INFORMAL SOCIAL SECURITY IN SOUTHERN AFRICA:
DEVELOPING A FRAMEWORK FOR POLICY INTERVENTION*

by

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ABSTRACT: Formal social security systems in the Southern African Development Community (SADC) region are oriented towards protecting persons employed in the formal sector. While the protection so provided is often incomplete, the reality is further that formal employment in most SADC countries has declined to a level where the vast majority of workers are now located in the informal economy. Also, the bulk of the region’s population live in rural areas where they are largely dependent on subsistence agriculture and are therefore unable to participate in formal social security schemes. Those who are consequently excluded from the scope of formal social security are often the poorest of the poor. Informal social security is, in most instances, the only source of social security for them. This paper concentrates on possibilities for developing a framework for policy intervention by integrating informal and formal social security, in order to enhance protection. It draws a distinction between traditional support systems and self-organised mutual support systems, and indicates that only systems which fall within the latter category are amenable to integration. The linkages between formal and informal systems are a strategy for the gradual formalisation of informal social security systems with the ultimate aim of developing integrated, coordinated and comprehensive social security systems. Furthermore, integration provides the basis for ensuring a minimum level of social protection for everyone in society.

1. INTRODUCTION

The Southern African Development Community (SADC) is a regional organisation in southern Africa.1 Chief among SADC’s objectives are the following: development and economic growth, poverty alleviation, enhancing the standard and quality of life and the support of the socially disadvantaged.2 To a certain extent, these objectives mirror the characteristics of the SADC region, namely: underdevelopment and slow economic growth,3 poverty,4 poor standard and quality of life and large pockets of socially

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1 The Southern African Development Community (SADC) comprises of fourteen countries, namely: Angola, Botswana, Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Madagascar, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.
2 See Art. 5 of the Southern African Development Community (SADC) Treaty.
disadvantaged persons. These characteristics evolved over decades of colonialism. Post-colonial governments did not, with a few exceptions (e.g. Botswana and Mauritius), yield much to write about in as far as the developmental (i.e., social, economical and political) sphere is concerned. Resources were often distributed along racial lines – much to the neglect of the entire population. This was the case with, for example, South Africa, Mozambique, Zimbabwe and Zambia. Apart from the foregoing, in countries such as Angola, Democratic Republic of the Congo and Mozambique resources were, for the most part, siphoned by civil strife. The tranquillity currently enjoyed by the SADC, with the exception of the Democratic Republic of the Congo (which still experiences some skirmishes here and there) and the situation in Zimbabwe (which culminated from the controversial fast-track land redistribution programme which was implemented in 2000) prevails in the midst of acute social insecurity.

With the foregoing in mind, this paper concentrates on possibilities for integrating informal and formal social security, in order to enhance protection. It draws a distinction between traditional support systems and self-organised mutual support systems, and indicates that only systems which fall within the latter category are amenable to integration. The linkages between formal and informal systems are a strategy for the gradual formalisation of informal social security systems with the ultimate aim of developing integrated, coordinated and comprehensive social security systems. Furthermore, integration provides the basis for ensuring a minimum level of social protection for everyone in society.

2. SOCIAL SECURITY SYSTEMS IN SADC: AN OVERVIEW

When formal social security systems were introduced in developing countries, including those in the SADC region, the general assumption was that their scope of coverage would expand with time and eventually cover everyone. This assumption was premised around


the thinking that there would be economic growth that would enhance social security coverage. Parallel to the foregoing assumption was the idea that informal coping strategies would be formalised and as a result fade away. These assumptions have proved incorrect, as the majority of the people in developing countries are still not covered by formal social security. Those excluded from the scope of formal social security are often the poorest of the poor. Informal social security is, in most instances, the only source of social security for them. This situation, which is also discernable in the SADC, can be attributed to a variety of factors. These factors include, among others, the following:

- **Absence or inadequacy of formal social security systems**: Countries in the SADC region with the exception of Mauritius do not have comprehensive social security systems. Consequently, there are some contingencies, which are not covered. Furthermore, for the few contingencies that are covered, only rudimentary protection is provided. Thus in order to fill the gap, many have turned to mutual aid arrangements operating at community level.

- **Formal employment basis of the present (formal) social security systems**: The vast majority of the poor in the SADC are side-lined and marginalised by the formal social security system which – in most instances – is state operated. The main driving force behind this trend is the tendency of the formal system to focus on those who are involved in formal employment. In view of the large informal sector found in the SADC, the majority of informal-sector workers and their families are marginalised and excluded from formal social security coverage. This is largely because (generally speaking) formal social security schemes extend coverage only to those who fit into the rather limited definition of ‘employee’. At the end of the day, many of those who are engaged in atypical work are left unprotected and at the mercy of social risks.

- **Urban bias of the present (formal) systems**: Formal social security services are, as a rule, situated in urban areas. This proves to be a serious barrier for the rural poor to access these services. The situation is exacerbated by ignorance and by the high-illiteracy rate found in rural areas. The majority of the rural poor are often not even aware of their formal social security entitlements.

- **Restricted family concept**: The concept of ‘family’, which underlies much of the formal system, is not reflective of the true family concept as found in southern Africa. The notion of ‘family’, as used in formal social security schemes, is by and large

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9 Even the private sector-based forms of formal social security in the SADC, in particular occupational-based and private retirement provisioning and health insurance, effectively exclude the poor and vulnerable, given their inability to contribute to and otherwise access these schemes.


based on the nuclear western family concept, i.e. a couple in a monogamous union, both in formal employment, one or two children, and so forth. This is not, however, indicative of ‘family’ in southern Africa, where extended families and polygamous marriages are common, especially among the rural and urban poor.

- **Limited concept of work:** Africans are, in their day-to-day existence, joined together by what may be termed ‘African traditional values.’ It is on account of these values (which are all about solidarity, collective responsibility, compassion, equality, unity, self-determination, human respect and human dignity) that individuals subsist as families and that families become closely interlaced communities which form a large society. African traditional values are discernable in Africans’ social, political and economic activities.

- **African traditional values:** African traditional values, such as *botho, ubuntu* and *harambee*, constitute the basis of informal social security in Africa. In the South

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12 Traditional values and western values, in as far as business values are concerned, have been correctly differentiated by Prozesky in the following terms: “Community above individualism – it was said by traditionalist Africans (tA’s) that there was insufficient sense of community in people with Western traditions, to whom it was the individual that counted. To the traditional African, the community came fist; External not internal control – to ‘the Westerner’ – the key control is within the individual who must take the right strategic decisions – the entrepreneurial sense makes success. Traditionalist Africans have strong external controls – in some sense they may feel powerless in the face of their ancestors; Supportiveness above competition – it is seen by traditionalist Africans as dehumanising to just compete – the individual is not ‘number one’; People, not workers/staff – should be treated as people, not workers and staff; Qualitative time – time should not be determined entirely quantitatively in terms of clock etc, but qualitatively. How this is managed in a global business perspective is a difficult question but this has to be accommodated. Leadership through care and integrity, not power and status – for tA’s status will produce fear and some results but no co-operation; Holistic wealth – for tA’s what is the point of success in business if it does not lead to cordial relationships, if wealth is not available and beneficial to all?” (British Chamber of Business “African business values – A global perspective” (April 2002) – accessed at http://www.britishchamber.co.za/AFBusVal.html).

13 *Ubuntu* is a South African value which “broadly means that an individual’s humanity is expressed through his relationship with others and theirs in turn through a recognition of his humanity.” (Barrie GN “Ubuntu ungamuntu ngabanye abantu: The recognition of minority rights in the South African constitution” (2000) 2 TSAR 271 at 271). See, for the meaning of the concept of *ubuntu* and the social values it represents, Mokgoro JY “Ubuntu and the law in South Africa” Paper presented at the first Colloquium Constitution and Law held in Potchefstroom, South Africa, 31 October 1997. According to Judge Langa: “The concept [of ubuntu] is of some relevance to the values we need to uphold. It is culture which places some emphasis on community and on the interdependence of the members of a community. It recognises a person’s status as a human being, entitled to unconditional respect, dignity, value and acceptance from the members of the community such person happens to be part of. It also entails the converse, however. The person has a corresponding duty to give the same respect, dignity, value and acceptance to each member of the community. More importantly, it regulates exercise of rights by the emphasis it lays on sharing and co-responsibility and the mutual enjoyment of rights by all.” (*S v Makwanyane* 1995 3 SA 391 (CC), 1995 6 BCLR 665 (CC) par 224).

14 *Harambee* is a “Swahili word that signifies that coming together relationally, facing life not alone, but pulling together, recognizing the power of one, but also the power of many one’s pulling together easing the burden one might face.” (“Harambee – Pulling together African Style” – accessed at http://kabiza.com). *Harambee* can, in addition, be described as a Kenyan value that stands for “togetherness, mutual responsibilities and mutual assistance, pulling resources together to build family and community.” (Apt NA “Ageing in Africa” Paper prepared for World Congress on Medicine and Health, Hanover, 21 July-31 August 2000. (Accessed at http://www.mh-hannover.de)).
African constitutional context, *ubuntu* has been recognised as a value which is so fundamentally ingrained in the fabric of societal life that, according to the Constitutional Court of South Africa, it has to be elevated to the status of a constitutional value, albeit an unwritten one.\(^1^6\) The crucial importance of this approach by the Court for the broad area of social protection and, in particular social security, is self-evident – in particular when viewed from the perspective of one of the fundamental elements of social security, namely solidarity.\(^1^7\) This concept has also been alluded to in the White Paper for Social Welfare\(^1^8\) as a value permeating the social security context as well.

### 3. INTEGRATING INFORMAL AND FORMAL SOCIAL SECURITY

#### 3.1. Important issues to consider

3.1.1. Proper understanding of informal social security arrangements

Attempts to link informal and formal social security require a proper understanding of informal social security arrangements. There is a need to understand and appreciate the reasons for the existence of informal social security arrangements, the different kinds of informal social security arrangements, the role and importance of informal social security arrangements and the nature of the (current) relationship between informal and formal social security arrangements. There is increasing evidence that in the SADC region informal arrangements are not merely an expression of African cultural values, but, for the reasons advanced above, serve as substitutes for the formal arrangements. It therefore becomes necessary to consider what the appropriate areas of public (policy) involvement and intervention are, in order to ensure that comprehensive and co-ordinated social security responses are in place to deal with the plight of those exposed to the range of needs and risks experienced in the SADC region. The need to fully comprehend informal social security arrangements and consider what the appropriate areas of public involvement and intervention give emphasis to calls for further in depth research in this under-researched field of study.\(^1^9\) This is essential for meaningful policy formulation. As Von Benda-Beckmann *et al* point out:

“It is important that efforts to formulate policies for the integration of indigenous and statutory social security be founded on a proper understanding of how indigenous systems operate. Policies

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\(^{16}\) *S v Makwanyane* 1995 3 SA 391 (CC), 1995 6 BCLR 665 (CC).

\(^{17}\) An outcome of solidarity is the prevention of social exclusion, while the effort of developing social security (and other measures aimed at the alleviation of poverty and social exclusion) must therefore be accompanied by an approach aimed at promoting this crucial sense of shared responsibility – in particular between the well-off members of society and those who live in conditions of deprivation. See ILO *An introduction into social security* (ILO (1984)) 6-7, 115.

\(^{18}\) *Government Gazette* 18166 GN 1108, 8 August 1997.

should be based on systematic research rather than intuitive beliefs and attitudes about traditional forms of support. Too often development policies and projects have failed to reach their objectives because they were based upon inadequate understandings of indigenous institutions.”

More research has the ability to change perspectives and policies towards informal social security arrangements. For example, Von Benda-Beckmann et al argue that:

“More recent research has led to changed perspectives and policies toward [non-statutory] and [non-market] social security arrangements. It is increasingly (though somewhat belatedly) realized that whatever strength contemporary arrangements of indigenous social security arrangements may have, the extension of statutory schemes or the introduction of innovative, integrative social security arrangements. Statutory [programmes] should complement rather than substitute for indigenous systems.”

Once there is sufficient research available detailing the workings of informal social security arrangements it is easier to build a strong case for the recognition of informal social security arrangements by governments in the region.

3.1.2 Preserving the cultural basis of informal social security arrangements

An integrated approach has to bear in mind the need to deal with informal social security in a way that does not destroy the cultural basis of the phenomenon. This view stems from the fact that African people, especially in rural communities, have a strong sense of pride in their own traditions and in the functioning of their communities. They therefore often resist changes which are imposed on them from the outside and which do not evolve from the communities themselves.

3.1.3. Informal social security is not a substitute for formal social security

Informal social security arrangements cannot be glorified and romanticised as the ultimate medium through which social security needs of the people of the SADC could eventually be met. Countries of the region, at both country and regional level, should make efforts towards the extension of social security (both social insurance and social assistance) coverage. In addition, they should endeavour to – through policies and programmes – address the social and economical needs of the citizens. This is important as it is of no use to improve the effectiveness of social security systems while social and economic policies continue to create a fertile environment for poverty.

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21 Ibid at 108.
3.2. Strengthening existing linkages

It would appear that informal social support systems based on mutual aid arrangements lend themselves more easily to being linked to formal social security than being based on mutual aid arrangements and the contribution-benefit synthesis present in these support systems. It is, therefore important to focus them as the basis for meaningful integration.

Prior to focusing on new linkages, it is of paramount importance to first work on what is already in existence. There are, as a matter of fact, few interfaces between informal and formal social security arrangements as well as formal and informal institutions. These linkages are discernable from a social assistance and social insurance framework.

3.2.1. Social assistance

There are several social assistance schemes which enable (in cash and/or kind) individuals and families to execute ubuntu-imposed obligations – such as taking care of the destitute. This assertion should be understood within the context that culturally speaking, in Africa there is (or should not be) destitute persons. Limited resources however make it difficult at both individual and family level to accommodate other needy persons. This situation has bred a commonly held believe that destitution was, at some point in history, unknown to the African society. As one commentator puts it:

“There were no poor and rich; the have helped those who were in want. No man starved because he had no food; no child cried for milk because its parents did not have milk cows; no orphan and old person starved because there was no body to look after them. No, these things were unknown in ancient Bantu society.”

Several governments in the region make provision for social assistance benefits that makes it possible for other individuals to look after the destitute. In South Africa, for example, there is a means tested Foster Care Grant which is payable to a foster parent. Mauritius, on the other hand, provides a Basic Orphans Pension to children (up to age fifteen or 20 if at school) who lost both parents. In addition there is a Guardians Allowance payable to a responsible adult who takes care of the orphans. In addition there are social assistance benefits which enable certain categories of persons to look after themselves. These benefits include old age grants and disability grants. It should be borne in mind that impoverished aged persons and people with disabilities are, in accordance with African values, the responsibility of their next of kin, extended families,

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25 See, for example, Bakari AH “Traditional social security as practised in contemporary Tanzania’s urban centres” in Von Benda-Beckmann F et al (eds) Between Kinship and the State: Social Security and Law in Developing Countries (Foris (1988)) 153 at 163-164.
the community within which they live and the society in general. These grants are (from an informal social security point of view) of great importance because they assist people who would otherwise be destitute, due to the lack of resources by informal providers, cope with social risks. In addition they, in countries such as South Africa, trickle down through informal transfers to other members of the family.\textsuperscript{28} Furthermore, despite being negligible, some old age grants beneficiaries rely on their grants to contribute towards informal social security arrangements such as burial societies.

In the light of the foregoing it is crucial that SADC countries, without social assistance schemes, introduce such schemes as a matter of urgency. Those with social assistance schemes need to address the problem of exclusion and marginalisation. The availability of resources is, of course, one of those challenges to be taken into account before extending social assistance schemes. Be that as it may, SADC countries need to strive towards the progressive extension of social assistance at both regional level and country level.

3.2.2. Social insurance

Most contribution based informal social security arrangements have linkages with social insurance schemes. These links are either voluntary and/or (in certain instances) obligatory.

3.2.2.1. Voluntary linkages

Members of burial societies, for example, have been shown to have some linkages with formal insurers.\textsuperscript{29} Firstly, most burial societies maintain a funeral parlour insurance policy (group policy) on behalf of their members. Secondly, some individuals take, in addition to their membership to a burial society, a funeral insurance policy with commercial insurers.

3.2.2.2. Obligatory linkages

Burial societies in the SADC region are under certain instances required by law to register with a public body. In Botswana, for example, burial societies are required to register with the Register of Societies with the Ministry of Labour and Home Affairs.\textsuperscript{30} The registration of burial societies in South Africa is governed by the \textit{Friendly Societies Act}.\textsuperscript{31} Burial societies whose aggregate value of income does not exceed R100 000 per

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\textsuperscript{31} Act 25 of 1956.
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annum are excluded from the ambit of the government regulator (i.e. the Financial Services Board (FSB)). In principle, a burial society can operate in South Africa without any form of regulation. This situation has resulted in calls for the establishment of a proper regulatory framework for burial societies. The criticism levelled against the current setting is that:

“…the legislative framework in place for burial societies is inadequate and is to some extent limiting their development. Many societies are de jure illegal institutions and as such it is difficult to officially recognise and establish policies to develop and support. Furthermore, some burial societies have grown to significant size and have taken on a commercial nature. This often happens where a ‘successful’ society grows beyond what can effectively be administered by member governance and control. Some of these burial societies may have up to 60 000 members and definitely do not satisfy the common bond and member governance criteria of traditional societies. Such societies often take on the form of an administrator of the group scheme and underwriting may be provided by a formal insurer. In the absence of clear legal definitions and regulatory framework, it is impossible to manage the development of such institutions.”

The foregoing arguments do build a strong argument for the regulation of burial societies. Notwithstanding the foregoing, two points need to be considered before any attempt is made to regulate burial societies. Firstly, regulation might destroy than build when it comes to small burial societies. Secondly, it could be a tedious exercise to ensure compliance among so many (and at times small) burial societies. To circumvent these challenges in South Africa, Bester et al recommend that:

“Burial societies that provide benefits of less than R5 000 be removed from the ambit of the Friendly Societies Act. Burial societies that provide benefits of more than R 5000 not be required to register as long-term insurers under the Long-term Insurance Act, provided that they fall within the demarcation referred to in the fourth bullet. Consideration be given to the creation of a regulatory framework that provides for a stepped compliance function (i.e. progressing from self-regulation to full compliance with the Long-term Insurance Act). The first tier of compliance consists of an appropriate regulatory demarcation for burial societies that operate on a not-for-profit basis. This could, for example, be inserted in the Long-term Act. Societies that operate within this demarcation should be required to perform the absolute minimum in compliance. By demarcation we mean a clear definition of what constitutes a burial society and what the limits are of the activities of burial society. Compliance could be as limited as providing the name, contact details and names of office bearers of the society to the FSB. The second tier of compliance should be triggered once a burial society starts to operate beyond the demarcation referred to above. It is at this point that provision of assistance business should move into the formal regulatory environment, because it is usually at this point that the threshold from operating not-for-profit to for-profit is crossed. This threshold is usually also marked with a separation between the members or beneficiaries and the management and governance of the organisation. The funeral parlours and unregistered business falls in this category. It is our view that these organisations should not be forced to comply with the full requirements of the Long-

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33 Ibid 38.
34 According to Bester et al (Bester H et al Making Insurance markets work for the poor in South Africa – Scoping Study (Genesis (2004)) 28) the number of burial societies in South Africa has been estimated at around 100 000.
term Insurance Act, but should probably be obliged to obtain underwriting with a formal insurer and to comply with minimum governance and reporting requirements. The final tier should be that of long-term insurers operating under the Long-term Insurance Act.”

The foregoing model by Bester et al is commendable for the reason that it appreciates the fact that a one size fits all regulatory framework is inappropriate for burial societies. By so doing, it does not restrict the scope of development of a burial society.

3.2.3. Informal and formal institutions

Informal institutions such as self-help groups, rotating savings and credit clubs (ROSCAs) and burial societies, in a majority of instances, bank their money with formal institutions. These existing links provide a good opportunity for strengthening, in a mutually beneficial way, the relationship between informal and formal institutions. Financial institutions can be encouraged to tailor their products to yield more returns to-and match the needs of informal institutions. For example:

“Because [ROSCAs] lack the facilities and size to properly invest the funds they hold, they have several financial needs that could potentially be addressed by formal market players. They have a need for liquidity, for skilled investment offering good returns, for security of their investments, and for advice regarding financial matters. A life assurer could address these needs by offering investment planning for the group and management of the group funds. The life assurer is then able to benefit from the group structure already in place to sell other products (perhaps on a voluntary or compulsory group-scheme basis). It can use the existing ‘infrastructure’ of the [ROSCA] to simplify administration (by collecting premiums in ‘bulk’ from the [ROSCA’s] bank account, and dealing with the [ROSCA’s] rather than individuals) while not damaging the cultural fibre of the [ROSCA], or removing its social function. Thus there is mutual benefit.”

3.3. Promoting the involvement of informal social security schemes

Governments in the SADC region need to promote the involvement of informal social security schemes in social security provisioning. This could be achieved through a variety of government interventions which could include among others: training (to improve the managerial skills and investment abilities of members of informal social security schemes); subsidies (to enhance the financial base of informal social security schemes – particularly those that are focused on the poorest of the poor); and technical assistance (to help informal social security schemes manage risk (e.g. being under-funded and/or over-exposed).

4. CRITERIA FOR DEVELOPING A MODEL FOR LINKING INFORMAL AND FORMAL SOCIAL SECURITY

Linking informal with formal social security and developing an integrated model of social security provisioning should preferably not be left to the casuistry of ad hoc examples. It is suggested that lasting solutions and possibilities would be greatly assisted

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by developing a systematic approach to this matter. The following are, therefore, offered as tentative suggestions as to which criteria should serve as setting preconditions for and guiding the nature and process of integration:

4.1. No abdication of or substitution for government’s responsibility

In the first place, the myth that informal social security effectively replaces government's and the state’s responsibility to care for its citizens, should be dispelled. Unfortunately, so it seems, this myth is alive and well in many parts of sub-Saharan Africa. It remains inexplicable and inherently unjust and inequitable that the state or a government could set up social security schemes to secure the livelihood of its more well-off citizens, but leave the poor to rely on informal mechanisms of support. Were there to be effective and efficient forms of government support of the informal mechanisms, the position might have been different. In short, the message is clear: governments and the state bear the final responsibility to care for all its citizens and, in fact, to prioritise the needs of the poor.

Of course, one has to be reminded that in the social security environment, government and the state have to play a multi-faceted role. A broad distinction can be drawn between government’s / the state’s role as regulator and its role as direct provider.\(^{37}\) The duty to realise social security may differ according to whether the ability of those affected to realise the right is absent or not. As noted in the South African constitutional context of access to (the right to) adequate housing, where the ability to afford, for example, to pay for adequate housing exists, the state's primary obligation is not that of direct provider, but of “unlocking the system, providing access to housing stock and a legislative framework to facilitate self-built houses through planning laws and access to finance.”\(^{38}\) For those who cannot afford to pay, “[I]ssues of development and social welfare are raised.”\(^{39}\) This was forcefully brought home in a subsequent judgement of the South African Constitutional Court, where it was assumed that flood victims left homeless have a constitutional right to be provided with access to housing.\(^{40}\) The point is that state

37 See Olivier MP et al “Constitutional issues” in Olivier MP et al (eds) Social security: A legal analysis 87-89 from which parts of the discussion here were taken.

38 Government of the Republic of South Africa v Grootboom 2000 11 BCLR 1169 (CC) par 36.

39 Ibid.

40 Minister of Public Works & others v Kyalami Ridge Environmental Association & another case no 55/00 of 29 May 2001 (CC) par 28. In this matter the Court had to deal with the erection of temporary transit housing on state land for the said victims. The Court concluded: “This was an essential national project implemented in terms of a policy decision taken by government that called for a co-ordinated effort by different spheres of government and the application of substantial funds. The provision of relief to the victims of natural disasters is an essential role of government in a democratic state, and government would have failed in its duty to the victims of the floods, if it had done nothing. There was no legislation that made adequate provision for such a situation, and it cannot be said that in acting as it did, government was avoiding a legislative framework prescribed by parliament for such purposes. Nor can it be said that government was acting arbitrarily or otherwise contrary to the rule of law. If regard is had to its constitutional obligations, to its rights as owner of the land, and to its executive power to implement policy decisions, its decision to establish a temporary transit camp for the victims of the flooding was lawful.” (par 52)
policy needs to address both these groups, and that the poor are particularly vulnerable and that their needs, therefore, require special attention.\textsuperscript{41}

The same principled approach has been adopted by the Court as far as the rights of children are concerned. Despite the strong constitutional protection accorded the rights of children,\textsuperscript{42} the Constitutional Court was not prepared to find that the state bears the primary responsibility to give effect to children's rights, and has to do so despite the availability of resources and in an immediate fashion. It noted that the section does not create separate and independent rights for children and their parents.\textsuperscript{43} The state's obligations, emanating from its international obligations,\textsuperscript{44} require of the state to take steps to ensure that children’s rights are observed: “In the first instance, the state does so by ensuring that there are legal obligations to compel parents to fulfil their responsibilities in relation to their children.”\textsuperscript{45}

Hence, to the Court argued, a proper construction of the constitutional right pertaining to children’s rights implies that “a child has the right to parental or family care in the first place, and the right to alternative appropriate care only where that is lacking. Through legislation and the common law, the obligation to provide, amongst others, shelter is imposed primarily on the parents or family and only alternatively on the state. The state thus incurs the obligation to provide shelter to those children, for example, who are removed from their families. It follows that the constitutional rights of children do not create any primary state obligation, \textit{inter alia} to provide shelter, on demand to parents and their children if children are being cared for by their parents or families.”\textsuperscript{46}

Turning to the application of these principles to the area of informal social security and its linking with the formal system, one has to bear in mind that it is the very lack of the formal system which often forces people to rely on informal forms of social security. For this reason alone, one could argue that there is an obligation on the state and on

\textsuperscript{41}Ibid.
\textsuperscript{42}See s 28 of the South African Constitution which contains far-reaching rights of children.
\textsuperscript{43}Grootboom par 74.
\textsuperscript{44}In terms of the Convention on the Rights of the Child (General Assembly Resolution 44/25 of 20 November 1989). The Convention entered into force on 2 September 1990, was signed by South Africa on 29 January 1993 and ratified on 15 December 1995.
\textsuperscript{45}Grootboom par 75.
\textsuperscript{46}Grootboom par 77. The Court went to great lengths in explaining what the duties of the state are where children are cared for by their parents and families: “This does not mean, however, that the state incurs no obligation in relation to children who are being cared for by their parents or families. In the first place, the state must provide the legal and administrative infrastructure necessary to ensure that children are accorded the protection contemplated by section 28. This obligation would normally be fulfilled by passing laws and creating enforcement mechanisms for the maintenance of children, their protection from maltreatment, abuse, neglect or degradation, and the prevention of other forms of abuse of children mentioned in section 28. In addition, the state is required to fulfil its obligations to provide families with access to land in terms of section 25, access to adequate housing in terms of section 26 as well as access to health care, food, water and social security in terms of section 27. It follows from this judgment that sections 25 and 27 require the state to provide access on a programmatic and coordinated basis, subject to available resources. One of the ways in which the state would meet its section 27 obligations would be through a social welfare programme providing maintenance grants and other material assistance to families in need in defined circumstances.” (par 78)
governments to take the necessary steps to create an environment of recognition, accommodation and support of the informal forms of support. On the one hand, it could be expected of the State to regulate, albeit in a sensitive manner and only to the extent necessary, the informal system of social security. Through regulation, for example, it could ensure that the rights and expectations of beneficiaries under these schemes are sufficiently protected against abuse, fraud and mismanagement. On the other hand, it may be necessary for the state, where required to do so due to the lack of local expertise and financial ability, to actively provide support in the form of, amongst others, making available training and funding to informal schemes.\textsuperscript{47}

4.2. Serving the purpose of extended coverage and a minimum level of protection

Linking and integrating informal and formal social security should not be seen as a goal in itself. Unless the integration serves a wider societal and supportive purpose, there would be little justification in embarking on this route.

It is suggested that apart from other purposes that may be served by the linking and integration of informal and formal social security, there are at least two fundamental aims that must be realised, namely:

- **The extension of coverage**: in the end, the cumulative result of the linking must be that significantly more people are covered and better coverage is provided by the net of social security, than would have been the case otherwise;

- **A minimum level of protection**: the net effect of the integration must be that a minimum level of protection should be available to all who are so covered: this could be translated into ensuring an adequate level of and truly dignified living.

4.3. Protection against abuse

In addition to the purposes outlined in the previous paragraph, both the process and outcome of the integration should be characterised by extending sufficient protection to consumers – both beneficiaries and dependants – and involved parties and institutions, such as the informal arrangements themselves and the service providers, against abuse. For these reasons it is imperative to ensure, amongst others, that contributions and benefits are preserved, that proper governance, management and financial controls are put in place, and that there is a proper regulatory framework. Equally important, though, is the need to ensure that those who are entrusted with the management of informal arrangements and with overseeing the integration, are well-equipped for their task and, generally, that all stakeholders, in particular the individual beneficiaries themselves, are well-informed.

\textsuperscript{47} Within the South African constitutional context, so the Constitutional Court stressed in the Grootboom case, effective implementation requires at least adequate budgetary support by national government (par 68). It is essential that a reasonable part of the national budget (\textit{in casu} for housing) be devoted to granting relief to those in desperate need; however, the precise allocation is for national government to decide in the first instance (par 66).
4.4. Gradual evolvement and preserving core values

As a rule, one should be careful not to conduct linking and integration in a quick-fix mode which destroys much of the good that is being served by informal arrangements. Integrating informal arrangements with the formal system, even if the result is to formalise these arrangements, must be effected in a way which remains sensitive to, preserves and strengthens particular core values embedded in informal social security, such as the values of:

- **self-help**, with reference to, amongst others, individual responsibility and ownership, which are the hallmarks of successful informal arrangements;

- **inherent solidarity**, which constitutes the very fabric of informal social security;

- **contribution obligation** and **benefit entitlement** – it is this intimate relationship between contributions and benefits, with its corresponding rights and obligations, that has ensured the survival of certain forms of informal social security;

- **cultural expression**, which is what historically provided and still often today provides the backbone of informal arrangements; and

- **social identification** by groups and individuals.

None of the above should be seen as purposes in themselves and as holy cows which should not succumb to other more imperative goals to be served by integrating formal and informal arrangements. For example, it may be thought appropriate in particular instances to introduce a social security scheme which provides benefits to a particular category of needy people on a universal basis – such as a universal old age grant. There may indeed be weighty considerations to do so, even if the end result is that the core value of self-help and the contribution-benefit synthesis are effectively shelved.

4.5. Amenable to integration

It is imperative to realise that not all informal social security arrangements are amenable to integration – as already alluded to elsewhere in this paper. It should, for example, be borne in mind that:

- the nature of the risk is such that informal arrangements can rarely provide a sustainable and/or long-term solution, as is the case with large covariate risks or the provision of retirement benefits; and

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49 Such as natural disasters.

50 “This calls for stronger emphasis to ensure provision of retirement benefits for the informal sector and lifetime poor” – Holzmann R “Risk and vulnerability: The forward looking role of social protection in a
informal arrangements may be effective in managing risk but are detrimental to long-term development goals – for example, decisive governmental measures may be required to eradicate child-labour practices which may be supportive of informal coping mechanisms, but are evidently harmful.⁵¹

Therefore, only informal arrangements which are capable institutions, albeit with the necessary support, and which have characteristics which are imperative for purposes of ensuring successful linking and integration, could be considered as worthy candidates for integration. In essence, this would mean that informal arrangements must show evidence that:

• they are managed properly (or do so as a result of supportive interventions);

• they have the capacity to collect contributions;

• there is a properly defined and well-balanced system of contribution obligations and benefit entitlement;

• they are financially viable; and

• medium- to long-term sustainability is ensured (on the basis of, amongst others, stability of membership).

The implication of the above is that the pure family- and kinship-based forms of informal social security are unlikely candidates. Effectively it is only the group-based schemes with their built-in mutuality and embedded insurance mechanisms which are more likely to pass the test.

5.  PROCESS

The process of linking and integrating informal arrangements with the formal social security system should be well-planned, carefully implemented and appropriately monitored. It is suggested that the following constitute some of the core elements of the envisaged process:

• The process for linking informal social security systems with formal social security systems starts with an in-country analysis of informal social security arrangements. The analysis should focus on the nature and characteristics of these arrangements, their management, governance, financing contributions, benefits provided and membership, including its geographical and sector spread.

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⁵¹ See Holzmann par III.
• In keeping with the notion of multi-actor involvement in social security provisioning, there is a need to assign specific roles to the different stakeholders.

• The effectiveness of the involvement of the key stakeholders depends on there being a clear conceptual and implementation framework for linking informal social security systems to formal social security systems.

• Detailed work plans for specific areas of linking, integration and involvement should be prepared.

• An appropriate regulatory framework should be developed.

• Undertaking a pilot study appears to be imperative, as the steps taken and the process established should first be tested, before the comprehensive strategy is implemented in piecemeal fashion.

Planning and implementation would be worthless if stakeholder understanding and buy-in have not been obtained. It is, therefore, imperative to make sure that proper consultations with all the affected interested parties take place, apart from obtaining expert advice on the steps to be taken and process to be implemented.

6. CONCLUSION

(a) Attempts to link informal and formal social security require a proper understanding of informal social security arrangements. There is a need to understand and appreciate (i) the reasons for the existence of informal social security arrangements, (ii) the different kinds of informal social security arrangements, (iii) the role and importance of informal social security arrangements and (iv) the nature of the (current) relationship between informal and formal social security arrangements.

(b) An integrated approach has to bear in mind the need to deal with informal social security in a way that does not destroy the cultural basis of the phenomenon. This view stems from the fact that African people, especially in rural communities, have a strong sense of pride in their own traditions and in the functioning of their communities. They therefore often resist changes which are imposed on them from the outside and which do not evolve from the communities themselves.

(c) Informal social security arrangements cannot be glorified and romanticised as the ultimate medium through which social security needs of the people of the SADC could eventually be met. Countries of the region, at both country and regional level, should make efforts towards the extension of social security (both social insurance and social assistance) coverage. In addition, they should endeavour to – through policies and programmes – address the social and economical needs of the citizens.
(d) Governments in the SADC region need to promote the involvement of informal social security schemes in social security provisioning. This could be achieved through a variety of government interventions which could include among others: (i) training (to improve the managerial skills and investment abilities of members of informal social security schemes); (ii) subsidies (to enhance the financial base of informal social security schemes – particularly those that are focused on the poorest of the poor); and technical assistance (to help informal social security schemes manage risk (e.g. being under-funded and/or over-exposed).

(e) The myth that informal social security effectively replaces government’ and the state’ responsibility to care for its citizens, should be dispelled. Unfortunately, so it seems, this myth is alive and well in many parts of sub-Saharan Africa. It remains inexplicable and inherently unjust and inequitable that the state or a government could set up social security schemes to secure the livelihood of its more well-off citizens, but leave the poor to rely on informal mechanisms of support. Were there to be effective and efficient forms of government support of the informal mechanisms, the position might have been different. In short, the message is clear: governments and the state bear the final responsibility to care for all its citizens and, in fact, to prioritise the needs of the poor.

(f) Linking and integrating informal and formal social security should not be seen as a goal in itself. Unless the integration serves a wider societal and supportive purpose, there would be little justification in embarking on this route.

(g) The process of linking and integrating informal arrangements with the formal social security system should be well-planned, carefully implemented and appropriately monitored.