AIDC Analytical Paper: The Budget, Social Security and the Basic Income Grant Alternative Synopsis

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The introduction of a universal cash transfer, a Basic Income Grant, has been hotly contested as a policy option to address vulnerability and social and economic and political exclusion of working age people and their households in South Africa for over ten years. In this paper we begin with a review of current spending on social assistance in South Africa. We then provide an overview of levels of unemployment, inequalities and poverty in South Africa in 2014. We also review the policy options that have found favour to address these challenges within government seemingly *rather* than a BIG. We suggest that this binary is a false one and that an array of options should be explored given the urgency of the challenge. Before we conclude with a calculation of the possible cost of a BIG, we consider possible constitutional findings of a policy challenge about the failure of the state to provide social security to poor working age people, and a synopsis of arguments that have been raised both in favour of, and against, a BIG.

We conclude by calling for the roll out of a pilot of BIG in South Africa by government in partnership with other social partners as a demonstration of their commitment to finding empirically- driven, rather than ideologically – driven, policy options.

Introduction

The high levels of poverty, inequality and unemployment in South Africa are frequently described as being unsustainable, and a central cause of the increasingly frequent and violent protests and strikes. South Africa has one of the highest levels of income inequality globally. Attempts to create the necessary levels of decent work have stubbornly failed for a variety of reasons. These include the highly monopolistic structure of the economy which continues to be located in a stranglehold Minerals Energy Complex (MEC) to the detriment of a (shrinking) manufacturing sector, poor quality of basic and secondary education and poor Further Education and Training policy decisions which included closing down many vocational training institutions. The levels of polarized income distribution is however also critical in this diagnosis, as the low levels of pay for those who are employed dampen the levels of disposable income, and thus demand. Furthermore, the inflationary levels of the main expenditure items for poor people, namely food and transport, are consistently above the mainstream Consumer Price Index, which further adds to the burden of poverty on the shoulders of the poor. Increasing unemployment amongst the poor and working class has increased the dependency rate on wage earners amongst the poor.

There has also been a serious failure by the state to develop a comprehensive National Anti- Poverty Strategy and subsequent intervention policies.

What has been hailed as the most effective poverty alleviation policy by many is the social cash transfer or ‘grant’ system as part of the national social security system. Section 27(1)(c) of the South African Constitution guarantees to everybody the right to social security, or to those who cannot afford to provide for themselves or their dependants, the right to social assistance or social grants[1]. In 1998, social grants were received by just 2,5 million South Africans based on the impact of the interweave of the racially discriminatory Apartheid laws and policies. By early 2014, this had expanded to just over 16 million recipients. Yet there is no social security provision for working age poor people who are not eligible for, or have depleted, any contributory Unemployment Insurance. Social grants are both means tested but are also targeted at people who traditionally have been viewed as being outside of the labour market, either as a result of age (children and old aged pensions) and people living with disabilities.

Cash transfers currently cost about 3,5% of GDP. Not only are there big holes in the weave of the social security safety net as set out above, the actual value of the grants is something that seldom seems to be interrogated against peoples' actual needs.

It is important to frame any debate about access to social security and social assistance within an appreciation that these are rights under the Constitution. Access to social security is a justiciable right for everybody living in South Africa, and not as a charitable hand out to the 'deserving poor', or as a discretionary temporary anti-poverty policy.

Social security, including social assistance can also be seen as a measure by which other interconnected rights could be accessed. Section 27(1)(b) guarantees to all the right to 'sufficient food and water'. Providing income security through social security can provide means to poor people to realize this right, specifically given the highly cash- base to South Africa's proletarianised society.

In a report of a Committee of Inquiry constituted by then Minister of Social Development into a Comprehensive Social Security System (the 'Taylor Committee'), entitled "Transforming the Present, Protecting the Future" released in 2002, a framework for a comprehensive social security system was outlined. This combined both far greater self-provisioning in terms of innovative contributory retirement fund and unemployment fund reforms, the introduction of a national health insurance and wide- ranging reforms to the contributory Road Accident Fund, and the introduction of a universal Basic Income Grant indexed in value to R100 in 2000 prices. Accessed by all, thus guaranteeing a minimum but regular income to everybody in South Africa regardless of age or status, with the additional income received by the middle classes and elites returned to the fiscus through an adjustment to the income tax system.

Despite the fact that many of the above recommendations have or are being considered, the BIG was rejected out of hand by the state for a number of reasons

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[1] Social security is most commonly held to be made up of contributory social insurance, and non- contributory, fiscally funded, social assistance.

that are set out in of the paper below. Two other policy developments occurred during this period. The first was a gradual extension of the Child Support Grant (or CSG) to poor children from the age of 7 to under 18 years of age. The second was the introduction and subsequent 'massification' of the Expanded Public Works Programme (EPWP). At the time the state used both of these developments to justify its refusal to engage seriously with the idea of rolling out a BIG. The CSG was referred to by officials as constituting a 'mini-BIG', notwithstanding the number of poor households that contained no eligible children. The EPWP 'workfare' programme provided working age people with very short periods of paid work, typically between three and six months, was introduced as a better alternative social protection programme for working age people, although as we shall see later on in the paper as in fact introduced to increase access to training and reduce unemployment. In comparison to the EPWP, it was argued, a BIG would undermine the dignity of working age people by providing access to income but no employment.

This paper aims to contribute to the ongoing discussion of appropriate social security provisioning. This is a complex debate, as it incorporates rights- based provisions alongside considerations of sufficiency and affordability within an economy whose growth potential many argue is hamstrung by its very structure.

The paper begins with a review of the current levels of financial commitments by the South African state towards social assistance spending and the quantitative take- up rates of those. It then proceeds to reflect current levels of poverty, inequality and unemployment both with and without the grant income. We review both the policies of the EPWP and the more recent CWP and then proceed to provide an interrogation of recent jurisprudential rulings of the Constitutional court about the obligation on the state to progressively realize the right to social security. This is followed by a policy review of DSD strategic plans to expand social security into a comprehensive system, and an examination of BIG – evidence from a BIG pilot study and other research, whereafter we attempt to provide a synopsis of projected costing and financing of a BIG. In our conclusion we draw on the aforementioned sections to provide a weighing up of the pros and cons and policy choices and suggest a call for a demonstration pilot in South Africa. Throughout the paper we attempt to provide a gendered mainstreaming in the discussion of poverty, social security and a BIG.

Current statistics on social grants – numbers of beneficiaries, current costs and values of grants and projected expenditure.

The total expenditure estimates for the Department of Social Development (DSD) as set out in the 2014 Budget Review is R128 499,4 million2. Of this, R120 952,1 million is allocated to social assistance3.

The current number of social assistance beneficiaries for the three year rolling budget period are as follows.

[2] Vote 19, page 1. Estimates of National Expenditure, National Treasury.
[3] Ibid.

Table 1. Estimates of Social Assistance Take Up (Grants Received), 2013/14 to 2016/17

Grant	2013/14	2014/15	2015/16	2016/17
Old Age Grant	2,9 million	3,1 million	3,2 million	3,3 million
War Veterans Grant	412	305	223	160
Disability Grant	1,1 million	1,1 million	1,1 million	1,1 million
Child Support Grant	11,0 million	11,2 million	11,3 million	11,4 million
Foster Care Grant	519 232	533 885	548 583	563 191
Care Dependency Grant	131 999	135 285	139 327	143 585
Grant in Aid	71 879	82 290	86 815	91 590

Source: Table 19.1 Social Development Selected Performance Indicators. Vote 19, 2014 Estimates of National Expenditure.

Some 16,5 million beneficiaries are expected to receive one of the above forms of social assistance grants by the end of the current Medium Term Expenditure Framework (MTEF)[4]. As at 31 March 2014, 15,9 million people were in receipt of social grants. 11,125 million of these people received the Child Support Grant, which has a significantly lower value than other grants as can be seen from Table 2 below.

Table 2. Value of Social Assistance Grants 2014/15 per beneficiary per month 2013/14 to 2014/ 15

Grant Type	October 2013	April and October 2014
Child Support Grant	R300	R310/ R320
Older Person's Grant, Disability Grant and Care Dependency Grant	R1 270	R 1350
Foster Care Grant	R800	R830

Source: 2014/15 National Treasury. Budget Speech

[4] Ibid, 3.

The Social Development Budget Vote makes specific mention of the provisions in the National Development Plan. Mention is made of the commitment to achieving a 'defined social protection floor' in the plan. This is defined as being a 'set of basic social security guarantees which secure protection aimed at preventing or alleviating poverty, vulnerability and social exclusion'5. Policies to achieve social protection for the working age population is located as being achieved through the introduction of mandatory savings for retirement, together with 'some social protection of the working age population including through enhancing public employment programmes such as the expanded public works programme'.6 No mention is made of expanding any form of social assistance grants to working age people. The Department's policy choices seem to have moved entirely away from the potential mentioned in a previous Strategic Plan of exploring the feasibility of introducing a BIG for unemployed people, which is set out below.

Despite widely expressed questions both in government and amongst certain other sectors in society about the ongoing affordability of social assistance spending, in fact, according to National Treasury, as a result of lower than expected increases in take up of social assistance transfers, Cabinet approved a R530 million budget reduction on the 2014/15 estimates7.

The average rate of growth for the DSD budget between 2013/14 and 2016/17 is projected to be 7.4%, which is lower than the 8.3% average rate of growth between 2010/11 and 2013/14.8 The nominal increase during the MTEF in DSD's expenditure is expected to increase from R120 952 101 to R137 556 422.

Review of levels of poverty, inequality and unemployment

Poverty in South Africa is closely interwoven with high levels of formal unemployment, low levels of ownership of income producing assets including productive land, and low wages for the majority of workers. Employment figures as well as income inequalities in terms of age, race and gender are set out below.

According to Statistics South Africa (StatsSA)'s Quarterly Labour Force Survey (QLFS) (Quarter 1, 2014) unemployment continues to rise[9]. 110 000 jobs were lost in the first quarter of 2014, mostly in the informal construction sector10. The broader definition of unemployment, which includes 'discouraged' workseekers, rose to 35,1%, with the narrow definition rising too to 25,2%. There were just over five million unemployed people in the first quarter which reflected a 4,9% increase from the previous quarter and a 4,2% increase year on year. Compared to this, 15 million people were employed, and this figure, whilst reflecting a 0,8% fall from the previous quarter, reflected a 3,4% increase year

[5] Ibid, page 3.
[6] Vote 19, 2014 Estimates of National Expenditure, page 3.
[7] Vote 19, Estimates of National Expenditure, page 5.
[8] Vote 19, Estimates of National Expenditure, Table 19.7
[9] Statistics South Africa. QLFS P0211, Q1 2014
[10] QLFS P0211 Q1 2014.

on year. There were slightly fewer unemployed women than men - 2,4 million women compared to 2,6 million men.

Unemployment has a significant age bias. Of the 10,2 million people between the ages of 15 to 25, 53,2%, or 1,3 million people were not employed. This dropped to 29,5% or just under 2 million people who were unemployed between the ages of 25 and 34. Unemployment is lowest amongst those between the ages of 55 and 64, at 7,8%. This rises to 13,7 and 18,9% respectively for those in the 45 to 54, and 35 to 44 age cohorts respectively11. Tackling poverty amongst the youth is clearly critical, especially given that access to the CSG ends when a young person turns 18.

Income inequality continues to reflect racial bias, even 20 years into the democratic South Africa. Patterns of redress for past racially- based exclusionary policies thus clearly have not achieved as much as could have been done. According to the 2010/11 Income and Expenditure Survey (IES), in the survey period, the average annual household consumption expenditure level by population group of the head of household, a black African household spent on average R55 920 per year, whilst a household headed by a white South African spent R314 524 per annum, against a national average of R95 18312. Furthermore, 83,5% of households in the top income quintile were white-headed, compared to 8,8% of households in the top income quintile headed by a black African. The survey also concluded that one out of every two black African households spent less than R28 per day. Statistics South Africa reported that their measure of income inequality, the Gini co-efficient, was 0,7 in the 2010/11 IES.13

Income inequality also has a gendered bias. According to the 2010/ 11 IES, the average income of women headed households was R70 830 per annum, whilst for male headed households it was R151 186 per annum. Male headed households had more than double the amount of income than that of households headed by women.

Finally, wage differentials are also a great driver of income inequality in South Africa. According to a recent study undertaken by the Labour Research Survey (LRS) released in 2013[14], based on a survey of directors' fees in 83 companies across 14 sectors in South Africa, in 2012 while the average annual salary for a low paid worker was R44 496, the average salary for an executive director was R3 785 789 for the same period, the average CEO's salary was R5 966 396 and that of a part time non-executive director was R685 978 per annum. According

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[11] Statistics South Africa. QLFS P0211, Q1 2014.
[12] Statistics South Africa. IES 2010/11. P0100
[13] The Gini co-efficient measure of inequality ranks total equality at 0, and total inequality at 1. This, internationally, is a very high measure of inequality.
[14] Shumane, L and Taal, M. Directors' Fees 2013 (Covering The 2012 Financial Year) - Double Digit Increases For A Double Digit Fall In Profits. Labour Research Service.

to calculations in the report, it would take the average low paid worker 174 years to earn what the average executive director earned in one year, and 267 years to earn what the average CEO earned in one year. Leibbrandt et al[15] found in their 2010 study on inequality in South Africa that the labour market was a critical driver of inequality both due to the extremely high correlation in South Africa between wage income and total household income (hence the impact of unemployment is so devastating on households with no or few employed members), *and* due to the fact that wage income distribution is so deeply unevenly distributed. Seekings suggests that the former is a greater driver of inequality than the latter, arguing that rather than supporting a redistribution of income to striking mine workers (whose income he classifies as ranks as having been in the seventh or eight income decile) through improved wages, policies should focus on distributing income to the poorest households, either through redistribution (such as through fiscally funded social assistance) or through the creation of jobs[16].

Poverty can be defined either subjectively or objectively. Below we set out findings from a recent study by Statistics South Africa in which they compare findings using both approaches[17][18]

Objective poverty

Objective poverty is based on an 'expert' or externalised definition of poverty. Stats SA used both the objective, absolute money-metric poverty line approach and, for the first time in SA, a subjective approach in their analysis of the 2008/09 Living Conditions Survey data.

To obtain the lower and upper-bound poverty lines of R416 and R577 per person per month (pppm) in 2009 prices, a food poverty line of R305 pppm was used, which was the costing of the calorific threshold of 2 261 kilocalories per person per day.

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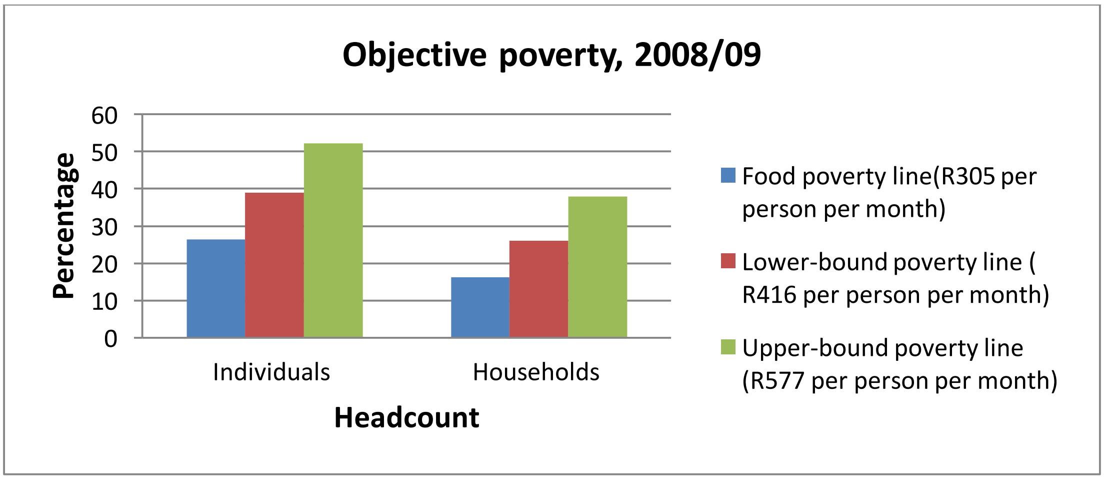
[15] Leibbrandt, M. et al. (2010), "Trends in South African Income Distribution and Poverty since the Fall of Apartheid", OECD Social, Employment and Migration Working Papers, No. 101, OECD Publishing.

[16] Seekings, J. Op-Ed: The Isaac analysis, and two halves of the inequality puzzle. Daily Maverick, South Africa. www.dailymaverick.co.za/article/2014-07-31-op-ed-the-isaacs-analysis-and-two-havles-of-the-inequality-puzzle/#.U-C6kGuw3IR

[17] This section is informed by SPII. Policy Brief 2. Towards a Decent Living Level, November 2013.

[18] SPII believes however that the 'objective' poverty levels used in this study bear no real relation to a needs- based approach to people's lived realities. The use of such measures can result in a dangerous interpretation of the real levels of poverty and need in South Africa. In order to address this, SPII, with other social partners, is involved in advocating for the adoption of a needs – based 'Decent Living Level' that takes into account the real costs of meeting peoples' basic needs.

Table One: Objective Poverty Levels, 2009/09.



Source: Living Conditions Survey, http://www.statssa.gov.za/publications/P0310/P03102008.pdf, 2008/09

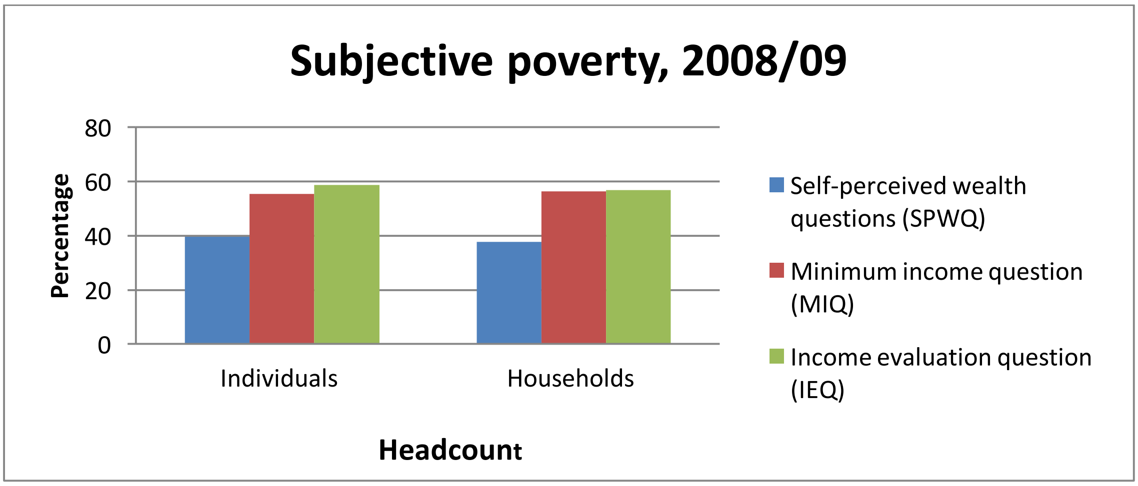
In 2008/09, 26.9% of households in SA lived below the poverty line of R416 per person per month. Fifty-two per cent (52%) of individuals lived below an income of less than R577 per person per month. A comparison between individuals and households reveals interesting results. Using all three measures of objective poverty, the LCS data show that those living in a household are better off than an individual living alone. For example, if there are three people in a household and each person receives R577 per month, their combined total household income will be R1 731, whereas an individual living on their own relies only on an income of R577 per month.

Subjective Poverty

Subjective poverty is an individual's assessment of his or her own welfare, utility or happiness. It challenges the mainstream view that poverty is an objective, money-matric and uniformly applicable concept. Proponents of subjective poverty measures argues that by asking respondents whether they are poor provides a direct lens on well-being that could otherwise not be obtained from objective measure[19].

Table Two: Subjective Poverty Levels, 2008/09.

[19] Ravallion, Martin, 2012. "Poor, or just feeling poor? On using subjective data in measuring poverty," Policy Research Working Paper Series 5968, The World Bank.



Source: Living Conditions Survey, http://www.statssa.gov.za/publications/P0310/P03102008.pdf, 2008/09

According to the 2008/09 Living Conditions Survey (LCS), 39.5% of the poulation perceived themselves as poor. In the 2008/09 LCS, respondents were asked to state the minimum amount which the household would require in order to make ends meet, and then to rate themselves against this measure. This is what is known as the Minimum Income Question (MIQ) approach. Using this classification as a measure of subjective poverty, 55.3% individuals, in other words, more than half of South Africans classify themselves as poor.

How do the current limited social grants affect the face of poverty and inequality in South Africa?

In the OECD study of 2010 on income inequality, the authors conclude: "(*N)ot only do the grants have a significant impact on poverty (at the lower poverty line) but they also make a significant impact on inequality. We find that the Gini coefficient on "pre-grant" income is 0.03 higher than when calculated on either reported income or simulated income*."20 However, despite this conclusion, due to the low value of the CSG, the actual ability of the grants to move people out of poverty is greatly reduced. According to a micro-simulation undertaken by the authors and using a lower bound poverty line of R515 per person per month and an upper bound poverty line of R949 per person per month, the percentage of people falling below these lines in the bottom two income quintiles respectively fell from 100% to 96,4% and 89,9% using the lower bound poverty line, and only from 100% to 99,5 and 99% respectively using the upper bound poverty line.21

Is a BIG the solution then to address the needs of both the unemployed and working poor? The authors of the OECD report conclude that whilst this might provide temporary relief, this should not be the final policy solution, which should rather be the creation of employment.

[20] OECD, page 67 paragraph 183.
[21] OECD, page 66.

"87. Most of the unemployed are unable to access unemployment benefits but are not provided for in the social assistance system which remains premised on the notion that unemployment is a temporary condition. Consequently there are many that argue that the social grant system should be extended to focus directly on the unemployed. While strong economic growth supported the growth in the grants in the first fifteen years of democracy, we would argue that it is imprudent to argue for permanent income support for the unemployed. Many of the unemployed are young school leavers and while they clearly need some sort of social safety net or temporary social insurance, the longer term goal has to be directed at assimilation into the labour market. In section 3.4 of this chapter, we presented a brief review of the body of literature which shows that the existing grant system seems to be promoting desirable education and health behaviours. This is true even though these grants are unconditional. Yet, the ultimate return to these positive human capital outcomes is an ability to become a productive citizen in the country. Again this turns on a more virtuous interaction with the labour market than we currently witness."22

Expanded Public Works Programme (EPWP) and Community Works Programme (CWP) – effective alternatives?

Public works programs are often hailed as being the perfect solution for unemployment, providing basic income as well as a way into employment through the provision of training and work experience, which is often used as a reason to prefer public works to social assistance grants which are seen as constituting 'hand- outs' to the poor.

The design of the successive EPWP programmes in South Africa typically include a training component together with a limited period of work provided by the state, although the value of this training component has been heavily criticised.

The First EPWP was introduced in 2004 for a five year period, although various public works had existed prior to this but were run by diverse departments and spheres of government to achieve diverse aims[23]. The placements were typically temporary low skilled jobs, or in fact, 'job opportunities'. By 2007/8 the targeted number of job opportunities (1 133 751) had been achieved, although Leibbrandt et al's research demonstrates that a very small percentage of the total cost of the programme went towards wages for the EPWP beneficiaries. In 2007/08, total expenditure on the EPW Programme was R30,2 billion, which led to the creation of 1,1 million job opportunities.[24]

The second phase of the EPW programme was introduced in 2009 for a further five year period, with an aim of creating 400 000 jobs per annum, or 4,5 million work opportunities by 2014[25] [26]. The jobs in this period were typed into three types: home –based care and community health services, project –based

[22] OECD, 2010. Page 69.
[23] OECD
[24] OECD, page 50.
[25] DPME, The Presidency. Development Indicators 2012.
[26] OECD, 2010.

employment in construction and broader environmentally – oriented programmes and the newly added Community Work Programme which is implemented through a locally – based NGO or Community Based Organisation (see below).

According to the 2012 Development Indicator publication issued by the Presidency, of the 4,5 million job opportunities that formed the aim of the second phase of the EPWP, 2 112 434 opportunities had been accessed by 2014.

The Community Work Programme (CWP) is a variation on the original design of the EPWP. It seeks to provide a guaranteed 8 days of work per participant per month, funded by the state. Its objectives and design were based on the '100 day work guarantee scheme' in India, which was introduced by the National Rural Employment Guarantee Act of 2005. It was started as a pilot project through The Presidency's Second Economy Strategy Project Framework that was approved by the Cabinet in January 2009. The pilot was considered successful and the resultant CW programme is now run by the Department of Cooperative Governance. According to the department's website:

"The CWP is designed as an employment safety net, not an employment solution for participants. The purpose is to supplement people's existing livelihood strategies by offering a basic level of income security through work. It is an ongoing programme that does not replace government's existing social grants programme but complements it.

CWP sites are being established in marginalised economic areas, both rural and urban, where unemployment is high. Unemployed and underemployed men and women qualify to apply for work. The daily rate paid at present is R63.18.

Communities are actively involved in identifying 'useful work' needed in the area. The first target is one site per municipality operating in at least two wards to reach 237 000 people by 2013/14".[27]

As a form of social protection however, how does the EPWP rate? The role of the EPWP scheme has historically been fudged between social protection, infrastructure development and skills training. According to the authors of the OECD report, EPWP was not introduced as a social protection scheme, but rather job creation and skills training. In addition, they found that in real terms, the value of the wage paid through the EPWP programmes (which is typically between R30 and R50 per day) on average had fallen by 43% between 2004/5 and 2006/7, which calls into question its income support potential.

In its 2004 publication, Breaking the Poverty Trap, the BIG coalition commented as follows:

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[27] http://www.cogta.gov.za/cwp/ Community Work Programme, accessed 5 August 2014.

"As the Taylor Committee report clearly illustrated, the BIG and EPWP should not be pitted against each other as they are, in fact, complementary interventions. They have very different roles to play in poverty alleviation as part of a comprehensive social protection package."

Citing a paper delivered by Dr Anna McCord to the Basic Income Grant Coalition National Conference in December 2003[28], the authors of the BIG report question the cost-effectiveness of public works on the scale that would be required to address the needs of those currently falling outside of the social security safety net, as well as government's ability to implement schemes on that required scale. The subsequent design and implementation of the CWP programme might in some way address the question of implementation as this is outsourced, as described above, to third parties.

A review of DSD strategic plans to expand social security

In its 2009 – 2012 Strategic Plan, the national Department of Social Security committed itself in the Programme performance and targets over the MTEF[29] as one of its 'Measurable Objectives' to 'Develop policy options for basic income grant for unemployed adults'. The 'Performance Measure' for this Objective is listed as 'Policy options presented to the Social Sector Cluster'. Its targets for 2009/10, 2010/ 11 and 2011/12 respectively were 'Undertake broad consultation on the introduction of income support for the unemployed', 'Prepare strategy for basic income grant linked to work activation and financial plan' and 'Draft legislation to introduce basic income support for unemployed adults'. In response to a personal conversation between the author and the former Deputy Director General for Social Security on 29 April 2014, she was advised that the study and report had indeed been undertaken and submitted to Cabinet's Social Security Cluster as per the Department's performance measures,, but that no actions appeared to have been taken arising from this study.

What then are the Department's current plans for expanding coverage to unemployed working age people?

In its 2010- 2015 Strategic Plan, Section 5.1 sets out various 'Sector- specific' goals. Under the goal of "Improve the incomes, assets and capabilities of poor families and communities", the analysis focuses on inequality that has grown since Apartheid, and says that while social grants have increased the incomes of poor households, inequality has not been reduced, and in order to do this, focus must be made on increasing equality through 'community works, the social wage and co-operatives' towards an outcome of "Decent employment through inclusive economic growth'. Given the dire growth predictions for the Medium Term Expenditure Framework period, this does not appear to be a very robust or

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[28] McCord, A. "Public Works as a Component of Social Protection in South Africa".

[29] Department of Social Development. Strategic Plan, 2009 to 2012. Programme 3.4.5, page 54

innovative strategy. Working age unemployed people seem, at least from the perspective of the Department, destined to be left to their own devices as we have witnessed over the past twenty years.

Constitutional court jurisprudence about the obligation on the state to progressively realize the right to social security.

In this section we set out significant guidelines regarding the realization of socio-economic rights in South Africa handed down by successive Constitutional Court judgments as we weigh up whether a case could be made legally for the introduction of a BIG in South Africa.

South Africa's final Constitution of 1996 (Act 108 of 1996) is considered internationally to be extremely progressive, not least due to the inclusion of a number of justiciable socio-economic rights. Section 26 of the Constitution provides for the right to have 'access to adequate housing'. Section 27(1) bestows on everybody the rights to health care services, including reproductive health care; the right to sufficient food and water and the right to social security, 'including if they are unable to support themselves and their dependants, appropriate social assistance'30.

In addition, Section 7(2) of the Constitution states as follows:

"The state must respect, protect, promote and fulfill the rights in the Bill of Rights".

The obligations on the state are however subject to an internal limitations clause that states both in Sections 26(2) and 27 (2), that 'the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of this right/ each one of these rights'. As indicated in the Introduction, rights have been interpreted as being interconnected. Realising the right to social security and social security could in a significant way enable people to immediately realize a basic right to sufficient food.

The interpretation and application of these rights, including the 'internal limitation' clauses cited immediately above have been tested and pronounced on by the Constitutional Court in a number of matters. The most significant one in terms of the teasing out of the meaning of progressive realization was *Grootboom and Others/ Government of South Africa and Others, Constitutional Court Order (CCT138/00) [2000] ZACC 14* (21 September 2000). Justice Zak Yacoob of the Constitutional Court set out in great detail how these rights should be interpreted and what the nature of the obligations on the state were in this regard. Central to the judgement was the introduction of the notion of 'reasonableness'. Yacoob ruled that for a policy to past muster, the scope of the policy as well as its capacity to be implemented in such a way as to meet the objective of the policy, must be reasonable. This test of reasonableness was adopted by the court in favour of the principle of 'core minimum' is used by the UN Committee on Economic, Social and Cultural Rights that oversees and

[30] Section 27(1)(a), (b) and (c) respectively.

reviews signatory states' implementation of the International Covenant on Economic, Social and Cultural Rights of 1966.

According to Liebenberg31, the following five standards emerge from the jurisprudence (specifically from Grootboom and the TAC cases) for assessing reasonableness of any government policy or programme:

- The programme must be comprehensive, coherent and co-ordinated;
- Appropriate financial and human resources must be made availbale for the programme;
- The programme must be balanced and flexible and make appropriate accomodation for short, medium and long –term needs;
- It must be reasonably conceived and implemented, and
- It must be transparent, and its contents must be effectively communicated to the public.

As confirmed by Justice Mokgoro in the cases of *Khosa and Others/ The Minister of Social Development and Others (CCT 12/03) and Mahlaule and Another / The Minister of Social Development and Others (CCT 13/03),*

"A court considering the reasonableness of legislative or other measures taken by the state will not enquire into whether other more desirable or favourable measures could have been adopted, or whether public resources could have been better spent. A wide range of possible measures could be adopted by the state to meet its obligations and many of these may meet the requirement of reasonableness. Once it is shown that the measures do so, this requirement would be met[32]".

Justice Mokgoro's judgement in the cases of *Khosa and Others/ The Minister of Social Development and Others (CCT 12/03) and Mahlaule and Another / The Minister of Social Development and Others (CCT 13/03)* examined the question of the reasonableness of excluding permanent and temporary residents from the South African social assistance system. One of the grounds raised by the applicants was that the ground of residence was not reasonable and constituted unfair discrimination in terms of Section 9(3) of the Constitution. Section 9(3) of the Constitution reads as follows:

*"The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, **age**, disability, religion, conscience, belief, culture, language and birth"* (our emphasis).

Where grounds of unfairness are specifically listed in this section, a rebuttable presumption is created by Section 9(5) of the Constitution[33].

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[31] Liebenberg, S. The Judicial Enforcement of Social Security Rights, page 79.
[32] Khosa and Others/ The Minister of Social Development and Others (CCT 12/03) and Mahlaule and Another / The Minister of Social Development and Others (CCT 13/03), paragraph 48.
[33] Section 9(5) of the Constitution states:

The issue of resource considerations was also raised by the Respondents in the matter. Justice Mokgoro ruled that while resource implications to the state of expanding access to social security and social assistance could be compelling, "(*L)imiting the cost of social welfare is a legitimate government concern….but it must be done in accordance with the Constitution and its value*".[34]

Thus the issue of the rights to life[35], dignity[36] and equality or the unfairness of discrimination that excludes people from eligibility to social assistance based on age, is critical to the argument in favour of a Basic Income Grant in South Africa.

Justice Mokgoro quoted from Justice Goldstone's judgement in the matter of *President of the Republic of South Africa and Another/ Hugo 1997 (4)SA 1 (CC); 1997 (6) BCLR 1211 (CC) paragraphs 41-3* as follows:

"*At the heart of the prohibition of unfair discrimination lies a recognition that the purpose of our new constitutional and democratic order is the establishment of a society in which all human beings will be accorded equal dignity and respect regardless of their membership of particular groups. The achievement of such a society in the context of our deeply inegalitarian past will not be easy, but that that is the goal of the Constitution should not be forgotten or overlooked*[37]*.*"

Justice Mokgoro in her judgement then proceeded to examine the impact of the exclusion of permanent residents from social assistance, which can provide guidance to us in this paper.

She considered the question of the resultant dependency on extended family members that this exclusion created, the financial burden that this would create, as well as the impairment of the dignity of the applicants due to this state of dependency on said family or community members. The judge further cited the argument of the applicants with approval, that this denial of access to social

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"Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair".

[34] Khosa and Others/ The Minister of Social Development and Others, CCT 12/03 and Mahlaule and Another/ The Minister of Social Development and Others, CCT 13/03, paragraph 58.
[35] The Constitution of South Africa, Act 108 op 1996, Section 11.
[36] The Constitution of South Africa, Act 108 of 1996, Section 10.
[37] Khosa and Others/ The Minister of Social Development and Others, CCT 12/03 and Mahlaule and Another/ The Minister of Social Development and Others, CCT 13/03, paragraph 69.

assistance relegated them to the 'margins of society', and prevented them from enjoying other Constitutional rights[38].

In her final evaluation of the impact of the denial of access to social assistance to the applicants and all eligible permanent residents, the judge began by restating that the Constitution guarantees the right to social security to 'everyone'[39]. She reiterated her previous findings that the exclusion of access would have a severe impact on the dignity of the applicants given the resultant dependency that this would create on others for the 'necessities of life'[40]. In her conclusion that the exclusion of permanent residents was not reasonable or justifiable, the two compelling considerations that were also taken into account was the fact that the denial of access to social assistance for the applicants was absolute, and that the extension of these rights to all permanent residents in need would not pose too great a financial burden on the state, given the limited size of the group (which Treasury estimated to be about 2% of total social assistance spend, although the evidence submitted by the state in this regard was found to be 'speculative' at best[41].

Given that the estimated cost of a BIG could be in the region of R72, 6 billion, based on the costings advanced by the South African BIG Coalition of R100 per person per month (updated to 2014 purchasing power), the Constitutional Court would be under conflicting pressures if faced with a legal challenge on the absence of social assistance for working age people. On the other hand, the consideration of ensuring adequate resources to allow the state to realize the progressive nature of its provision of socio-economic rights should also include an interrogation of the successive annual income tax cuts that have been handed down to income earners since 1994. The question of the universal nature of the proposed BIG, despite the claw back mechanism advanced by the Coalition may also not find favour with the court, and finally, the potential roll out of the CWP as an available alternative in every municipality for 2017 might persuade the Court that there is no 'absolute' exclusion from social assistance for working age people in the current policy shape and provision.

Arguments in favour of a BIG - evidence from a Pilot Study in Namibia and other Econometric Studies.

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[38] Khosa and Others/ The Minister of Social Development and Others, CCT 12/03 and Mahlaule and Another/ The Minister of Social Development and Others, CCT 13/03, paragraph 76.

[39] Khosa and Others/ The Minister of Social Development and Others, CCT 12/03 and Mahlaule and Another/ The Minister of Social Development and Others, CCT 13/03, paragraph 79.

[40] Khosa and Others/ The Minister of Social Development and Others, CCT 12/03 and Mahlaule and Another/ The Minister of Social Development and Others, CCT 13/03, paragraph 80.

[41] Khosa and Others/ The Minister of Social Development and Others, CCT 12/03 and Mahlaule and Another/ The Minister of Social Development and Others, CCT 13/03, paragraph 62.

One of the most useful sources of data in respect of the likely impact and potential unintended consequences of a BIG can be learned from the pilot project that was undertaken in Namibia under the auspices of the civil society coalition, the Basic Income Grant Coalition. The pilot was situated in a village known as Otjivero in the district of Omitara. In January 2008, all existing inhabitants of the village, excluding those who were already in receipt of a state old age grant, were registered to receive a monthly BIG of Nam$100. The pilot ran for two years, where after it was gradually phased out, although there is a discussion about souring resources to reintroduce it some time in 2014.

Why the BIG? The Coalition was launched in April 2005 after consideration by a number of the main actors of the recommendation of a state constituted committee appointed to review the tax system in Namibia around 2001. The recommendations of the Namibia Tax Consortium (NAMTAX) included a recommendation of the introduction of a BIG to all Namibians under the age of 60, in order to address the extremely high levels of income inequality that are also present in Namibia. The NAMTAX committee recommended that the value of the BIG should not be less than 100 Namibian dollars per month. The Committee concluded that a BIG would cost between 2,2 to 3% of Namibia's GDP. The NAMTAX Committee recommended further that a major source of the additional fiscal take needed to fund a BIG could come from an increase in the Value Added Tax42.

The main findings of the pilot, assessed both through ongoing qualitative monitoring and assessments of administrative data from the local clinic, the school and the police, were as follows[43]:

- There was a completely heightened sense of dignity and hope amongst the community. The community themselves had independently upon the discussion of the possibility of the pilot being rolled out, formed a democratically elected community committee to ensure that the interests of the community were protected and to address any unforeseen consequences arising out of the pilot.
- Alcohol – critics of the pilot argued that people would spend the value of the BIG on alcohol. Apparently this happened on the first pay out, but then the committee stepped in and actually negotiated with the shebeens (informal taverns) that they would not open on pay- out day, that their trading hours would be restricted and that no alcohol would be sold to youth
- Crime – a comparison of the reported crime cases of 15 January 2007 to 31 October 2007 compared to the same period the following year after the introduction of the BIG demonstrated a stark decline from 85 cases to

[42] Making the difference! The BIG in Namibia. Basic Income Grant Information – English, June 2009. Basic Income Grant Coalition Secretariat.

[43] NAMBIG. Making the Difference! The BIG in Namibia. Basic Income Grant Pilot Project Assessment Report, April 2009, pages 41 to 82

54, which was confirmed by the acting Police Commander who visited Otjivero in April 2008.

- Poverty – prior to the introduction of the BIG, 86% of residents at Otjivero fell below the lower bound national poverty line of N$220 per person per month, which rendered them as 'severely poor', and 76% of residents fell below the food poverty line of N$152 per person per month. After one year this had fallen to 68% and 37% respectively (altho0ugh after this period a 3 % reversal of people falling under the lower bound poverty line was noted as a result of in-migration of people into Otjivero.
- Hunger – prior to the pilot, 73% of households reported that they did not always have enough food; 30% said that they lacked sufficient food on a daily basis and this was experienced once a week for 39% of the residents, and 42% of the children measured at the clinic were malnourished. Six months after the introduction of the BIG, child malnutrition rates had fallen to 17%, and to 10% a year later.
- Health – the local clinic charged small user fees as per government policy (N$4). For many people this had prevented them from attending the clinic. With the introduction of the BIG, the monthly income rose from about N$270 per month to N$1 300. Access to ARVs was enhanced and people had sufficient nutrition to enable them to benefit from the treatment.
- Education – school fees (N$ 50 per annnum) proved to prevent many children (28 %) from attending school regularly, as did an inability to afford school uniforms. After eleven months of the pilot, this figure had dropped by 42%, and drop out rates, according to the principal had reduced from an annual average of 30 – 40% to zero. Early childhood development also increased from 13 children in 2007 to 52 children in 2008, this also improving the income situation of the ECD providers.
- Employment and economic activity – finally, the impact on economic activity was striking, and presents strong evidence to counter the arguments that a BIG would inhibit economic activity. From the initial twelve month assessment, the coalition found that the rate of unemployed people at Otjivero had fallen from 60% prior to the introduction of the pilot, to 45%. Also of critical importance was that the average per capita income, discounting for the BIG income, rose from N$118 per capita prior to the BIG, to N$152 a year later, suggesting a strong multiplier or stimulus effect of the BIG through creating opportunities and demand for additional economic activities. Most of this happened as self-employment in retail, brick – making and clothes manufacturing. A baker also reported that he made and sol 100 bread rolls per day and made a monthly profit of N$400.

More people started saving as a result of receiving the BIG, which was confirmed by the employee of the NAMPOST Post Office at Otjivero, and 38 residents took out a funeral policy. Residents indicated that the bulk of the savings would be put towards fixing up their houses, 11% said that they would pay back debt and 9% reported that their savings would go towards the purchase of livestock.

The Coalition concluded that the pilot had indeed demonstrated the positive and very direct impact of a BIG in a highly impoverished and destitute community. It lamented the fact that despite this evidence and the findings of the NAMTX commission, government was still reluctant to adopt the BIG as part of its social protection scheme nationally.

In a previous study undertaken by the South African BIG Coalition[44], the following arguments were made in favour of a BIG:

- Poverty, unemployment and inequality pose an ever- increasing crisis in South Africa that no policy seems able to have made any in roads on
- The existing social security net is not able to address this crisis given the massive hole of the 'missing middle' of working age people, and the burden for caring for poor people rests extremely unfairly on the shoulders of the working poor
- Poverty undermines social delivery, including through disconnections, poor health due to poor nutrition and high levels of hunger, and
- Poverty is a fetter on economic development.

This report is based on the modeling of four different economists that all demonstrate that a BIG, inflation- indexed to the value of R100 in 2000 prices, could be afforded through various combinations of taxes that each study put forward, which is explored in more depth in the following section.

Further analysis of the work of the economists however provides additional arguments in favour of a BIG. The Economic Policy Research Institute (EPRI) found that a BIG would grow economic growth as a result of three main effects. These are through the accumulation of human and social capital, a positive impact on both the supply and demand of the labour market including through enhanced productivity arising from the increase in the investment in human capital, and thirdly as a result of a 'dual macro-economic mechanism' by which a BIG might stimulate economic growth by both increasing the overall national income, and by changing the composition of spending and moving this in the direction of more labour –absorbing sectors of the economy[45].

In addition, given that a BIG would be universal, and not means- tested, there is no disincentive to work as forwarded by many opponents of a BIG[46].

In a gendered analysis of a BIG, Julieta Elgarte[47], argues that given the disruption in many women's working lives occasioned by child raising, a basic income grant

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[44] BIG Financing Reference Group. "Breaking the Poverty Trap": Financing a Basic Income Grant in South Africa, March 2004

[45] BIG Financing Reference Group. "Breaking the Poverty Trap": Financing a Basic Income Grant in South Africa, March 2004, Section 2.

[46] http://www.economonitor.com/dolanecon/2014/01/03/the-economic-case-for-a-universal-basic-income/

[47] Elgarte, J. Basic Income and the gendered division of labour. Paper presented at XII BIEN Congress, Dublin, June 2008.

could well provide for a guaranteed minimum income security. She also argues that in theory, should a BIG be available, more men might be encouraged to share the obligations of social reproduction more fairly, thus further contributing to a fairer division of both the labour market and the domestic sphere. She concludes that in essence however, it should not be one or the other, and that policies should in any event be adopted that aimed at re-orienting the gendered division of the labour market through measures that protected care- givers but also promoted a fairer division of labour.

Arguments Raised Against a BIG

Despite the obvious centrality of government in a discussion on the benefits or otherwise of a BIG, it is very difficult to obtain any primary data in this regard. According to an article that appeared on 23 November 2004 by the news service of the UN Office for the coordination of Humanitarian Affairs, IRIN, former Minister of Finance had told members of the National Council of Provinces that the implementation of a BIG would “bankrupt the country”. Thus, the issue of costing was used as a primary argument against the adoption of a BIG. He is cited as costing a BIG at R83 billion, which would require the raising of VAT by at least another 14%.

Further arguments raised as mentioned above include the fact that a BIG would create dependency and dissuade people from working, that work is a preferable alternative that would promote upskilling of unemployed people (an argument cited by both those on the left and on the right of the political or ideological spectrum)[48], and that it would crowd out other social spending.

According to Seekings and Matisonn[49], quoting a Business Day article on a budget briefing after having delivered the 2002 Budget, Manuel questioned the affordability and administrative feasibility of delivery of a BIG, but note that there also appeared to be ‘an ideological ground’ to his position, as he allegedly described proponents of the idea as ‘populist’. In the same paper, Seekings and Matisonn refer to various reported dismissals by cabinet ministers and high ranking government officials of the BIG on various grounds ranging from dependency to the fact that receiving money without employment would undermine people’s dignity, and they conclude with citing the Minister of Finance’s 2004 Budget Speech in which he states that government was committed to extending social security and income support through ‘targeted measures’ and to contribute to creating ‘work opportunities’ and ‘investing further in education, training, and health services’.

[48] http://www.economonitor.com/dolanecon/2014/01/03/the-economic-case-for-a-universal-basic-income/

[49] Seekings, J and Matisonn, H. The continuing politics of basic income in South Africa. Centre For Social Science Research. Social Surveys Unit. CSSR Working Paper No. 286 November 2010.

This approach takes us back therefore to the previous discussion on EPWPs in which the scope for sustained income support to the full gamut of unemployed working age people must be questioned.

Projected costing of a BIG in South Africa

According to the models developed by the four economists who worked with the Coalition to produce the above report, 'financing the Basic Income Grant is clearly feasible'[50].

Based on 2003 prices and a BIG of R120 per person per month, and discounting the number of people who were already in receipt of some form of social assistance grant, the total cost of the grant (excluding administration costs) would have been in the realm of R52 billion. EPRI's modeling included extensive work on additional tax capacity of both personal income tax and corporate tax and indirect taxes and VAT. EPRI was able to demonstrate that with the introduction of such reforms, the net cost in 2003 would have been R27,3 billion. National expenditure for 2003/04 was estimated to be R333 965 000 000[51]. This would thus have equaled 8,1% of total government spend. It is interesting to note that in this same year, 'tax reforms (i.e. tax cuts) were estimated to equate to a reduction of R15 billion from R325 billion to R310 billion, which, given the Constitutional imperative of expanding socio- economic rights within the state's available resources calls into question the constitutionality of the successive tax cuts. According to a publication of the People's Budget Campaign[52], "*The cumulative impact of the tax cuts made over the past decade accounts for a total of R75 billion in foregone revenue annually, or nearly a quarter (22,3 per cent) of the tax revenue the Treasury expects to collect this year*".

According to own calculations, the 2014 value of R100 in 2000 prices, based on an average inflation rate of 5%, would equate to R220.69 per person per month.

According to Stats SA's 2013 Mid-Year Population Estimates[53], there were then 52 981 991 people in South Africa. Based on the assumption of the BIG coalition that current grant recipients (16 068 488 people) would NOT receive an additional BIG, the total of people eligible for a BIG would have been 36 913 503 in 2013. If one excludes the number of people above the annual tax threshold of R70 000 (6,4 million people)[54] as an estimate of those from whom the value of the BIG could be recovered through income tax, the total cost would thus be an estimated R 65.25 billion per year which was 1.86% of GDP in 2013[55], which was just above 46% of the Department of Social Development's budget allocation in 2014.

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[50] BIG Financing Reference Group. "Breaking the Poverty Trap": Financing a Basic Income Grant in South Africa, March 2004, page 51.
[51] National Treasury. National Medium Term Expenditure Estimates. 2003.
[52] People's Budget Campaign. People's Budget Response to the 2004 MTBPS.
[53] P0302, 2013
[54]National Treasury. 2014 Budget Review, Table 4,2
[55] 2013 estimate of R3.5 trillion

Conclusion – weighing up of the pros and cons and policy choices and alternative consequences.
We trust that this paper has contributed to the critical engagement on the issue of social protection for South Africans.

The notion of a universal unconditional cash transfer – the Basic Income Grant – is not new, and much has been written about its application and objectives, but that was not within the remit of this paper. The objective of this paper was to explore the arguments in favour of and those against the introduction of a BIG in South Africa as a key policy plank to improving the lives of those trapped in poverty, and to reduce the scales of income inequality that are so prevalent in South Africa through a fiscal redistribution from the middle classes to the poor, and finally, to attempt to break the stranglehold of unemployment through the stimulus of broadened demand in the South African economy arising from this redistribution.

The paper began by setting out the levels of spending contained in the 2014/15 Department of Social Development budgeted allocation, as well as the number of people in receipt currently of social grants. We showed that rather than the runaway open fiscal exposure that many feared from the social cash grant system, in fact actual spending in the last year was less than that budgeted for.

The paper then attempted to provide the context for the discussion on pro-poor policies by providing an overview of current levels of unemployment, diverse faces of inequalities in South Africa and finally a review of poverty – both from the objective and subjective approaches. We highlighted the very low levels of the objective poverty measures, specifically in contrast to peoples' lived realities and expectations in the face of such apparent inequalities and wealth, and suggested the need for a national discussion on what would constitute a Decent Living Level.

The paper then considered the impact of the two stages of the Expanded Public Works Programmes, including the more recent Community Works Programme. We highlighted the apparent fuzziness that characterized the policy objectives of the first phase of EPWP, which might have contributed to the redesign of Phase Two to include more training and a greater location of ownership of the programmes within communities as well as the expansion of the time frame of the programs beyond the previous very short term 'job opportunities' in the CWP. We cite with approval however a finding from the BIG Coalition, drawing on work undertaken for the Taylor Commission and other researchers, that EPWP should not be seen in opposition to a BIG, but instead as complementary, noting however that the cost of the administration of a EPWP on the scale required to meet the needs of all people currently excluded from social protection would be prohibitive.

The paper then provided a review of two distinct policy approaches in recent DSD strategic plans regarding options to include poor working age people in the social security safety net. The earlier strategic plan makes reference to the possible roll out of a BIG for working age people. This however appears to have stuck at a Cabinet level under the previous administration and the most recent strategic plan makes disappointing reference to the need to include working age people in projects and the need for jobs to be provided for working age people through accelerated economic growth, despite recent predictions of lower than expected growth levels and rising unemployment.

We then consider the possible strength of a constitutional challenge on the exclusion adequate inclusion of working age people in a social security system, and highlight the critical choices that would face a court in their deliberations on the matter.

In order to include the weight of empirical evidence on the question of the possible impact of a BIG we have included a synopsis of the main findings of a civil society co-ordinated BIG pilot undertaken in Namibia, and we cite extensively from their outcome reports on the beneficial evidence of the pilot. In citing arguments that have been raised against a BIG, we struggled to find conclusive arguments and traced some of the main objections of the South African government at the time of the BIG Coalition.

Finally, and in order to provide a context of the fiscal demands that a BIG would pose if introduced, we provide a very rough estimate of the costing of a BIG. This last section is one that SPII will be undertaking comprehensive modeling on in the forthcoming year.

Although other programmes might be able to assist the vulnerabilities of poor working age people in South Africa, given the levels of poverty and unemployment that we set out at the beginning of this paper, and the costs of the only other alternative system of assistance, namely the EPWP and Community Works Programme, and given the developmental arguments that appear not to have been sufficiently negated, and the possible immediate relief that a BIG would be able to provide, within an affordable belt of fiscal adjustment, we believe that it would be appropriate for the South African government in partnership with social partners to roll out at least one BIG pilot with clear and defined time frames for impact monitoring and evaluation, as they were for the CWP.

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