

## Chapter 2

### The Macro Context: South Africa's Policies

#### 2.1 Introduction

This chapter seeks to provide the historical policy context of South Africa with specific reference to its social, political and economic policies. This macro policy context is important for understanding the micro – individual, household and community livelihoods. This chapter discusses the various post-apartheid policies that have shaped the kinds of livelihoods pursued in the two post-apartheid communities. These policies have either hampered or fostered the creation and sustainability of livelihoods.

It is contended, first, that the country's new **welfare and social policies** have ensured that all races are provided for by the state through social grants. This provision has guaranteed state income for many African households but reduced State grants amount for white, Indian and coloured households who benefited from relatively higher state grant amounts during the apartheid era. These policies have often changed the character, structure and relations of households.

Second, the hard-won **labour rights** entrenched in the Labour Relations Act (LRA) of 1995 and the Basic Conditions of Employment Act (BCEA) of 1996 have had little value for many retrenched, unemployed and casual workers, or for those working in the informal economy. Failure to monitor and enforce labour legislation has left even permanent workers unprotected.

Third, post-apartheid **macro-economic policies** such as the Growth, Employment and Redistribution strategy (GEAR) have had contradictory effects. While they have increase state spending on departments like education and health, they have cut spending on other essentials services through privatisation. Economic liberalisation has resulted in massive job losses in most labour-intensive industries, including the clothing, textile and footwear sectors.

Finally, the right to free association and the right to free movement have yielded positive results for **civil society** in South Africa. This has had the added advantage of consolidating South Africa's democracy.

## **2.2 Social Welfare Policies**

### **2.2.1 *The social welfare net***

States throughout the world have adopted various welfare policies. Esping-Andersen (1996:26-7) identifies the following models of welfare states:

- The “liberal” welfare regime encourages markets through the state, where private welfare schemes are merely subsidised. The examples are the United States, Canada and Australia.
- In the “corporatist” welfare regime, there is less commodification but the granting of social rights is attached to class and status. Examples include France, Austria and Germany.
- The “social-democratic” regime promotes principles of universalism and decommodification of rights. The Scandinavian countries are examples of countries that are “predominantly social democratic but not free of liberal elements”.

Even though Esping-Andersen's model is useful, it is limited in the South African context where elements of all three models exist. The apartheid welfare state had two welfare systems based on race. It attempted to solve the “poor white” problem in the 1920s, and established homelands for African people after the 1940s. This

idea of separate development became a key strategy of the apartheid government. White, Indian and coloured people were entitled to welfare provisions from government (Patel, 1991; Pillay, 1995). It could also be argued that the model does not take into account the specificities and historical role of the African household, which shows a different model of social security based on cheap labour (Wolpe, 1972).

The post-apartheid welfare system, Seekings (2002) argues, is a mixture of private or family transfers, contributory insurance schemes, and non-contributory social assistance (see Table 2.1). There are a number of problems with this welfare system. First, while people have families, it does not necessarily follow that these families are willing or able to help. Second, the problem with social insurance is that only those who are in permanent employment can contribute and benefit from such schemes. The majority of South Africans are unemployed or are not permanent employees who can contribute to such schemes. Van der Berg and Bredenkamp (2002) state that for those covered by these schemes, benefits are often too low to provide effective protection. Lastly, social assistance does not cover vulnerable groups such as those not covered by social insurance.

Barchiesi (2000) contends that South Africa's current welfare regime confirms the characteristics of hyper-commodification. These characteristics are:

- The “residual”, means-tested system of social security;
- A financing system of social benefits based on individual contributions rather than policies of redistribution and cross-subsidisation;
- A very high participation of individual customers who want to access basic social services such as housing and health, whose prices are often increasing; and
- A high level of dependence on the labour market for income.

**Table 2.1: South Africa's welfare system, 2004**

Scheme		Number of Beneficiaries
Family: Private transfers	Unregulated 'insurance'	Not captured in statistic
	Unregulated 'assistance'	2 million mostly poor households receive remittances from other households
	Regulated 'assistance'	Little data on how many people receive maintenance
Market: contributory schemes- social insurance	Pension or provident funds	Over 1 million pensioners receive an income
	Unemployment insurance fund	About 700 000 people benefit per year
State: Non-contributory, social assistance	Old age-pension	Almost 2 million pensioners receive R 740 a month
	Child support grant	More than 1.5 million children receive R 170 a month
	Disability grant	More than 700 000 beneficiaries receive R 740 a month
	Other grants	About 150 000 beneficiaries

*Source: Developed from Seekings, (2002:7)*

Because of its origins in the pre-apartheid era, South Africa's welfare system is identified as exceptional, particularly because of its peculiar economic and political context. The history of welfare provision in South Africa is worth noting. In the early and mid 1900s, pension and other grants for white and coloured workers were introduced. By 1944, pensions were extended to African and Indian workers but with limited levels of benefits. In the late 1960s, inter-racial differentials in benefits were reduced and the real pension value for African workers was increased. Finally, in 1993, inter-racial parity was achieved and pensions were substantially increased. The post-apartheid government continues on this path. It has introduced a deracialised benefit system but allowed benefit levels to decline in real terms (Seekings, 2002:12).<sup>18</sup>

<sup>18</sup> For a historical summary of South Africa's social welfare policies and provisions from 1967-2001, see Appendix 1, which lists Acts, and Provisions of the Department of Social Development, from 1967 to 2001.

In 1994, the Department of Social Development<sup>19</sup> highlighted key challenges faced by the post-apartheid social welfare function: inequitable service provision, fragmentation of the services, and services that failed to meet the development needs of the people.<sup>20</sup> Policies and programmes have been developed to address these challenges.

The Department's key objectives were identified as follows:

- Alleviate poverty through a safety net of social grants to the most vulnerable groups;
- Mitigate the social and economic impacts of HIV/AIDS on poor households and children;
- Reduce poverty through integrated sustainable development;
- Rebuild families and communities through policies and programmes empowering the young, old, disabled people, as well as women;
- Improve the quality and equity of service delivery, the capacity, and governance of the social development sector; and
- Transform the structure, systems, human resources, and and/organisational culture to improve service delivery. (Department of Social Development, 2003).

The total number of social grant beneficiaries for all state grants has increased from 3,2 million in 2000 to 5,8 million in 2003, with state old-age grants and child support having the highest number of beneficiaries (80 per cent of beneficiaries). In many households, these social grants are the only source of income. In 2002-2003, three provinces – KwaZulu-Natal, Eastern Cape and Limpopo – accounted for 55,5 per cent of the total number of beneficiaries of social grants. This is not surprising given that these are the three poorest provinces in South Africa. KwaZulu-Natal has the highest intake in the country (23,15 per cent), while Northern Cape has the lowest rate of intake (2,39 per cent) (Department of Social

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<sup>19</sup> The Department was renamed in July 2000. It was previously known as the Department of Population and Social Welfare.

<sup>20</sup> Cited from the Department's website, 2004/02/05, [www.welfare.gov.za](http://www.welfare.gov.za).

Development, 2003).

The state old-age pension grant has a long history in South Africa. The amount provided varied according to race, with African pensioners receiving less than their counterparts. Through various amendments since 1994, all South African men from 65 years and women from 60 years were to register and receive equal pension grants; at the time of writing, this amounts to R740 per pensioner per month. The number of state old-age pension grants has increased from 566 202 in 1987 to 2 million in 2003 (Department of Social Development, 2003).

The temporary and permanent disability grant benefits those with permanent physical or mental disability, as well as tuberculosis patients who are unable to work and people with AIDS. The monthly payment is R740 per individual (see Table 2.2). The increasing number of AIDS patients and HIV infections in South Africa could put a strain on this grant. There has also been a problem with people who are classified as temporarily disabled but who receive the grant indefinitely.

The child support grant was first initiated in 1997 following the recommendations of the Lund Committee. It suggested the abolition of the old state maintenance grant, which was R350 to all children until the age of 18 years (Lund Committee, 1996). The outcome was the establishment of a child support grant for children under the age of seven. On behalf of their children, mothers or primary caregivers received R100 per month; the grant has since been increased to R170. To date, 2,7 million children have been registered for the child support grant, and efforts are being made by government to increase this figure. In 2003, government approved the extension of the child support grant from seven-year-old children to fourteen-year-olds. These children will be registered between 2003 and 2006.

However, the new child support grant has been criticised for creating a dependency on the state and for the increase in pregnancy rates, especially teenage pregnancies. The thesis will argue that such state transfers are limited in terms of redistribution and reducing inequalities in South Africa. These grants tend to be

survivalist in nature, keep people in poverty and often are a source of conflict in households between men and women and between young women and their parents.

More broadly, the child-support benefit system shifts the maintenance system policy away from the state to the individual, and assumes that individuals have the income to maintain their children and that the individual wants to pay the necessary maintenance (Khunou, 2004). In fact, evidence has shown that government's efforts have been directed more to enforcement because many individuals, usually men, default on their children's maintenance payments. Khunou (2004) states that there are a number of reasons why men default, including paternity issues, unemployment, lack of stringent state enforcement mechanisms, and poor relationships between mothers and fathers.

**Table 2.2: Social grants, details and amounts, 2003-2006**

Social Grant	Details	Amount
State old-age pension	Men over the age of 65 Women over the age of 60	R740
Disability grant	Permanent disability (physical or mental) Temporary disability (TB patients, unable to work, AIDS patients)	R740
Child-support grant	Children under the age of 8 years (2003/2004) Children under the age of 10 years (2004/2005) Children under the age of 14 years (2005/2006)	R170

*Source: Department of Social Welfare (2003)*

Government expenditure on social services has been increasing since 1995. In 1995/1996 total expenditure on social services was 46,7 per cent of total government expenditure, and in 2000/2002 it was 47,7 per cent. In 2003, social security and welfare expenditure was at 12 per cent of government's total expenditure (increasing from 6,9 percent in 1990/1991). A greater proportion of the money has been spent on the poorest provinces such as Eastern Cape and

Northern Cape (see Table 2.3). The bulk of the welfare budget has been spent on the payment and administration of state grants (see Table 2.4). For example, in 2003, from a total budget of R650 251 million, 70 499 million was spent on grant systems and administration.

**Table 2.3: South Africa's welfare budget per province, 1998-2003**

Province	1998/99	1999/00	2000/01	2001/02	2002/03
	(R'000)	(R'000)	(R'000)	(R'000)	(R'000)
Eastern Cape	617	609	616	569	R541
Free State	470	450	459	442	R415
Gauteng	333	327	329	323	R318
KwaZulu-Natal	505	478	446	444	R419
Mpumalanga	411	405	394	384	R375
Northern Cape	855	329	720	690	R659
Limpopo	434	457	465	429	R417
North West	413	416	417	391	R376
Western Cape	599	557	533	504	R489

Source: Samson (2000)

**Table 2.4: Department of Social Development Budget, 2001-2004**

Programme	2001/02	2002/03	2003/04
	(R'000)	(R'000)	(R'000)
Administration	43 105	150 242	65 523
Social security, policy and planning	5 410	7 348	11 259
<b>Grant systems and administration</b>	<b>2 104 253</b>	<b>79 217</b>	<b>1 358 619</b>
Welfare service transformation	10 096	13 061	17 381
Development implementation support	73 227	391 178	657 999
Population and development	6 066	9 205	12 417
Special function	2 242 157	-	-
<b>Total Budget</b>	<b>2 242 157</b>	<b>650 251</b>	<b>2 123 198</b>
<b>Total Expenditure</b>	<b>2 235 292</b>	<b>639 424</b>	<b>2 107 118</b>

Source: Department of Social Development Annual Reports, 2000, 2001, 2002, 2003, and 2004



## 2.2.2 The crisis of poverty and inequality in South Africa

Even though there has been such a radical increase in social welfare over the years, the majority of poor households depend solely on these state transfers. Poverty and inequality have not been reduced in South Africa. In 2002, 21,9 million (48,5 per cent) of South Africans fell below the national poverty line of R354 per month. The majority of those were African women, and Eastern Cape was the poorest province (see Table 2.5).

**Table 2.5 South Africa's poverty rate and poverty gap, 2002**

	Rate* (%)	Gap** (%)
<b>South Africa</b>	<b>48,5</b>	<b>18,9</b>
Male	45,9	17,8
Female	50,9	18,2
African	56,3	21,5
Coloured	36,1	11,6
White	6,9	2,4
Indian	14,7	4,4
Western Cape	28,8	8,5
Eastern Cape	68,3	27,9
Northern Cape	54,4	19,6
Free State	59,9	20,3
KwaZulu-Natal	50,5	18,9
North West	56,5	21,9
Mpumalanga	54,8	20,0
Gauteng	20,0	7,9
Limpopo	60,7	23,5

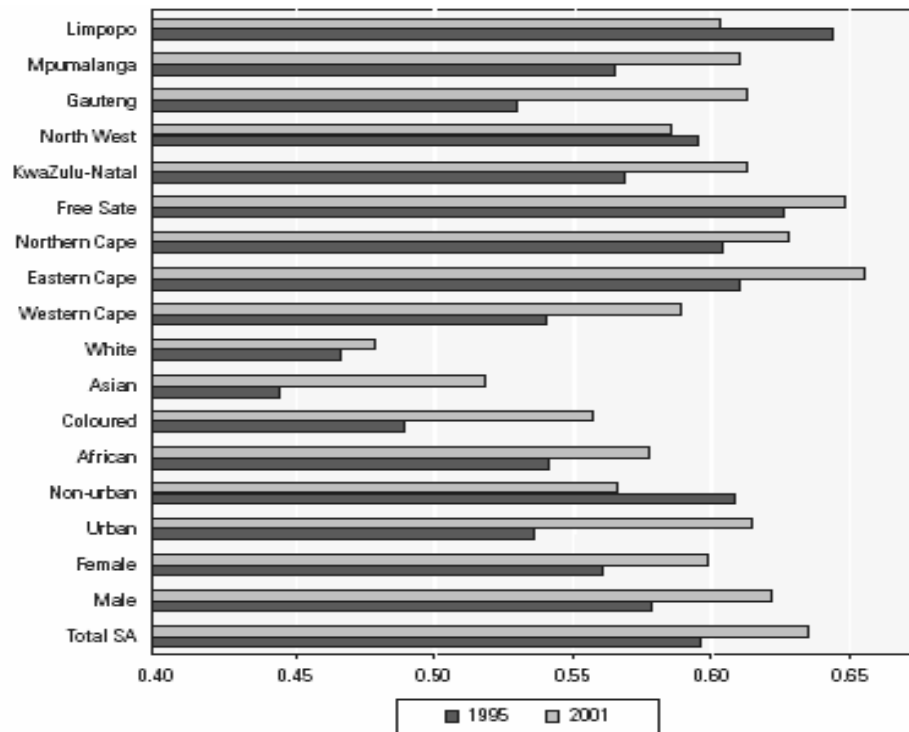
Source: UNDP (2003), Adelzadeh (2003).

\*Rate is the percentage of the population below the national poverty line of R354 per month per adult equivalent in 2002.

\*\*Gap is the mean shortfall below the poverty line, expressed as a percentage of the national poverty line.

In post-apartheid South Africa, income inequality has increased. Between 1995 and 2001 the Gini coefficient<sup>21</sup> rose from 0,596 to 0,635. Race and gender continues to shape income poverty and inequality. In the white community the Gini coefficient was 0,457 in 2001 but as high as 0,558 among Africans. Compared to men, women seem to be doing much better in terms of income inequality. The Gini coefficient for men in 1995 was 0,558 and in 2001 it rose to 0,607. For women, the Gini coefficient was 0,552 in 1995, rising to 0,600 in 2001. The provinces that had the highest income inequalities in 2001 were Eastern Cape (0,651), Free State (0,608) and Northern Cape (0,605). (See Figure 2.1.)

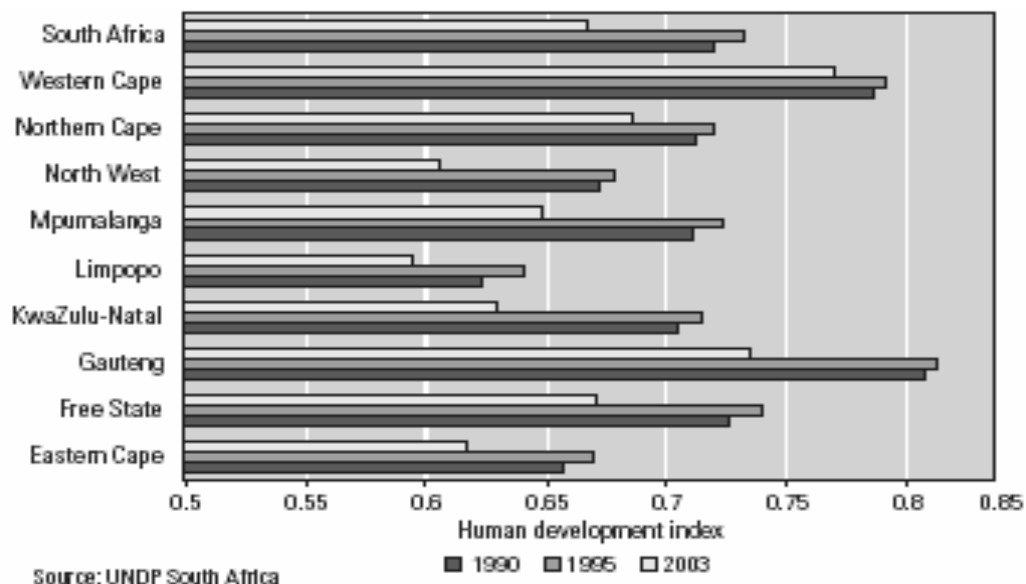
**Figure 2.1: South Africa's Gini coefficients, 1995 and 2001**



<sup>21</sup> A measure of income inequality and wealth equality between and within countries. A number between 0 and 1 is given, where 0 represents perfect equality and 1 corresponds with perfect inequality.

South Africa's Human Development Index (HDI) has also been declining.<sup>22</sup> In 1990 the index was 0,72, in 1995 it moved to 0,73 and declined to 0,67 in 2003 (see Figure 2.2). Indeed, in South Africa between 1985 and 1994, life expectancy at birth has been estimated at about 54,12 years for males and 64,38 for females. Between 1995 and 2002, the overall life expectancy declined by 16,3 per cent, from 61,4 to 51,4 years. It is estimated that, by 2015, average life expectancy could fall by more than 30 per cent relative to 1996.<sup>23</sup> There is an obvious difference between the life expectancy of Africans and other racial groups. In 2001, the life expectancy of Africans was eighteen years lower than that of whites – that is, 51 compared to 69 years. The major cause of this decline is the HIV/AIDS epidemic (StatsSA, 2001a; UNDP, 2003).

**Figure 2.2: South Africa's Human Development Index (HDI) by province, 1990-2003**



<sup>22</sup> This is a UNDP index that measures a country's average life expectancy at birth; the adult literacy rate and standard of living is measured by GDP per capita. The index can have a value between 0 and 1. Countries with an index over 0.800 are part of the High Human Development group. Between 0.500 and 0.800, countries are part of the Medium Human Development group and below 0.500 they are part of the Low Human Development group.

<sup>23</sup> Forecast from the Actuarial Society of South Africa (ASSA) (2000) model.

The number of poor households is increasing. Measuring by household income, Everatt (2004) argues that, in 1999, 22 per cent of households reported that they were going hungry due to lack of money to buy food. In fact, 60 per cent of the poor are without any social security transfers. It is argued that the uptake of old-age pensions and child grants is dropping significantly. The Department of Social Development has reported that 36,6 per cent of the poverty gap<sup>24</sup> could be filled if the uptake of transfers was increased. However, even “full-take” would not solve the whole problem; some five million people living in poor households would still not be covered since they are ineligible for any state transfer, making these state transfers inadequate in dealing with poverty and inequality.

This thesis argues that gender issues and relations are neglected in the way that South Africa’s state transfers are distributed. Men have been traditionally referred to as heads and providers of their households but are only included in social and welfare systems when they are 65 years of age. This means that they lose their role as household providers when they become unemployed and might regain it when they are 65 years. Unemployed women, on the other hand, are able to receive state transfers via child-support grants and when they are 60 years of age. This radically changes household dynamics since women assume a new role as providers and men feel insecure. While there is no causal link between domestic violence and changes in household income distribution, changing household income distribution has tended to influence many household conflicts.

Therefore, similar to the livelihood framework, in South Africa’s social and welfare policy framework poor people remain poor and all state transfers do is to help people get by; living from hand to mouth. South Africa’s current social and welfare policies are not aimed at real transformation, redistribution and eradication of poverty. Nevertheless, they reinforce consensual politics, especially within households. However, investment in human capital by government on education, health and housing can be seen as redistributive and a different kind of

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<sup>24</sup> It is estimated that in 1999 the poverty gap in South Africa was 12.8 billion rand (Bhorat, 2002).

transfer. For example, expenditure on education increased by 10,3 per cent from 1995 to 2002 – that is, from R31,1 billion to R59,6 billion. Yet, the percentage decreases to 1 per cent when calculated in real terms, taking inflation into consideration. South Africa's education system has also been transformed since 1994 with the creation of a single national Department of Education, the creation of a non-discriminatory school environment, progressive laws and policies that govern education such as the National Qualifications Framework (NQF), the resulted increases in matriculation pass rates, the amalgamation of Further Education and Training (FET), the successful delivery of learning materials to schools such as textbooks, and higher enrolment rates (UNDP, 2003).

In health, the government budget increased from R14,5 billion in 1995 to R16,9 billion in 2002. Access to health care has had positive outcomes for life expectancy and rates of infectious disease. Yet, there has also been a significant rise of tuberculosis rates and HIV infections, both undermining the country's health-care delivery. The roll-out of free health care to all children under the age of six and the recent government announcement of the intention to roll out anti-viral drugs and the establishment of a single health national body have contributed to the improvement of effective health-care delivery. However, infrastructure backlogs because of apartheid have undermined effective health-care delivery (UNDP, 2003).

According to the Department of Housing, 1,5 million houses were built between 1994 and June 2003. New housing policies such as the Housing Act of 1997 were passed, that recognised the need for restitution, development and delivery. Between 1997 and 2001, there was a 7 per cent increase in the proportion of households living in formal dwellings. However, there were still huge backlogs of about 3 million houses in 2000. Concerns were also raised about the poor quality and small size of houses built (UNDP, 2003).

In the last decade, social protection and security in South Africa has changed in an attempt to be inclusive of all the country's citizens and to respond to the global

and local social, economic and political changes of its society. Its protection system is largely defined around social insurance, benefiting those with formal and permanent employment.<sup>25</sup> The social assistance system has largely been limited to social grants for the elderly, children and AIDS sufferers.<sup>26</sup> Following, the Lund Committee's recommendation, the rollout of the new child-grant benefit was initiated. Between 2000 and 2003 the number of children receiving the state grant has more than doubled (see Table 2.6).

**Table 2.6: Trends in number of social-grant beneficiaries, 2000-2003**

Type of grant	Number of beneficiaries			
	April 2000	April 2001	April 2002	April 2003
Old age	1 848 726	1 882 188	1 936 553	2 009 419
Disability	607 537	631 758	714 019	953 965
Child support	348 532	1 078 884	1 574 927	2 630 826

*Source: Department of Social Development (2003)*

However, the take-up of child grants was below expectation because of various difficulties:

- Difficulties obtaining the required documentation, such as identity documents, birth and death certificates, and doctors' certificates;
- Problems of availability and cost of transport;
- Overloaded and unmotivated civil servants and social workers;
- Long queues and poor service in some government departments (Defilippi, 2003);
- Lack of information and general illiteracy problems; and
- General corruption in some government departments.

Besides these problems, state grants have been riddled with other problems of access. For example, a household that depends solely on the state pension grant is left without any income when the pensioner passes away. The phasing in of the

<sup>25</sup> For example, the Unemployment Insurance Fund.

<sup>26</sup> The problem is compounded by the lack of national data on AIDS orphans.

child grant excludes children who fall out of the set age limit. A child, who has been receiving a state grant for a number of years suddenly, does not receive anything because he is over age; he is still poor and has no income. It is often assumed that for some children who do not qualify for a grant, private maintenance is in place. Indeed, while private maintenance is made possible by the progressive Maintenance Act No. 99 of 1998, because it substantially improves the position of mothers dependent on child support from their former partners (Hassim, 2003), South Africa's reality of high unemployment and poverty means this assumption and the provisions of the Act are inadequate for the majority of women and children (Bell, 2004; Mashao, 2004; Mills, 2004; Moyo, 2004).

Discussed next is South African's labour legislation, using two examples. While these seem progressive, they are unable to protect all workers because of the failure of implementation, the exclusion of certain categories of workers, and loopholes in the legislation.

## **2.3 Labour Market Policies**

### **2.3.1 Introduction**

Apartheid labour market policies were meant to protect white workers and to exclude African workers. Casual, domestic and contract workers were also not protected, and the majority of them were African workers. The new Labour Relations Act (LRA) replaced the original Industrial Conciliation Act of 1924 in 1995, and the Basic Conditions of Employment Act of 1997 replaces the old Shops and Offices Act and the Factory, Machinery and Building Works Act. The establishment in 1995 of a multiparty forum – the National Economic Development and Labour Council (NEDLAC), consisting of labour, government, business and communities – is evidence of South Africa's commitment to social dialogue and democratic policy processes. The main legislation that has come out of this forum is the 1995 Labour Relations Act. The Act itself was based on a

corporatist model, allowed for conflict and encouraged dispute resolution.

Below is a discussion of both the Labour Relations Act and the Basic Conditions of Employment Act. The discussion of the two acts is important in the thesis for two reasons. First, the thesis needs to identify unemployed or retrenched workers, and ask them how the legislation has or not improved their conditions. Second, it is important to understand the role that the South African government's policy framework plays in people's livelihoods.

### **2.3.2 The Labour Relations Act of 1995**

The Industrial Conciliation Act of 1924 extended rights to all workers, excluding African workers. However, after the 1979 reforms proposed by the Wiehan Commission, labour rights were extended to African workers but excluding domestic workers, farm workers and government employees. The original name, Industrial Conciliation Act of 1924, was changed to the Labour Relations Act of 1979. The new Labour Relations Act (LRA) replaced it in 1995.<sup>27</sup> Employers, employees and government through NEDLAC negotiated the new LRA. It aimed to advance economic development, social justice and democratisation in the workplace. Its key features were:

- Workplace forums, whose aim was to encourage information sharing in workplaces;
- Bargaining councils and the right to strike, which acknowledged that employers and employees have different interests and gave workers a possibility to strike;
- The Commission for Conciliation, Mediation and Arbitration (CCMA), whose purpose was to resolve conflict in workplaces in a harmonious manner;
- The Labour Court, as a conflict-resolution institution; and

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<sup>27</sup> In 2001, amendments were made to both the Labour Relations Act and Basic Conditions of Employment Act. The labour movement welcomed some amendments but disputed others that they argued were an attempt by government to roll back workers' rights and the victory of workplace democracy. Business argued that the amendments were inadequate and that workers still had too much power. However, through the Millennium Labour Council and NEDLAC processes, discussions on "labour market efficiency and labour standards" were held between labour and business and a compromise was reached (*Sunday Times*, 3 March 2002).



- Rules of dismissal, to protect all workers from unfair dismissal.

The main purpose of the Act was to give rights to all workers, including casual and contract workers. Excluded were members of the defence force, the police and the national intelligence services (RSA, 1997).

### **2.3.3 *The Basic Conditions of Employment Act of 1997***

The Basic Conditions of Employment Act of 1997 replaces the old Shops and Offices Act and the Factory, Machinery and Building Works Act. It deals specifically with minimum conditions of employment, including an employee's right to annual leave, sick leave and maternity leave. It introduced a 45-hour working week and details the rate of pay for overtime and public-holiday work. Its aim is to impose minimum conditions of employment on employers and to protect employees from malpractice by employers. Employers who are found guilty of contravening these minimum conditions may be prosecuted.

The Act is especially meant to protect those workers who are not covered by the scope of collective bargaining and who do not have trade unions; this includes domestic workers, farm workers, contract workers and casual workers. The Act states that employers and employees can agree to variations in the Act. It recognises that all workers in all sectors (formal and informal workers) need to be protected by legislation. It also recognises that the majority of those working in the informal sector are particularly vulnerable since they do not have trade unions to protect them from malpractice by employers. However, the fact that the Act provides some space for variation is cause for concern for most workers in the informal sector.

In sum, regardless of the gains made by South African labour to ensure that workers are protected and their employment and income secure, the rising unemployment and atypical work has meant that many people are vulnerable and

not protected by the legislation. Those working in the informal economy and casual or part-time workers are excluded. Because of labour market flexibility and workplace restructuring, the labour legislation continues to protect only a fraction of South Africa's labour force, excluding the majority of people in Enhlalakahle and Mpumalanga townships.

Progressive new labour legislation was passed to protect all workers regardless of their race. Democracy became the order of the day in workplaces. Both the LRA and the BCEA signalled a new era in South African workplaces. Workers now had a right to join or form a union, worked a specific number of hours a week, and had the right to collective bargaining.

These hard-won rights were soon eroded, with many workers losing their jobs through retrenchments, factory closures and relocations. The impact of trade liberalisation with intense international competition was felt mainly in the clothing, textile and footwear sectors, and resulted in companies taking radical restructuring decisions. The result was a decline in the sectors and high unemployment levels in former industrial zone areas that were dependent almost exclusively on these sectors for employment. Therefore, many were unemployed or hired as casual workers or moved to the informal sector, and were not protected by the labour legislation (Oliver, 2000). The majority of these vulnerable workers were women, given that the sectors were "women sectors". New entrants in the labour market were also mainly employed in the informal economy where labour legislation is non-existent.

Therefore, not all labour legislation is an asset for the poor, as suggested in the livelihoods capital framework. Working in the informal sector is in most instances simply a survival method, and those working in the sector cannot escape their poverty, living, as mentioned in most interviews, from "hand to mouth". The sector replicates their marginality and vulnerability in the labour market. Both income and unemployment insecurities are rife.

Employers deliberately evaded the labour legislation by establishing organisations such as the Confederation of Employers of Southern Africa (COFESA), for greater flexibility in the labour market. COFESA converts contracts of employment into contracts for service without altering the employment relationship. Therefore, many workers become into “independent contractors”, which allows the employers to evade the collective bargaining councils and agreements with unions regarding minimum wages and conditions of employment. COFESA was registered as a confederation in 1990 with the Department of Labour. The organisation, which claims to represent some 120 000 employers, estimates that it has assisted large and small 6 000 businesses to change 300 000 workers into contractors. The organisation says that businesses that have changed to this concept have increased their productivity up to 60 per cent (Mosoetsa, 2001a; Skinner & Valodia, 2002).

#### **2.3.4 Labour law review**

In 1999, the Department of Labour launched a review of the legislation. It was sparked by concerns from both labour and employers. The review concluded that the legislative framework was correct and the labour market policy was sound, but that key amendments were necessary (see Table 2.7). The objectives of such amendments were:

- Increase the sensitivity of the legal framework to the imperative to create jobs;
- Address unintended consequences of some provisions of the laws;
- Improve the application of the laws; and
- Ensure the effective alignment of the laws with the changing labour market environment.

Labour, particularly the Congress of South African Trade Unions (COSATU) argued that these amendments were a rollback of core worker rights. The federation saw these amendments as government’s strategy to:

- Turn Sunday into an ordinary working day, with no premiums such as double time or time and a half;
- Give the Minister of Labour the power to vary downwards all rights, including

core rights in the Basic Conditions of Employment Act;

- Extend employees' probationary employment period from three to six months and give employers the right to dismiss probationary workers easily;
- Enable employers to extend the working week beyond the present 45 hour maximum;
- Allow the Minister to refuse to extend collective agreements reached at the Bargaining Councils until all employers, in particular small businesses, have been consulted; this would allow one maverick employer to sabotage an agreement;
- Ignore COSATU's demand for the ANC to honour its 1999 election manifesto commitment to change the Labour Relations Act, in order to introduce compulsory negotiations in case of retrenchments (COSATU, 2000b).

**Table 2.7: Summary of selected Labour Law Amendments 2002: LRA and BCEA**

<b>Labour Relations Act of 1996, amended 2002</b>	
Section 189 - Retrenchments	Employer to submit written notice of the number of employees employed and those who will be retrenched 12 months in advance
Section 189(a) - Retrenchments	Employees have a right to contest the retrenchment notice and retrenchment negotiations should take place for 60 days
Section 197 - Insolvency/transfer	Before a business is sold, agreement on employees' leave and severance pay must be reached. Employees have to see the written agreement.
Section 197(b) Disclosure of information	A copy of any liquidation application to be made to employees within 2 days or 12 hours, depending on the urgency of the application.
<b>Basic Conditions of Employment Act of 1996, amended 2002</b>	
Insolvency	Insolvency is a dismissal and severance pay has to be paid to employees by the Estate as a preferential claim. Employees' contracts are suspended but not terminated until the 45-day rescue period has expired.
Overtime	Overtime to be increased to 10 hours per week, and a maximum of 12 hours of work per day. Sunday remains on double pay or time off.
Pension, medical, provident, retirement funds	All funds are to be paid over to the fund within 7 days of the deduction.

Source: Department of Labour, 2002

South Africa's current labour legislation is indeed a radical departure from the old, repressive legislation. The new legislation includes all workers regardless of their race, acknowledges the inherent conflict that exists between employers and employees and has introduced measures to manage it, acknowledges labour as an important actor in industrial relations, encourages dialogue between employers and employees, and recognises trade unions as legitimate representatives of workers' interests. However, the new legislation has limitations. In the South African context where the majority of people are unemployed or working in the informal economy, such progressive legislation is not able to protect that majority. Moreover, some of those working as permanent workers, who are suppose to be protected by the legislation, are not protected because some employers deliberately evade the law or the law is not enforced by government and trade unions.

## **2.4 Economic Policies**

### **2.4.1 From RDP to GEAR**

From the 1930s, the economic development of apartheid South Africa was led by heavy state intervention. Local industries were protected through import substitution industrialisation sustained by import tariffs and incentives. Domestic demand was improved by high wages. In the short term, the local manufacturing sector was developed. In the 1940s, the model of South Africa's economic growth was similar to the global developments of fordism (mass production and mass consumption) but was racial in character – the white population and not the majority of the African population benefited (Gelb, 1991; Kraak, 1996). Mass consumption was hindered by state intervention, a dual labour market where only white South Africans benefited from the welfare state and protective labour legislation, which excluded African workers (Joffe, Maller & Webster, 1995).

Furthermore, “the crisis of racial fordism was in a large part a product of its apartheid-based mode of regulation and drastic skill shortages, declining productivity, a worsening balance of payments, weaker exchange rates, rising

inflation, and increasing racial and class conflict” (Klerck, 2001). This and the global crisis of capitalism in the 1970s forced the South African government to reconsider its demand-side policies. In the 1980s, the South African government started to withdraw from the economy and shifted towards neo-liberal policies – privatisation, trade liberalisation, and greater flexibility of the labour market (Bezuidenhout, 2001).

In 1994 South Africa became a signatory of the Marrakech Agreement of the General Agreement on Tariffs and Trade (GATT). This marked the beginning of trade liberalisation in the country in accordance with the World Trade Organisation (WTO). The agreement was that South Africa would:

- Reduce the number of tariff lines by 15 per cent in the first year and by 30 per cent or higher at the six-digit level by the end of the Offer period in 1999;
- Phase out export subsidies, the General Export Incentive Scheme, by the end of 1997;
- Lower all agricultural tariffs by a minimum of 15 per cent individually and by 21 per cent on average;
- Reduce agricultural subsidies by an export-weighted amount of 36 per cent; and
- Make special provision for the “sensitive” industries of textiles, clothing and motor vehicles, which were given eight years to reach the binding rates.

South Africa unilaterally decided to reduce the number of tariff rates substantially from a multitude to six: 0 per cent, 5 per cent, 10 per cent, 15 per cent, 20 per cent and 30 per cent, with the exception of sensitive industries (Tsikata, 1999). This was done despite the identified potential for a “negative impact on the industries concerned and the failure to formulate adequate supply side policies in place prior to liberalisation” (Fine, 1997:40). The reduction of tariff barriers in South Africa fell rapidly from 41,2 per cent in 1995 to 28,9 per cent in 1999 (*Mercury Business Report*, 13 November 1997). According to the Minister of Trade and Industry, Alec Erwin, government policy decisions, such as those to reduce tariffs, “were

centrally geared towards responding to domestic needs and efforts towards restructuring and enhancing global competitiveness of its industries and the economy” (*Business Report*, 15 October 1999). Therefore, the need to respond to international pressure has propelled the South African government to reduce its tariffs.

In 1996, South Africa adopted the WTO’s trade liberalisation recommendations through its macro-economic policy, the Growth, Employment and Redistribution strategy (GEAR). GEAR’s main aims were to achieve:

- A competitive, fast-growing economy which would create sufficient jobs for all;
- Redistribution of income and opportunities in favour of the poor;
- A society in which sound health, education and other services are available to all; and
- An environment in which homes are secure and places of work are productive (Department of Finance, 1996:1).

Through GEAR, the government projected that by 2000 a range of targets would be met to achieve real economic growth (see Table 2.8). Key focus areas were identified and targets were set, as follows:

- Job creation and improved growth rate: It was estimated that 400 000 jobs per year would be created and that there would be a growth rate of 6 per cent by 2000. This was to be achieved through the promotion of small and medium enterprises, land reform and export-led growth.
- Government expenditure on public services would be decreased and a restructuring process would take place.
- Government would use privatisation to reduce government expenditure. Government would also embark on partnerships with the private sector.
- Job creation would be achieved through labour market flexibility.

There would be tax reductions and exemptions to stimulate new investment.

There would be a reduction in debts and tariff. The lowering of tariffs was seen as

desirable within the context of an “orderly implementation of agreed tariff realignment”. Hence, “trade and industrial policies will seek to enhance the competitive capacity and employment absorption of manufacturing” and “promote an outward-oriented industrial economy” (Department of Finance, 1996:13). This could be achieved by “shifting away from demand side interventions (tariffs and subsidies) to supply side measures to lower unit costs and expedite progress up the value chain” (Department of Finance, 1996:12).

**Table 2.8: Projected and actual targets of GEAR, 1996-2000**

	1996		1997		1998		1999		2000		Average	
	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
	%	%	%	%	%	%	%	%	%	%	%	%
Percentage of Employment growth, non-agricultural formal jobs	1,3	-1,1	3	-2	2,7	-3,8	3,5	-2,1	4,3	N/a	2,9	-2,25
Number of new jobs (x 1000)	126	-58	252	-103	246	-194	3,5	-2,1	4,5	n/a	2,9	-2,25
Percentage of real export growth, manufacturing	10,3	59,7	12,2	6,3	8,3	0,0	10,5	6,7	12,8	n/a	10,8	18,2
Budget deficit % of GDP(fiscal year)	5,1	4,6	4	3,8	3,5	2,3	3	2,4	3	2,6	3,7	3,1
Real interest rate	7	12,6	5	10,4	4	15,85	3	10	3	n/a	4,4	12,3
Average real wage growth, private sector	-0,5	1,7	1	2,3	1	8,7	1	2,3	1	n/a	0,8	2,1
Average real wage growth, public sector	4,4	0,9	0,7	3,5	0,4	2,7	0,8	-2,1	0,4	n/a	1,3	1,25
Real public investment growth	3,4	5,3	2,7	4,4	5,4	2,6	7,5	-5,4	16,7	n/a	7,1	1,8
Real private sector investment	9,3	7,4	9,1	4,7	9,3	-2,9	13,9	-4,4	17	n/a	11,7	1,2
GDP growth	3,4	4,2	2,9	2,5	3,8	0,6	4,9	1	6,1	3,5	4,2	2,4
Inflation (CPI)	8	7,4	9,7	8,6	8,1	6,9	7,7	5,2	7,6	5	8,2	6,6

Source: COSATU (2000a:85).



GEAR was criticised for shifting away from the Reconstruction and Development Programme (RDP) (ANC, 1994), a strategy meant to place government at the centre of meeting people's basic needs (Lehulere, 1999; Ruiters, 2002). A "policy reversal" away from the RDP to GEAR, it is argued, made the possibility of redistribution and redress rather difficult. While RDP advocated "growth through distribution", GEAR proposed the reverse. The RDP's emphasis on poverty eradication was to be achieved through a "state interventionist approach" rather than a "free market approach".

Labour argues that labour flexibility has not created jobs but has promoted a long-term downward trend in wages through casualisation, subcontracting and retrenchments. As Barchiesi (1999:30) correctly states, labour-market flexibility leads to three levels of crisis:

- Reduced consumer demand, because unemployment and shrinking fiscal redistribution will lead to a crisis of social integration;
- A crisis of social mediation could emerge as a result of "weaker and less consistent organisational capacities of labour as an institutionalised actor"; and
- The fragmentation of the working class as a union constituency and the decentralisation of collective bargaining could lead to a crisis of social institutionalisation.

These criticisms were not misplaced. Between 1996 and 2000, GEAR failed to meet its targets (see Table 2.8). This economic strategy did not yield any jobs; rather, because of privatisation, restructuring of the public sector and trade liberalisation, jobs were lost due to retrenchments. The envisaged export-led growth did not materialise, as most local companies were unable to compete internationally because of the legacy of apartheid.

The South African government has rejected claims of a policy reversal, arguing that GEAR's macro-economic policies are proposed in the macro-economic prescriptions of the RDP and *Ready to Govern* (ANC, 1992). It is argued that this

could also be traced back to “a 1990 joint ANC-COSATU document entitled ‘ANC and COSATU: Recommendations on Post-Apartheid Economic Policy’”. That document recognised the “importance of international competition in products, and the need to make South African production more competitive”. While the tide seems to be turning for South Africa’s economy, this has not meant real job creation and reduced poverty levels. Indeed, the majority of South Africans are still poor and unemployed.

#### **2.4.2 *The crisis of unemployment in South Africa***

While it was hoped that GEAR would create an average increase of 2,9 per cent of jobs by the year 2000, the opposite has happened. In 2004 the major concern for South Africa is rising unemployment. Unemployment statistics from 1994 to 2004 show that the official or strict unemployment rate increased from 20 per cent in 1994 to 27,8 per cent in 2004. When looking at an expanded definition of unemployment, the figure rises from 31,5 per cent in 1994 to 41,2 per cent in 2004 (see Table 2.9).<sup>28</sup>

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<sup>28</sup>A strict definition of unemployment only includes people within the economically active population who (a) did not work in the seven days prior to census night, (b) wanted to work and were available to start work within a week of census night, and (c) had taken active steps to look for work or start some form of self-employment in the four weeks prior to census night. A broader definition includes the entire economically active population.

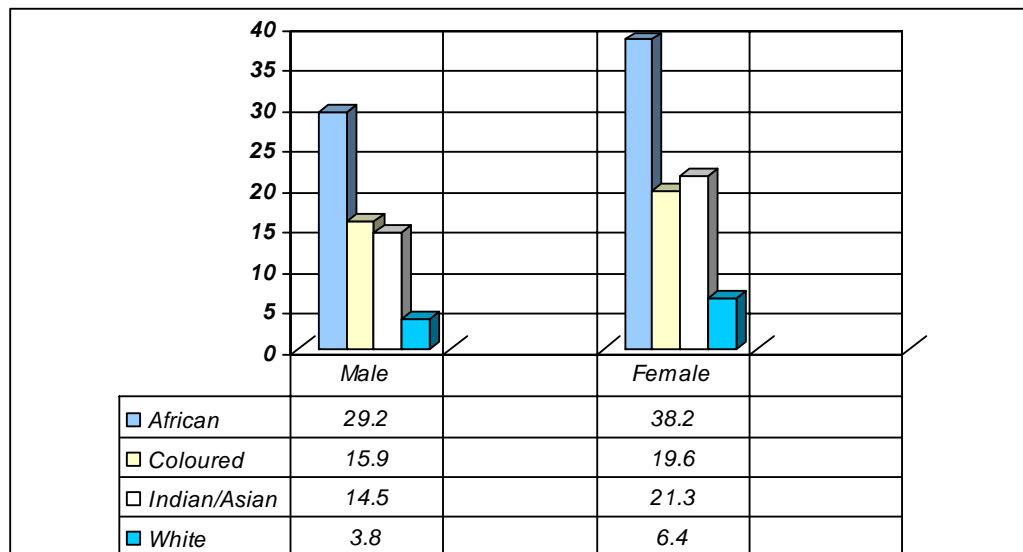
**Table 2.9: Unemployment in South Africa, 1994-2004**

Year	Unemployment	%
1994	Official definition	20,0
	Expanded definition	31,5
1996	Official definition	21,0
	Expanded definition	35,6
1998	Official definition	26,1
	Expanded definition	38,6
2000	Official definition	25,8
	Expanded definition	36,9
2002	Official definition	30,5
	Expanded definition	41,8
2004	Official definition	27,8
	Expanded definition	41,2

*Source: Statistics SA, October Household Surveys 1994-1998; Labour Force Surveys, 2002-2004.*

South Africa's unemployment statistics reflect and perpetuate the racial and gender inequalities of its society. The majority of those who are unemployed are African women. In 2004, when the unemployment rate was at 41,2 per cent, more than half of those were African. In comparison to other racial groups, for example, there was only 3,8 per cent unemployment among white men and 6,4 per cent among white women (see Figure 2.3). Such racial and gender segmentation of South Africa's labour market is intensified by the rising non-standard forms of employment in South Africa (Kenny, 1999; Bezuidenhout, Godfrey, Theron & Modisha, 2004). This is a division of workers into a core of "insiders" (permanent workers with rights, better wages and benefits, access to training, etc.) and a periphery of "outsiders" (vulnerable workers – casual, temporary, subcontracted, etc. – with fewer rights, reduced wages and conditions, and little job security) (Kenny & Webster, 1999:238).

**Figure 2.3: Unemployment rate (official definition) by race and gender, 2004**



Source: Labour Force Survey, StatsSA (2004)

There is a general decline in the number of those employed in the formal economy as compared to those in the informal economy. Between 1990 and 2004, the number of those working in the formal economy declined by almost a million workers, while the number of those working in the informal economy rose by two million (see Table 2.10). In addition, the majority of those who are unemployed are located in rural areas and in poor provinces. For example, in 2004 it was estimated that the provinces with the highest unemployment rate were Eastern Cape (32,5 per cent), KwaZulu-Natal (32,2 per cent), Limpopo (30,9 per cent) and North West (30,4 per cent) (StatsSA, 2004).

**Table 2.10: Formal and informal employment, 1990-2002**

Year	Formal Employment	Informal Employment	Total Employment
1990	8 362 677	1 742 754	10 105 431
1991	8 268 706	1 796 290	10 064 996
1992	8 143 003	1 895 990	10 038 993
1993	8 043 241	2 093 317	10 136 558
1994	8 010 634	2 330 791	10 341 425
1995	7 911 406	2 579 809	10 491 214
1996	7 945 181	2 807 452	10 752 633
1997	7 852 275	2 992 547	10 844 822
1998	7 716 484	3 187 838	10 904 322
1999	7 539 859	3 357 241	10 897 100
2000	7 410 982	3 465 367	10 876 350
2001	7 346 610	3 539 634	10 886 245
2002	7 351 135	3 545 284	10 896 420

Source: UNDP, 2004, cited in Bezuidenhout, Godfrey, Theron and Modisha (2004)

Unemployment, retrenchments and changing employment contracts from full-time to part-time or casual have meant income insecurity for many individuals and their families. It has also had a direct impact on union membership. Between 2000 and 2003 both union membership and the number of registered trade unions decreased (see Table 2.11). Furthermore, casual or subcontract or part-time workers and those working in the informal economy have remained largely unorganised.

**Table 2.11: Number of registered trade unions and their membership levels, 2000-2003**

Year	Registered trade unions	Membership
2000	464	3 552 113
2001	485	3 939 075
2002	504	4 069 000
2003	365	3 277 685

Source: Department of Labour (2004)

There are various reasons for this decline in the formal economy, the rising informal economy and increasing unemployment in South Africa. First, unemployment in South Africa is linked to the legacy of the apartheid economy, schooling and general skills development of the African majority. The consequence has been a large pool of semi-skilled or unskilled workers. Therefore, while employment is created in the country, there tends to be a shortage of skills. Second, government's macro-economic policy, GEAR, encouraged labour-market flexibility, trade liberalisation and privatisation. This resulted in major job losses because of retrenchments as companies were restructuring and trying to compete internationally.

GEAR indicated that job creation was a major responsibility of the private sector, and that government had only a small responsibility in this regard. Of course, the government could not enforce this on private companies. Besides, government's emphasis on reducing its public expenditure meant less income support for the unemployed.

Lastly, there is no correlation between South Africa's economic growth rate and the unemployment growth rate. The economic growth rate is much too low to absorb both the growing number of the unemployed and the new entrants into the labour market.

This crisis of unemployment has affected households, individuals and communities. In the absence of a comprehensive social security network, most people have become socially excluded and vulnerable to poverty. Discussed thus far in this chapter have been social welfare, labour and economic policies of South Africa. The contradictory outcomes of these policies have been outlined. It has been argued that these policies have and continue to shape the kinds of livelihoods that people pursue to alleviate their poverty. The next section of the chapter is a discussion of the historical and current nature of civil society. The various civil society organisations (CSOs) are a possible social resource or livelihood for many people. Chapter 7 will examine how these organisations have

played a role in the lives of people in Mpumalanga and Enhlalakahle Townships.

## 2.5 South Africa's Civil Society

Civil society can play a role in securing livelihoods for people. As a social resource, an active and progressive civil society has the potential of mitigating the effects of poverty. Civil society is referred loosely as all public or community life expressed through various formal and informal community-based organisations (CBOs) and non-governmental organisations (NGOs). Thus it is linked to public action and notions of citizenship<sup>29</sup> and social citizenship rights (such as health, housing, education). Thus civil society is often associated with social movements, trade unions, political organisations, faith-based organisations (FBOs) and many informal groupings such as burial societies and *stokvels*. It is also defined as the non-profit sector, consisting of non-profit organisations (NPOs) (Swilling & Russell, 2002). However, any holistic understanding of civil society needs to take into account the complexity of its relation to the state. Indeed, civil society is not a homogeneous group, nor does it always share the same objectives and roles.

A survey conducted by Swilling and Russell (2002) revealed that there are approximately 101 289 civil society organisations in South Africa. This number has increased from 93 300 in 1994 and 98 920 in 1999. The majority of these are informal or voluntary organisations, Section 21 non-profit companies, and FBOs (see Table 2.12).<sup>30</sup>

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<sup>29</sup> Defined in the thesis as the rights of all citizens regardless of their race, gender and age. These rights were won in South Africa through social struggles against the apartheid state. However, the erosion of these rights through policy reversal by the ANC government has led to the emergence of organisations challenging the state on rights-based grounds.

<sup>30</sup> A majority of these organizations are affiliated to the South African NGO Coalition (SANGOCO) which was formed in 1995 to co-ordinate NGO input into government policy and to “ensure that the rich traditions of civil society” is maintained.

**Table 2.12: Number of South African non-profit Organisations, by legal status\***

Legal Status	Number of NPOs
Informal/voluntary	53 929
Section 21 company	11 459
Religious organisation	16 105
Trade union	4 569
<i>Stokvel</i> /burial society	2 472
Trust/foundation	3 891
Political party	2 448
Co-operative	644
Other	5 772
Total	101 289

Source: Swilling and Russell (2002)

\* Weighted data based on the author's survey results

For example, a study of associational life in Gauteng revealed that in both formal and informal settlements the majority of people said that they belonged to faith-based structure (see Table 2.13).

**Table 2:13: Associational life in Gauteng**

Club, society, organisation	% Informal	% Formal
Faith-based structure	71	83
Burial society	48	47
Political organisation	28	20
Sport club	15	13
Community police forum	9	3
<i>Stokvel</i>	9	12
Residents association	8	3
Civic association	6	1
Environmental organisation	6	2
Development committee	5	3
Youth group	3	5
Women's group	1	7
Cultural organisation	1	3
None	16	4

Source: Everatt (2004)



The character and role of civil society organisations is shaped by their historical and current context. The relationship between state and civil society is considered to be a factor. Other factors include the legitimacy, political will and tenacity of the organisation itself. Constitutional and legal provisions also determine the autonomy and vibrancy of civil society. In fact, Fowler (2004) argues that there are various legal conditions that could foster an enabling environment for the success of CSOs (see Table 2.13). These conditions vary from freedom of expression to participation in public policy making.

During apartheid, such an enabling environment was destroyed through various repressive laws. First, the banning of organisations such as the ANC thwarted freedom of association, although new ones such as the United Democratic Front (UDF) and the Federation of South African Trade Unions (FOSATU) (later known as COSATU) emerged to fill the vacuum (Baskin, 1991 and Seekings, 2000). Second, the pass laws, the creation of homelands and various state of emergencies hampered freedom of movement. Third, there was a great deal of state censorship of public media and no free access to state information. Lastly, through the 1983 Constitution and the creation of the Tri-cameral Parliament, the political process of the country was reserved for white, Indian and coloured people. The demands of civil society organisations were centred on political liberalisation. The relationship between the state and civil society was always an adversarial one, characterised by conflict and violence. Their efforts were rewarded and a democratic government was elected.

**Table 2.14: Conditions that contribute to an enabling environment for civil society**

<b>Outcome Domain</b>	<b>Legal Conditions</b>
Generic pre-conditions	Constitutional guarantee of civic rights Judicial system – autonomy and access
Association	Freedom of association Freedom of assembly Maintenance of public order Public benefit recognition/CSO registration
Resource mobilisation	Public benefit/CSO taxation, exemptions and privileges Labour laws and regulations Price controls and marketing restrictions Reporting on financial transactions
Voice	Freedom of expression Right of access to public media Public media control and censorship
Information and communication	Private media ownership, control and censorship Freedom of access to public information Communication system ownership and price controls Control on citizen movement and residence
Negotiation	Political processes – e.g. elections, referenda Participation in public policy making CSO participation in (local) governance system Corporate standards and compliance system

*Source: Fowler (2004:13)*

However, with democracy came progressive laws that recognised the role of civil society in both the attainment and consolidation of democracy in South Africa (see Table 2.15). For example, through structures such as the National Economic Development and Labour Council, government, organised business, organised labour and organised community groupings came together on a national level to discuss and try to reach consensus on social and economic policy.<sup>31</sup> The most

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<sup>31</sup> Organised business is represented by the newly formed Business Unity South Africa (BUSA), which brings together the Black Business Council (BBC) and Business South Africa (BSA). Organised labour is represented by the three main labour federations in South Africa: COSATU, FEDUSA and NACTU. Organised community groupings are represented by the South African Youth Council, the National Women's Coalition, the South African National Civics Organisation (SANCO), Disabled People South Africa, the Financial Sector Coalition and the National Co-operatives Association of South Africa.

significant legal development was the adoption of South Africa's new Constitution in 1996. The Constitution defines all citizens (regardless of race, gender, age, political affiliation and religion) as equally entitled to the rights, privileges and benefits of the country. It also recognises eleven official languages, and states that all will be promoted and developed equally. Chapter Two of the Constitution is the Bill of Rights, which details the rights of all the people of the country. Linked to the Constitution is the Constitutional Court, which will ensure that these rights are protected.

**Table 2.15: Apartheid and post-apartheid legal conditions of civil society organisations**

<b>Legal Conditions</b>	<b>Apartheid</b>	<b>Post-apartheid</b>
Legal framework	1983 Constitution – Tri-cameral Parliament	1996 Constitution – Bill of Rights, Constitutional Court
Association	No freedom of association for Africans	Freedom of association for all
Resource mobilisation	Repressive laws	
Voice	Censorship of public media	Freedom of expression for all; full political rights for all; right to peaceful assembly, demonstration, picket and petition
Information and communication	Strict control of citizens' movement and residence – Pass Laws	Freedom of movement and residence for all
Negotiation	No right to vote for Africans	Right to free, fair and regular elections for all

Indeed, civil society organisations have used the Constitution and the Constitutional Court as a tool to bolster their demands to government. For example, organisations such as the Treatment Action Campaign (TAC), the AIDS Law Project, the Community Law Centre, the Women's Legal Centre, and the Coalition for Gay and Lesbian Equality have taken various government departments to court for violating specific rights entrenched in the Constitution. One example is that of the successful constitutional case of the TAC vs. the Minister of Health. The TAC stated that the Department of Health was violating

the rights of HIV-positive pregnant women by not providing them with anti-retroviral drugs. They invoked clause 27 of the Bill of Rights, which states:

1. Everyone has the right to have access to-
  - a. Health care services, including reproductive health care;
  - b. Sufficient food and water; and
  - c. Social security, including, if they are unable to support themselves and their dependents, appropriate social assistance.
2. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.
3. No one may be refused emergency medical treatment.

In 2001, the Pretoria High Court ordered that the government, through the Department of Health, should plan a national programme and provide all HIV-positive pregnant women at all state hospitals with anti-retroviral drugs to prevent the transmission of HIV from mothers to their unborn children. Following some resistance from the government, the rollout of the anti-retroviral drugs to state hospitals was announced and drugs were distributed to all state hospitals in all provinces.

Despite such provisions, civil society in South Africa experienced serious setbacks in the post-apartheid period. First, tensions between civil society and the ANC-led government were beginning to show. There were tensions in the alliance between COSATU, the ANC and the South African Communist Party (SACP), and between SANCO and the ANC. COSATU challenged the ANC on decision-making processes at national level. This was sparked by COSATU not being consulted through existing structures within the tripartite alliance and through NEDLAC on the country's macro-economic policy. The tension between SANCO and the ANC was primarily about disputes over the division of seats in transitional local government (Friedman & Reitzes, 1995).

Second, the goals and boundaries of civil society in South Africa became unclear with the advent of democracy. Therefore, its objective was realised and a new one was not clear. Most organisations were "left without purpose" as their expectations of democracy were met, as promised in the RDP. The "social

movement unions” of the 1980s disappeared and “business unionism” was born in the late 1990s (Buhlungu, 2001, 2002, 2003).

The general lull of the early 1990s was replaced by a boom period, with an upsurge of community organisations classified as new social movements with demands for citizenship rights, decommodification of services and demands for greater access to essential services (McDonald, 2002). Examples in South Africa include the Landless People’s Movement (LPM), the Anti-Privatisation Forum (APF), the Soweto Electricity Crisis Committee (SECC), the Treatment Action Campaign, the Mpumalanga Concerned Citizens Group (MCCG), and The Concerned of Enhlalakahle. Many social theorists have predicted the emergence of social movements; nevertheless, their potential for social change has often been exaggerated. The rise of social movements in post-apartheid South Africa against a legitimate government was unexpected to say the least (for example, see Desai, 2002). Their emergence has been necessitated not by an illegitimate government but by “illegitimate” policies. Indeed, the close relationship that existed during apartheid between the ANC, now the ruling party, and civil society is slowly eroding. The exception is the ANC’s continued formal alliance with COSATU.

However, most newly formed social movements have become marginal. They have also become transient, unable to form lasting organisations that can benefit the community. They have been visible mainly in some urban communities and almost absent in rural areas. They have had little or no impact on the lives of people in both research sites. This was with the exception of a few organisations, such as the Treatment Action Campaign, that have resisted state pressure and shaped the policy process and outcomes. Other organisations have only played a “watch dog” role with no real influence on policy outcomes of the country. However, state and civil relations were altered and in some cases reverted to the old authoritarian character of repression and conflict (Bond, 2000; Desai, 2002; Vally, 2003).

## 2.6 Labour and the Basic Income Grant Debate

In the late 1990s, the labour movement regrouped and made demands for a “comprehensive social security system”<sup>32</sup> through the Basic Incomes Grant (BIG), given the high unemployment rate and poverty levels in South Africa. COSATU and various NGOs articulated these demands as social citizenship rights. The BIG Coalition made demands for a universal monthly grant of R100 (COSATU, 2000b; Khunou, 2001; Makino, 2003).

The basic income grant, it is argued, will reduce arbitrary discretion, minimise opportunities for corruption and reduce the poverty gap by 74 per cent. With full take-up, the number of poor South Africans excluded from the social security system will be reduced to zero (Samson, 2002:77). According to Samson *et al.*, (2001), the basic income grant holds economic and job creation potential in three ways – through the accumulation of social capital and cohesiveness, through the labour market by raising the labour supply and increasing the demand, and through its impact on the level and composition of aggregate demand.

In 2000, the government appointed the Taylor Committee<sup>33</sup> to conduct an inquiry on a social security system for South Africa. The report proposed:

- That South Africa create a comprehensive package of “social protection” interventions and measures;
- Three universal cash grants – the basic income grant, the child support grant, and a state old-age pension;<sup>34</sup>
- A universal package of services such as free and adequate public health care, free primary and secondary schooling, free basic water and sanitation, free basic electricity, and so on;
- Universal access to assets to gain food and income (land, credit and

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<sup>32</sup> The basic idea of social security is to use social means to prevent deprivation, and vulnerability to deprivation, through cash support, guaranteed employment, informal communication and political activism, and famine prevention (Dreze & Sen, 1989).

<sup>33</sup> Chaired by Vivienne Taylor from the University of Cape Town. See Republic of South Africa (2002), *Transforming the Present, Protecting the Future*.

<sup>34</sup> Two of the grants have been introduced – the child support grant and the state old-age pension.

community infrastructure) (Department of Social Development, 2002).

The Taylor Report stated that the basic income grant would fill the gap left by under-employment and poverty. The grant would reduce arbitrary discretion, minimise opportunities for corruption and reduce the poverty gap by 74 per cent. As mentioned previously, with full take-up, the number of poor South Africans excluded from the social security system would be reduced to zero (Samson, 2002:77).

The ideas of BIG have been seen as too ambitious a project for South Africa, an idea not even conceivable in the North. In fact, welfare states throughout the world have been under enormous pressure, ideologically and politically. The political and social environment that enabled the success of welfare states no longer exists (Esping-Anderson, 1996; Pierson, 2001; Seekings, 2004). For example, high unemployment means less tax contributions to the state. The restructuring of work and shift in government policies towards cost recovery and strict fiscal discipline have challenged the notion of a welfarism. The developmental route that governments are following point towards less government expenditure and privatisation of state assets and natural resources.

The economic viability of a universal grant has also been questioned, especially since government's economic policy focuses on reducing government expenditure. More importantly, state transfers do not necessarily reduce poverty and do not encourage real economic redress or reduce inequality. Finance Minister Trevor Manuel stated that the basic income grant would bankrupt South Africa. He said it would cost R83 billion that would "probably have to raise VAT by at least another 14 per cent to fund the R83 billion".

However, at the 2003 BIG Coalition Conference, the keynote speaker, Dr. Molefe Tsele from the South African Council of Churches (SACC), stated, "The BIG is cost-effective, courageous and can combat poverty". The universal income grant, which could eliminate poverty in South Africa, would only cost R13 billion. It is

proposed that it could be financed through an increase in indirect taxes.

Even though the projected benefits of a universal grant of R100 combined with increased direct taxes depend on individuals' monthly expenditure, the cost for government is less. The role of civil society and its relationship to the state is important to examine as it links with the social resources that people rely on for survival. This section of the chapter relates to the empirical material discussed in Chapter 8 and its critique of social capital. Explored in the chapter is the role and nature of civil society in post-apartheid South Africa. What sort of demands are being made to the state and why?

## **2.7 Conclusion**

This chapter contends that, while South Africa's welfare and labour policies are a radical departure from their racist predecessors, they fall short in addressing the root problem of poverty and inequality. First, according to Webster and Bezuidenhout (2000), this process of inequality has been increasing in South Africa. Between 1991 and 1996, the richest 10 per cent of blacks experienced an average 17 per cent increase in income. However, the average income of the poorest 40 per cent of blacks declined by a staggering 21 per cent.

Furthermore, "a growing proportion of the workforce can be classified as vulnerable, even though they have jobs, and are regarded as being part of the working poor" (Webster and Bezuidenhout, 2000:9). This trend is accompanied by the casualisation of work, informalisation of production, and growing levels of unemployment and income insecurity. Pahl (1984) identifies a similar process in Britain, where a division occurred between two conflicting and contrasting positions – "working poor" and "working rich". Castells (1998:6) further argues that this process of social polarisation is on the rise everywhere. For example, "at a global level, the ratio of the income of the top 20 per cent of the population to the income of the bottom 20 percent jumped from 30 to 1 in 1960 to 1978 to 1 in 1994". He argues that this has resulted in a radical increase of poverty levels because a huge number of people are being socially excluded from access to



regular jobs – hence the rise of the informal sector.

Secondly, similar to the livelihoods approach, South Africa's social security reduces the role of the state and places greater emphasis on the poor to take care of themselves. The poor are assumed to have assets and resources at their disposal. South Africa's social security is also based on a consensual view of households, and ignores the unequal power relations and conflict in households and community. Indeed, it assumes that individual grants filter through to the household. While this might be the case for the state pension, particularly that given to elder women, it is not necessarily the case for child grants. Even when the money reaches households, that money is not always used for the benefit of all household members. Unequal power dynamics within households often mean that money will be appropriated from vulnerable old people.

Chapter 6 will reveal the prevalence of intense conflict in the household, existing mainly around access and control over income. Elders who receive pension grants become victims of domestic violence and abuse. Some household members, particularly men, who were unemployed and did not have any stable income, often felt inadequate as men in their households. This is compared with their female counterparts who received either child-grant or pension-grant income. These household dynamics were often expressed through alcohol abuse and domestic violence.

Both forms of state social security in South Africa – social assistance through grants or social insurance through private contributions – protect only a select few. The problem with social assistance is that it only covers the disabled, the aged and the young but does not cover other vulnerable groups such as those who are unemployed and poor. In a context where the majority of people are unemployed or working in the informal economy, social insurance is not an adequate measure.

The debate about welfare reform in South Africa has generally focused on expanding government welfare provisions, hence the proposed basic income grant. The proposal is premised on the current South African welfare provisions, such as non-contributory old-age pension and national child grant. Both provisions guarantee a monthly income for pensioners, children and disabled South Africans.

Third, South Africa's labour legislation is viewed as dissimilar to the livelihoods approach, with its emphasis on corporatist principles. The labour legislation acknowledges the inherent contradictions and conflict between employers and employees. This is a radical departure from the livelihoods framework, which assumes consensual politics and neglects conflict. Nevertheless, the legislation does little in terms of protecting the most vulnerable workers. Its emphasis on protecting permanent workers further segregates the labour market. It is argued that the impact of the transition has been rather specific to South Africa's workplace.

The labour legislation is a shift from the apartheid workplace regime (Von Holdt, 2001) to democratic workplaces where everyone is protected by a common labour legislation. Nevertheless, there are workplaces that still embody significant aspects of the apartheid past, where employers deliberately evade legislation and continue with an authoritarian style of management (Webster & Omar, 2003; Webster & Von Holdt, forthcoming).

Fourth, South Africa's macro-economic policies that aimed at accelerating the integration of its economy into the global economy have had the adverse consequence of deepening inequalities. Only a few are getting rich, and more people are pushed into the margins of poverty and mere survival. The effects are further compounded by lack of a comprehensive social security that protects all vulnerable groups.

Lastly, the historical and current role of civil society and its relationship to the state has played an important role in South Africa. During apartheid, civil society focused mainly on gaining political liberalisation. The apartheid state used repressive laws to immobilise various organisations. The post-apartheid state introduced a number of laws that encouraged the existence of a vibrant civil society. Hence, post independence, civil society organisations are re-emerging and challenging the democratic state. This has led to a growing tension between the state and civil society.

The chapter provides a historical context and background to the study. The livelihoods pursued at the two research sites are in response to and influenced by these various policies. The next chapter discusses the research questions of this study, the methodology used, the challenges and limitations of the research study, and the experiences of the researcher.