Call for submissions:

Thematic report to the UN General Assembly on "Welfare and Control: The paternalism of support" Issued by Special Rapporteur on extreme poverty and human rights

INTRODUCTION TO BLACK SASH

1. Black Sash welcomes the opportunity to respond to the invitation by the Special Rapporteur on extreme poverty and human rights to make a submission for the thematic report to the UN General Assembly on "Welfare and Control: The paternalism of support".

2. Black Sash is a 70-year-old organisation which works towards the realisation of socio-economic rights, as outlined in the South African Constitution (1996), with emphasis on social security and social protection for the most vulnerable, particularly women and children. It also works towards exploring pathways to reduce poverty and inequality in South Africa[1].

3. This submission will focus on the challenges to access social assistance (social grants or cash transfers), provided by government to people who are unable to take care of themselves and their families in the form of food, shelter, healthcare, education and basic services[2].

4. Our current strategic focus is working towards the definition of a social protection floor which is accepted by civil society organisations working the social justice space. There are three programmatic pillars that support the strategic focus namely 1) comprehensive social security 2) Social Protection beyond social security and 3) promoting access to justice.

5. South Africa faces persistent socio-economic challenges where we have a crisis with unemployment. As of the third quarter of 2024, the national unemployment rate was 32.1%, with youth unemployment (ages 15–24) alarmingly high at 60.8%3 and approximately 20.5% of the population lives on less than $2.15 per day, underscoring the pervasive nature of poverty in the country[4].

6. South Africa has one of the highest income inequality rates globally, with a Gini coefficient of 0.67, reflecting deep economic disparities[5].

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[1] For more information on Black Sash's activities, see https://www.blacksash.org.za/.
[2] The Black Sash, *Social Assistance: A Reference Guide for Paralegals,* The Black Sash, Cape Town, 2010.
3 https://www.statssa.gov.za/.
4 https://www.statssa.gov.za/.
5 https://documents.worldbank.org/en/publication/documents-reports/documentdetail/

Trustees: Nolundi Luwaya (Chairperson), Janeen de Klerk, Mieke Krynauw, Matilda Smith Tintswalo Maggie Mofokeng, Maleshini Naidoo, Anastasia Peters, Thembisile Sehloho,
Patron: Mary Burton **Executive Director:** Rachel Bukasa

- Trust Registration Number: IT 1179/85
- Non-Profit Organisation Registration Number: 006-214
- Public Benefit Organisation Registration No: 930005962
BBBEE (Socio-economic development beneficiary certificate)

7. Our submission will focus on the impact of social assistance programmes implemented by the South African government with specific reference to the application and implementation of the Social Relief of Distress grant- a $20 cash transfer which was introduced during the Covid-19 pandemic to provide a buffer to the unemployed against poverty and starvation.

SOCIAL PROTECTION IN SOUTH AFRICA

8. The Constitution of South Africa recognises the right to social security. Section 27 of the Bill of Rights asserts that: *"Everyone has the right to have access to social security, including, if they are unable to support themselves and their dependents, appropriate social assistance, and the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights"* [6].

9. South Africa's population is 60,6 million.[7] The South African social grant system is one of the largest in the world. As of 2023, approximately 40 percent of individuals including children, and 50 percent of households in South Africa benefited from social grants.[8]

10. Social grants are therefore a crucial component of the country's social welfare system, aimed at providing financial support to vulnerable citizens. They are fundamental lifelines to grant beneficiaries and provide for their basic needs including food, healthcare, shelter and education. Social grants are gendered and impact directly on the lives of women, the caregivers of children. Any disruption to the social grants system can have severe, even life-threatening, consequences for beneficiaries.

11. The social grant system in South Africa is individual, non-contributory, targeted and means tested. One must qualify for a permanent social grant in terms of the following eligibility criteria -if one is a South African citizen, permanent resident, or refugee, meet the specific age requirements for each grant, in need of financial support, not be cared for in a state institution and meet the income and asset requirements.

12. The following types of grants exist in South Africa:
    - Child Support Grant: A monthly grant for primary caregivers of children, aiming at alleviating child poverty.
    - Child Support Top up Grant: A monthly grant for primary caregivers of orphaned children, in the care of relatives and Child-Headed Households.
    - Older Person's Grant: A monthly grant for qualifying citizens 60 years and older, to support their living expenses.
    - Disability Grant: A monthly grant for people with disabilities who are unable to be employed. - Foster Child Grant: A monthly grant for foster parents or caregivers, to support the care of foster children.

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[6] The Constitution of the Republic of South Africa, Section 27.1.c, 1996, http://www.justice.gov.za/legislation/constitution/SAConstitution-web-eng.pdf, .
[7] Statistics South Africa, *Population,* https://www.statssa.gov.za/?p=15601
[8] https://www.statista.com/statistics/1116081/share-of-population-receiving-social-grants-in-south-africa-by-province/#:~:text=As%20of%202023%2C%20approximately%2040%20percent%20of%20individuals%2C,province%20amounting%20to%20almost%20a%2065%20percent%20share.

- Dependency Grant: A monthly grant for caregivers of children or disabled people with severe disabilities.
- War Veteran's Grant: A monthly grant for veterans of the South African military who fought in the Korean War.
- Grant-in-Aid: A monthly grant for people who require full-time care due to physical or mental disability.

13. South Africa has a well-developed social assistance framework that enables many to survive. However, it faces significant challenges, including funding constraints, corruption and fraud, inefficient administration, and limited access, particularly in rural areas.

14. Civil society plays a crucial role in holding the government accountable, advocating for solutions to these issues, and pushing for improvements to ensure the social grant system effectively supports the country's most vulnerable.

15. It is crucial to recognise the significant gap in the social assistance programme due to the absence of permanent grants for the unemployed, particularly in a country with one of the highest unemployment rates in the world.

SOCIAL ASSISTANCE FOR THE UNEMPLOYED

16. The SRD Grant was introduced in May 2020 as an emergency response to the COVID-19 pandemic. It was designed to provide basic support to unemployed adults aged 18-59 who weren't receiving other social grants or social protection measures.

17. It was initially introduced for 6 months but has been extended on an ad hoc basis from year to year. It expires at the end of March 2025, but we expect the grant to be extended again.

18. We note that the Special Rapporteur is interested in comments relating to the duty to accept "suitable" work where the provision of unemployment benefits or social assistance is made conditional upon searching for work and/or accepting work that is "suitable" and the conditionalities associated with cash transfers.

CONDITIONALITY OF WORK

19. The SRD grant represents a significant shift in South Africa's social protection landscape by providing support to previously excluded working-age adults, though its future form and sustainability remains the subject of ongoing policy debate.

20. While we acknowledge that the current model of SRD Grant is not conditional on finding work it, the South African government has alluded to linking it to job seeking.

21. Given its concern about fiscal constraints, the National Treasury, which is the government department responsible for the national budget, has put forward proposals aligned to seeking work as a condition to qualify for a grant[9].

22. However, Black Sash and civil society strongly objects to job seeking as a condition for receiving a grant for the unemployed.

23. The primary purpose of a grant for the unemployed is to combat poverty and hunger, and not as a specific response to unemployment Therefore linking grants exclusively to job seeking ignores South Africa's labour market realities and high unemployment rates.

24. The United Nations (UN) Committee on the International Covenant for Economic and Social and Cultural Rights (ICESCR) issued concluding observations in 2018 where it highlights the complexity of defining work, which will create a challenge to have work as a conditionality for a cash transfer[10].

25. The Committee raised the considerably high rate of unemployment as an issue of particular concern to the Committee with a large number working in the informal economy without labour rights and sufficient social protection[11]. This adds to the complexity of what constitutes work if conditionalities are imposed relating to work.

26. In a context where there are no jobs, many will be excluded given the challenges with resources to be able to actively seek work and discouraged work seekers when there is no work. ICESCR and international instruments, which has been ratified by South Africa, highlight that we cannot ignore the implications of the challenges with navigating administrative requirements with looking for work. It is complex and impractical to implement and verify active job seeking which will create additional administrative burdens. It begs the question how one can fairly decide who qualifies as a job seeker actively looking for work and will government have the budget that is associated with the heavy administrative burden.

CONDITIONS FOR ELIGIBILITY

27. The existing iteration of the SRD Grant provides a cash transfer to individuals between 18 and 59 years to those who are unemployed or have a little income (below a certain threshold determined by regulation which has been amended with each extension of the grant) whereby government databases and bank verification is used to determine whether applicants qualify by means of an online application.

28. Whilst we acknowledge that the South African government is beginning to address a recommendation by ICESCR to "ensure that those between the ages of 18 to 59 with little and no income have access to social assistance"[12]; its online application process, verification methods, administration glitches and the fact that the amount of the grant is below the food poverty line has led to exclusion by default.

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[9] https://businesstech.co.za/news/government/647087/government-considering-new-job-seeking-grant-for-south-africa/
[10] 12 October 2018E/C.12/ZAF/CO/1 United Nations Social and Economic Council Concluding observations on the initial report of South Africa
[11] ibid
[12] Ibid

29. This resulted in a legal challenge recently taken on by civil society where the Institute for Economic Justice and #PayTheGrants turned to the courts to challenge the regulations governing the SRD Grant where the court found several provisions to be unconstitutional[13]. The judgement is being appealed by government.

30. This follows legal challenges by Black Sash: where we objected to the exclusion of Caregivers from receiving the grant initially which we believe influenced the decision that resulted in Caregivers being able to qualify for the SRD Grant; and where we challenged the arbitrary and exclusionary nature of recent regulations where the Department of Social Development (DSD) announced amendments to the SRD grant Regulations that addressed two of the key issues raised in our legal challenge namely increasing the income threshold for qualification for the SRD from R350 to the lower bound food poverty line; and removing the privileging of bank verification information when assessing an application for the SRD grant.

31. The SRD Grants in South Africa is a case in point to illustrate how conditionalities imposed to determine eligibility is not recommended because it fails to fulfil its objective of providing financial support to prevent hunger and starvation to those who are not employed.

32. The conditionalities seem too exclusionary, with its narrow eligibility criteria which limits the number of the applicants who are successful. Limiting the number of successful applicants aligns with the shrinking budget that is allocated by National Treasury to the SRD Grant to ensure that the amount beneficiaries of the grant do not exceed the budget allocation.

33. By failing to make provision for a more inclusive system that reduces the qualifying threshold and criterion, and by not creating a pathway to converting the SRD Grant into a more permanent Basic Income Support, the regulations fail to properly consider South Africa's constitutional imperative and international social assistance obligations.

34. There appears to be no firm commitment to making this grant permanent, despite the need, Government ignores evidence that unconditional grants can stimulate local economic activity.

CONCLUSION AND FURTHER RECOMMENDATIONS

35. Government has a constitutional and international obligation to provide financial support for those between 18 and 59 years who earn no or little income.

36. Black Sash submits that DSD and SASSA must ensure that the provisions are inclusive rather than exclusionary by default to ensure that those who struggle to find employment have a buffer from hunger and starvation.

37. Given the crisis with unemployment, it is prudent for the government to acknowledge the vulnerability of the unemployed and fulfil its constitutional obligation to provide the unemployed

[13] https://iej.org.za/wp-content/uploads/2025/01/IEJ_Social-Relief-of-Distress-Grants_HC-judgment.pdf

with financial support when they are able bodied to work but there are no jobs - without imposing conditionalities which cannot be supported by infrastructure and resources which will pose obstacles to access.

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MAKING HUMAN RIGHTS REAL

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