legislations, regulations, textbooks, law reports and
journal articles. It examines the feasibility and desirability of other African states adopting and
adapting the South African social assistance framework as a veritable template for tackling and
containing social-economic development challenges, especially social protection problems,
endemic in these states or fine-tuning existing systems for states already implementing a measure
of social assistance system in their public governance. In pursuit of this objective, the paper
examines the legislative and institutional frameworks of the South African social assistance
programme.

6. Constitutional rights as the root of social security

The constitutional guarantee of fundamental rights is a universally acknowledged
phenomenon in most national constitutions (chapter 2 South African Constitution 1996; chapter
4 Nigerian Constitution 1999; chapter 4 Kenyan Constitution 2010). Although these rights are
basic, they however cannot be realistically enjoyed if they do not encapsulate socio-economic
rights. Socio-economic rights are those rights derived from the fundamental rights guarantee
embedded in the constitution, which attract to the person certain socio-economic benefits, especially social security benefits; encompassing social assistance and social insurance. Examples include, but not restricted to rights to social assistance (including social grants), social insurance, medical care, housing and related benefits; which the South African Constitution (section 27(1)(c)) eminently guarantees for the qualifying class (Nyenti, 2013).

The South African Constitution makes comprehensive provisions on fundamental human rights, including socio-economic rights, which have become the bedrock for giving South African citizens and permanent residents access to social assistance and other social security benefits (Steynberg and Millard, 2011; Samson et al., 2006). Chapter two of the 1996 Constitution, on the Bill of Rights, provides comprehensively on the right to social security benefits. The interpretation of the guarantee of this right, as assured by the Constitution, has been stretched by the courts to include the circumscription of the power of state agencies and organs from limiting or altering the ambit of the rights to social security (Olivier and Mpethi, 2009: 29). This position is given credence by the decision of the Constitutional Court in Mashava v. President of the Republic of South Africa and Others 2005 (2) SA 476 (CC).

The beauty of the position of the South African Constitution on the issue is its comprehensive nature, which captures such fundamental matters as rights to access all basic socio-economic rights. These socio-economic rights include the rights to water, housing, medical care and financial support for indigent persons. The 1996 Constitution, under sections 27(1)(c) and 184(3), further lays the foundation for the legal framework for the regulation and administration of the social security system. However, the state’s obligation on this constitutional mandate is qualified by making the enjoyment of the rights subject to availability of resources as the state is mandated to take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of the rights (1996 Constitution: section 27(2)). The implication of this important circumscribing provision is that it provides a sort of insulation for the state against the potential floodgate of litigations against it by applicants for the socio-economic benefits, in the absence of such qualification.

Indeed, if the rights were not somehow circumscribed, the demand for social grants would overwhelm the state and its benefits-distribution mechanism, and probably derail it from the start, due to unprecedented and simultaneous demands occasioned by the widespread poverty that heralded the attainment of constitutional democracy. That nascent period was marked by the
attendant dire need to address the endemic socio-economic challenges of providing housing, medical care, water and social assistance benefits to persons in the indigent class (Rossouw, 2017; Strydom et al., 2017). The policy of giving the state the discretion of progressive implementation of the social assistance programme is a way of guaranteeing the sustainability of social protection.

7. Legal framework for social security in South Africa

The Bill of Rights (1996 South African Constitution: chapter two) as a collective and the state’s obligation to ensure respect for the fundamental rights contained therein, read together with the state’s responsibility to undertake reasonable legislative and other steps to ensure the progressive realization of the provisions (1996 Constitution: section 27(2), raise a continuous and non-derogatory obligation. In furtherance of the realization of that objective, the state enacted two fundamental statutes, which have formed the bedrock for the administration of social security in South Africa (Social Assistance Act 2004 and South African Social Security Agency Act 2004).

(a) Social Assistance Act

According to the preamble to the Social Assistance Act (SAA) (Act No. 13 of 2004), the imperative of enacting the statute was part-premised on the fact that the effective provision of social assistance would require uniform norms and standards. The objective was further reinforced by the need to prevent the proliferation of laws, policies and related measures aimed at the implementation of the constitutional mandate, which could have the counterproductive effect of materially prejudicing the interest of the targeted beneficiaries of the national social assistance policy (Social Assistance Act: section 3). Chapter two of the Act provides on application of the statute (section 2(1) SAA) and administration of the social assistance scheme (section 2(2)-(4)). The Act identifies the classes of social grants payable to the deserving interest groups, including child support grant (section 4(a)), care dependency grant (section 4(b)), foster child grant (section 4(c)), disability grant (section 4(d)), older person’s grant (section 4(e)), war veteran’s grant (section 4(f)), and grant-in-aid (section 4(g)). Sections 5 – 13 provide on the eligibility criteria for the respective classes of social assistance.
The colossal sum committed by the national government of South Africa on social protection underscores the importance of the social assistance policy, through the instrumentality of the payment of social grants, as a potent poverty-alleviation tool. In the 2014/2015 financial year, the state spent a little above R121billion on the payment of social grants (Statistics South Africa, 2015). Of that sum, R51.349billion (representing 42 percent) was spent on child support grants, care dependency grants and foster child grants. R50.336billion or 41 percent was spent on older person’s grant and war veteran’s grant. R18.743billion or 16 percent was spent on disability grants; while social grants for grant-in-aid and social relief of distress gulped R827million or one percent of the total sum spent on social grants. The sum was collected by an average of 16,724,000 beneficiaries (South African Social Security Agency, 2015). It could then be imagined what would be the effect of that colossal sum when reinjected in the national economy through the spending by social grants beneficiaries.

The effectiveness of the social grant system is largely dependent, apart from funding by the state, upon proper and conscientious monitoring and supervision of the mechanism for grants distribution. Moreover, the strict adherence with statutory provisions on qualification criteria for each class of social grants will ensure the streamlining and clear definition of the right persons who are qualified to collect the grants. The following table outlines the eligibility criteria for the classes of grants provided in terms of the SAA.

<table>
<thead>
<tr>
<th>Class of social grant</th>
<th>Eligibility criteria*</th>
<th>Statutory provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>child support grant</td>
<td>The child and the primary care-giver must be South Africans citizens or permanent residents or refugee, and resident in South Africa; applicant must be the primary care giver of the child; the applicant and spouse (if married) must fulfil the means test qualification; child must be less than 18 and must not be under care in a state-funded institution; child’s birth certificate must be tendered</td>
<td>sections 5 and 6 SAA</td>
</tr>
<tr>
<td>care dependency grant</td>
<td>Applicant must be a South African citizen or permanent resident or refugee; applicant must be a parent, primary care giver or foster parent of a child in need of permanent care/support due to physical or mental disability; child must be under 18; applicant and child must be resident in South Africa; applicant must submit a medical assessment</td>
<td>sections 5 and 7 SAA</td>
</tr>
<tr>
<td><strong>Socioeconomica</strong> – The Scientific Journal for Theory and Practice of Socio-economic Development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2018, 7(14): 31 - 52</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Grant Type</th>
<th>Eligibility Requirements</th>
<th>Section(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>foster child grant</td>
<td>Applicant and child must be South African citizens or permanent residents; both must be resident in South Africa at the time of filing the application; a court order confirming the foster care status of the child must be tendered; the child must satisfy the requirements of the Child Care Act (No.74) 1983</td>
<td>sections 5 and 8 SAA</td>
</tr>
<tr>
<td>disability grant</td>
<td>Applicant must be a South African citizen or permanent resident or refugee; both must be resident in South Africa at the time of filing the application; applicant must be aged 18 – 59; applicant (and spouse, where applicable) must comply with the means test requirement; applicant must submit medical assessment report confirming disability status; applicant must not be receiving another social grant or be maintained at a state-funded institution</td>
<td>sections 5 and 9 SAA</td>
</tr>
<tr>
<td>older person’s grant</td>
<td>Applicant must be a South African citizen or permanent resident or refugee; applicant must be resident in the Republic at the time of filing application; applicant must be 60 years or older; applicant (and spouse, where applicable) must comply with the means test requirement; applicant must not be under care in a state-funded institution; applicant must not be in receipt of another social grant</td>
<td>sections 5 and 10 SAA and section 1 SAAA</td>
</tr>
<tr>
<td>war veteran’s grant</td>
<td>Applicant must be a South African citizen or permanent resident; applicant must be resident in the Republic at the time of filing application; applicant must be 60 years or older (if younger, applicant must be disabled occasioned by military service); applicant (and spouse, where applicable) must comply with the means test requirement; applicant must not be under care in a state-funded institution; applicant must not be receiving another form of social grant</td>
<td>sections 5 and 11 SAA</td>
</tr>
<tr>
<td>grant-in-aid</td>
<td>This is payable to persons entitled to disability grant, older person’s grant or war veteran’s grant; applicant must comply with the eligibility requirements for the three classes (as may be applicable); applicant must require regular attendance by another person due to applicant’s mental or physical condition</td>
<td>sections 5 and 12 SAA</td>
</tr>
<tr>
<td>social relief of distress</td>
<td>This is a temporary assistance provided by the Minister of Social Development. Applicant must be waiting for approval of a social grant; applicant must tender medical report indicating the child’s disability; the means test requirement must be complied with (except for foster parent); the child must not be under care in a state-funded institution on a 24 hour basis for more than six months; child’s birth certificate must be tendered</td>
<td>section 5 and 13 SAA</td>
</tr>
</tbody>
</table>
assessment report showing unfitness to work for less than six months; applicant must not be under maintenance by spouse, child, parent or relative; applicant must have been affected by a disaster

* Before 2005, applicants for social grants were required to tender South African identity document before registration to collect the grants. This position has however been qualified by the Court since 01 June 2005, following the decision in *Alliance for Children’s Entitlement to Social Security (ACESS) v. Minister of Social Development and Others*, (unreported, Suit No. 5251/2005). The implication of this decision is that SASSA now has the discretion to waive the strict requirement of South African bar-coded identity document. By this new rule, SASSA may accept any other means of identification of an applicant for social grants, including affidavit of identification signed by a Commissioner for Oaths or a Notary (provided the document is not notarized by a staff of SASSA).

Sources: (1) The authors’ computation; (2) SASSA <http://www.sassa.gov.za/index.php/social-grants>.

(b) South African Social Security Agency Act

The South African Social Security Agency Act (SASSA Act No. 9 of 2004) was enacted with the objective of establishing the South African Social Security Agency (SASSA). SASSA is fixed with the exclusive responsibility of administering the social security system, including the disbursement of social assistance benefits and for the performance of related functions. Section 2 of the SASSA Act created the agency. The agency is assigned with its statutory functions in terms of section 4 of the Act but subject to the provisions of chapter 3 of the SAA. The functions of SASSA include the administration of social assistance, collection and management of information related to social security administration as well as the establishment of a proactive fraud prevention and containment mechanism that engenders the protection of the integrity and framework of South Africa’s social security system (Social Security Administration, 2017).

Interestingly, the agency is empowered in terms of section 4(2)(a) of SASSA Act to enter into any agreement with any person to ensure effective payments of social assistance benefits to deserving beneficiaries. However, the exercise of such power must be with the consent of the Minister of Social Development (section 4(2)(a) and (3) of SASSA Act). The inability of SASSA to deliver effective social grants distribution to beneficiaries and the allegation of mismanagement of the exercise of the oversight power by the Minister of Social Development between 2016 and 2017 and the consequent running battle between the Minister and SASSA caused crisis of confidence in the agency (du Toit, 2017; Maserumule, 2017). The situation contributed in throwing up a nearly intractable crisis in the agency that almost derailed its operation in 2017 (Mahlaka, 2018; du Toit, 2017; Maserumule, 2017). The situation has only
been contained following the intervention of the Constitutional Court on the prompting of a non-governmental agency in 2017 (Mahlaka, 2017; Crotty, 2017; Mabena, 2017).

8. Conclusions and recommendations

It is an indubitable fact that social security represents a potent tool for poverty alleviation and this position ring even truer in emerging economies due to the propensity for them to face daunting developmental challenges, especially of socio-economic in nature. States of the African continent face an urgent imperative of addressing problems of alleviating poverty, providing housing and medical care for the very poor and the vulnerable in society and delivering quality educational system, part of which should be free, at least at the basic learning level. In the face of these challenges, the need to develop workable social assistance measures that will be universal, comprehensive and much more inclusive becomes very apt. Fortunately some African states have implemented social security measures. However, the problem with those measures is that they either mostly lack major social developmental factors, are not comprehensive enough, lack universality or are selective and contributory-based; which attaches obligations to the benefits, with regard the last case. In the face of endemic poverty in the continent, what is required is the rollout of a tax-based, non-contributory social assistance system, which has the potential of properly addressing the needs of the very poor and the vulnerable and raising living standards.

The success of a social protection programme will depend largely on the effectiveness of proactive and containment measures put in place to check systemic compromise and fraud (Patel, 2016). This is possible through the introduction of innovative, proactive and transparent policies (Brandon, 2017). Cases of fraud or other acts of breach of the system must be followed by trial and punishment in order to serve as deterrence as is the case in other climes with long histories of social security implementation (Tollenaar, 2018; Corujo, 2017). It therefore follows that, in the case of South Africa, SASSA should strengthen its fraud-prevention and detection mechanism in order to ensure that those collecting social assistance benefits are actually in the right class of persons falling within the eligibility criteria defined by statutes. Fraud, systemic leakages and ineptitude on the part of the regulators and administrators of the social assistance system could turn an otherwise ideal social development programme into an avenue for wasting
state resources and worsening the living conditions of the very poor and vulnerable. Therefore, the envisaged ideal social assistance mechanism must be resilient to abuse, fraud and any form of manipulation. This can only be realizable if the system develops proactive and containment measures that are effective enough to deliver on the set objectives effectively, while ensuring an efficient monitoring process.

The South African social security system, especially its social assistance mechanism, presents a good prototype, which could be adapted to suit the peculiarities of the local environment in the respective African states. The essence of a detailed discussion of the South African social assistance framework is to highlight that system’s strong and weak points, which could help other African states plan for a rollout of new social assistance programmes or in improving on existing ones, where that is already in place. The bottom-line is that African states should adopt workable non-contributory social protection mechanisms that engender the effective containment of social developmental challenges in their respective countries. This paper proffers some suggestion that could aid the realization of these identified and inevitable objectives.

In order to enhance public revenue, which would be engaged in social development objectives, the state could impose social security tax across the broad macroeconomic spectrum, collectable from all pay-as-you-earn (PAYE) employees, determinable at a win-win rate that generates reasonable revenue for the state while not hurting the pockets of employees too deeply. For example, it might be good to levy a social security tax of between one percent and two percent of the basic earnings of all PAYE employees. In addition, it might also be good to levy the envisaged social security tax on all companies in terms of the company income tax regime. This could be levied at a range between two percent and five percent of gross earnings, since part of the net beneficiaries of the revenue realized from that fiscal policy would be the same persons that would collect social assistance benefits, especially cash transfers, and spend the same money on their necessities within the economy. This could contribute to rapid stimulation of the economy, including the enhancement of the revenue base of businesses.

It should also be desirable that states should dedicate a percentage of value-added-tax (VAT) collected in terms of the VAT fiscal regime for social security fiscal liability. For
example, the percentage commitment of the VAT collectible earmarked for social protection (particularly social assistance) could be calculated at between two percent and five percent of aggregate revenue from VAT. It is indisputable that VAT revenue forms one of the major sources of income for the state. On the other hand, the state owes obligation to alleviate poverty. Committing part of the VAT revenue to address social developmental issues will engender favourable social environment that will allow public governance to progress smoothly, unhindered by social upheavals such as public protests, strikes and wanton destruction of public infrastructure.

In view of the envisaged enhanced revenue that would be available for commitment to social protection programmes and in the light of accountability challenges prevalent in public governance in most African states, it might be imperative that states create specialized investment vehicles for the social security funds, accrued from the social security tax. The envisaged investments should be of short-term and long-term durations, managed through a consolidated dedicated account. The returns on the short-term investments should be committed to recurrent expenditure, including the running of the regulatory and administrative agencies. The investment vehicles would play dual roles: contribute to the growth and stability of the economy in view of the positive effect it would add through investments in government bonds (treasury bills and treasury certificates) as well as the stimulation of rapid growth in the financial sector resulting from enhanced liquidity of financial institutions occasioned by financial placements with them.

Above all, African states must tackle endemic corruption in public governance in order to free state resources to enhance the funding of social welfare programmes, including the rolling out of effective and realistic frameworks for the payment of social assistance benefits, where that has not been in place. Where social assistance programmes are already in place, the freeing of state resources would enhance the deepening of the outlay of payouts and might even aid the expansion of the number and class of beneficiaries.
References


