

## A MARATHON OF TWENTY YEARS OF ERADICATING POVERTY: IS SOUTH AFRICA MAKING PROGRESS

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### ABSTRACT

Since the dawn of democracy, the eradication of poverty has been at the forefront of the South African government's programme of action. The South African government has put in place various measures to curb the scourge of poverty. These measures include: old age disability, foster care and child support grant. However, these measures seem to be insufficient as many people still find themselves vulnerable to poverty. To speed up the process of poverty eradication, this paper suggests that other institutions or entities should be encouraged to play a role. Poverty cannot be rooted out merely by the government's social grants. It also requires the creation of job opportunities by all those who are willing and able to participate in the process of rooting out poverty. This will, in the long run, help in establishing a society sustained by economic growth. If, for example, more employment opportunities are created and more people get employed, the constitutional obligation on the State to provide people with housing will be reduced as these individuals will be able to buy houses for themselves rather than relying on the State to build shelter for them. This will also relax government's already over-stretched social grants budget.

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**KEYWORDS:** Eradication, Poverty, Inequality, Unemployment, Measures

### INTRODUCTION

Since 1994, the South African economy has undergone significant changes with government adopting various pieces of legislation (Social Assistance Act, 2004 as amended by Social Assistance Act, 2008; Employment Equity Act, 1998; and Prevention of Unfair Discrimination Act, 2000) and policies aimed at redressing the injustices of the past; fleshing out the welfare system; and improving the country's competitiveness as it becomes increasingly integrated into the global economy. Examples of these policies include the Redistribution and Development Programme (RDP); the Growth, Empowerment, and Redistribution (GEAR) programme and the Accelerated Shared Growth Initiative for South Africa (ASGISA); and recently the National Planning Commission (NPC). These policies have directly or indirectly impacted on the lives of millions of South Africans (Bhorat, 2006). Many South Africans suffer from poverty as a result of unemployment; lack of education; illnesses; and other factors affecting their capacity to earn a living. A practical assessment of the lives of people or their standards of living generally shows that the political freedom achieved in 1994 is outweighed by the need for economic freedom. This places a burden on the state to help these destitute members of the society that it has committed to serving.

In this paper, the author argues that poverty affects people across all sectors of life: rich, poor, young and

/ or adult. It is argued that the democracy enjoyed by the people of South Africa enjoy today may seem imbalanced if a sizeable number of South Africans still suffer from the plight of poverty. Interventions by people and institutions that are well-off are necessary to rescue victims of poverty. This can be done through the creation of job opportunities and/or improving existing jobs. The State may play its role by providing support through the provision of basic income grants and the provision of basic food services to needy and deserving people (Constitution of SA, 1996).

### THE EFFECTS OF THE PREVIOUSLY DISCRIMINATORY SOCIAL SECURITY SYSTEM

The depth of South Africa's poverty is attributable to its history of colonialism and apartheid that engulfed the country for decades. The previous social security system was characterized by huge disparities between different racial groups in respect of the provision of basic social services. This is one of the many legacies inherited from the apartheid government. During apartheid, many people were forced to register false and younger ages in order to avoid unwarranted attention from the government. The unforeseen consequence of this, however, is that such people are now unable to access certain government services because they appear to be too young to access these grants.

The drafters of the Constitution appear to have noted the problem when they included a specific section to deal with and respond directly to deficiencies created by the previous regime. The need to change the previous social security system led the post-1994 government to adopt and implement a new social security system that attempted to address the pandemic of poverty. These attempts included the restructuring of the previous racially exclusive social security system that discriminated against particular groups to form a new social security system that is non-discriminatory.

### **THE CONSTITUTION OF 1996**

The Constitution introduced a dedicated section on socio-economic rights to deal specifically with issues of poverty. These rights were included in the Constitution along with other key economic, social and cultural rights. However, during the drafting phase of the Constitution, the inclusion of socio economic rights in the Constitution met with a measure of resistance from various groups as there was no agreement on how they could be enforced by the courts.

The contestation of justiciability of these rights was dealt with and disposed of in the First Certification judgment (Ex parte Chairperson of the Constitutional Assembly: in re Certification of the Constitution, 1996). In this case, the Constitutional Court held that socio-economic rights were capable of judicial enforcement. It further held that the State is under a constitutional duty to comply with obligations inherent in these rights. The Constitutional Court in the *Government of the RSA v Grootboom* required that section 27(1) should be read in conjunction with section 27(2) of the Constitution which requires the state to take reasonable and other measures, given its available resources, to achieve the progressive realisation of socio-economic rights. In this case, the Constitutional Court held that the state has an obligation to provide people who are unable to support themselves and their dependants with shelter. It is important to note the qualification placed at subsection 27(2) as it implies that the State cannot do more than what it has or it can, which means that if there are no resources at its disposal, it cannot be expected to act.

Section 27 of the Constitution, however, compels the government to introduce and ensure the implementation of a social security system that is inclusive and non-discriminatory in its application. As evidence to this commitment, the Constitution begins most of its provisions with the word 'everyone' including section 27 which indicates that not only a certain category of people is entitled to social services provided by the State, but 'everyone' or 'anyone' who meet the needs-test requirement (Mpodi & Kuppen, 2003). This is in sharp contrast to

the previous social assistance system where access to social services was unfortunately skewed in favour of privileged white households. As a result, access to education, housing, transport, health, water and sanitation, for instance, depended on one's race, gender and location (Seekings, 2007).

### **POVERTY**

Poverty is equated with illness and, like all other illnesses, manifests itself in a variety of ways in different historical situations. Poverty also has diverse causes. It manifests itself through a lack of access to income; a lack of employment opportunities, and a lack of normal internal entitlements by citizens to such things as freely determined consumption of goods and services, shelter and other basic needs of life (United Nations Economic Commission for Africa, 2002). Poverty has also been influenced by, amongst other things, recurrent drought, ill-health, crime and inequitable access to capital (Thompson M. (Ed). 1999). Poverty is also informed by deeply inscribed patterns of group discrimination, as argued by Gwen and Shelagh, 2005:

Seeing the group dimensions of poverty, and the layers of right infringements it causes and reflects, strengthens the claim that there is a social obligation to address. When we look at poverty through group-based equality lens we open up new opportunities to see that poverty is more than an individual problem because the patterns of who is poor are entrenched and reflect long-standing discrimination in the society. The analytical risk of failing to take account of the particular effects on disadvantaged groups is that the nature and extent of the harm of poverty-producing measures and their potential to reinforce existing disadvantage and compromise fundamental interests may not be fully appreciated. Purely individualistic and gender, race, and disability-neutral explanations of poverty are just too simplistic. Commentary about group based effects tells more of the truth of what is happening; it can show that there are qualitatively different impacts on certain groups; it may implicate a range of different constitutional rights and treaty provisions; and it can help to call into question the validity of the thesis that poverty is all about individual responsibility.

### **The Relationship Between Inequality and Poverty**

The post 1994 government of South Africa inherited vast inequalities in education, health and basic infrastructure such as access to safe water, sanitation, and housing from the apartheid government (*Soobramoney v Minister of Health, KwaZulu-Natal, 1998*). For instance, while only a quarter of South Africans had access to clean water in their houses, Asians and Whites had universal access to this service. Those who enjoyed better services during the apartheid regime remain better-off

compared to those who were victims and also are still in need of basic services such as clean water, electricity, and sheltered schools, as some children still school under trees and mud-built structures. The prevalence of such conditions, especially HIV and AIDS, explains why South Africa has not achieved some targets for the Millennium Development Goals (MDGs) related to outcomes such as halving poverty in 2015, increasing employment and income levels and elevating life expectancy which is impacted by health conditions.

Disadvantaged and vulnerable groups usually experience a mix of inequalities in treatment and in the implementation of government programmes. Chaskalson P emphasized this in *Soobramoney v Minister of Health, KwaZulu-Natal*. Mr Soobromoney had chronic renal failure that required ongoing dialysis treatment. He sought dialysis treatment from Addington Hospital in Durban. In considering and refusing his application, the Court analyzed the following factors as inherited from the past political regime that: disparities in wealth; deplorable living conditions; unemployment; inadequate social security and access to clean water and other basic services.

The South African government is committed to deracialising the economy and empowering the broader South African population. This type of economic and social reconstruction philosophy is solidly based upon the Freedom Charter which espouses the principle of sharing, caring and empowering society without reference to race. If one looks at this principle of the Freedom Charter, it appears that it was never the intention of the present democratic government that economic advantage should pass from one minority group to another. This would simply amount to a mere changing of the guard in an economy that has failed to undergo any radical systematic transformation in respect of the ongoing democratisation of its previously segregated and exclusionist social institutions.

The Constitutional Court (in *Minister of Finance v Van Heerden*, 2004) has also pointed to the persistent 'social and economic disparities' that must be addressed if a commitment to the Constitution is to be realised. People, however, get discouraged in using the law to protect their interests because of legal complexities and financial burdens in applying it. It is in this light that the court's socio-economic rights jurisprudence has been criticized for failing to protect the interests of the poor as they consider access to justice and the law in general as only available to those who can afford to pay good lawyers. Judicial remedies are critical for holding policy-makers accountable for the duties imposed upon them by the Constitution. In both the *Grootboom*, 2000 and the *Treatment Action*

*Campaign*, 2002 cases, the Constitutional Court failed to include a requirement that a reasonable programme must make explicit provision for vulnerable groups in the application of the test of reasonableness. In its current form, this test rests on the incorrectly assumed premise that individuals are affected equally by poverty. Without such a requirement, inequalities might not be easily eliminated and vulnerable groups might not be afforded the sufficient protection that they deserve.

### **Fighting Poverty in the South African Context**

Levels of poverty are still high in South Africa. Reducing the incidence of poverty is one of the major challenges facing not only the government but all South Africans. In the process, the government has taken the lead by committing itself to the creation of a poverty-free South Africa (Public Commission's Report, 2007). To achieve this, it has introduced and implemented social assistance system to fight poverty. Included in the social assistance system are various grants intended to cater for the basic needs of poor families. The provision of basic social services needed for human survival have also been strengthened in the past years. There has been an increase in the number of homes or houses with electricity, clean water, tarred roads, etc.

The existing social assistance system is, however, not an all-encompassing system. Its application is subject to a means-test approach. This implies that the institution that is responsible for the administration of the funds evaluates the income and assets of the person applying for assistance in order to determine whether the person's means are below a stipulated amount. This is done by capturing, *inter alia*, occupied property (municipal/ market value of the property, outstanding bond); assets (cash/ investments, donations, etc.); and income (earnings, other income, private pension/ annuity, donations). According to Strydom, means-tested social assistance constitutes the last resort or the ultimate safety net against severe deprivation (Strydom, 2001). The 'means test' is a way of determining whether a person qualifies to receive a grant as these grants are meant for those in most need. In *Khosa and others v Minister of Social Development*, 2004. Mokgoro J stated that:

those who seek assistance must meet a stringent means test prescribed by regulations made under the Act. Grants are made available to those in need, including vulnerable persons..... the legislation is part of the government's strategy to combat poverty. It is directed at realizing the relevant objectives of the Constitution and the Reconstruction and Development Programme, and giving effect to South Africa's international obligations

Social assistance, as one of the poverty eradication measures (with its multiple objectives), is concerned with poverty relief as well as poverty prevention (Nelissen, 1998). This is evidenced by the fact that social grants for the aged and disabled have become the main source of income in many of the rural and even urban households. Social assistance also serves as a poverty prevention measure in the sense that people plan and budget for the income they get from the government's social assistance system. For example, other families use this money to finance education for their children. Considering the various needs that the social grants serve, it is clear that it is insufficient to meet all the needs of each family, although it was not meant that the social grant would replace salaries or wages. This does not, however, mean that people are not appreciative of what government is currently doing. The fact remains that people are suffering and something more needs to be done.

#### **Progress Made Thus Far and Deficiencies**

The Constitution has committed itself to healing the divisions of the past, improving the quality of life of all citizens and freeing the potential of everyone. Great strides have been made in implementing the provisions of the Constitution relating to social security and social assistance in various ways. The government has, for instance, removed all racially discriminatory provisions relating to entitlement to social assistance introduced child-support grants; foster-care grants; as well as old age and disability grants. Important advances have been made in areas of social delivery and infrastructural development such as electrification, water, housing, education and social assistance. These measures attempt to enhance the standards of living of the people of South Africa. The Minister of Finance, in his 2002 Budget Speech, affirmed this when he indicated that the social grant system is the most effective tool in eliminating poverty. If the government's programmes are implemented properly, this will be in line with the objectives and goals of a social security system that is aimed at assisting destitute members of society.

Even though the South African economy has grown rapidly in the past twenty years and social spending comprises an increasingly larger share of the budget, several deficiencies in government social policies remain. The implementation of some current social policies has resulted in an inadequate provision of socio-economic rights to the people. For example, poverty has manifested itself in some areas of the Eastern Cape Province, where many people go to bed without even a basic meal. A study by the Human Sciences Research Council and the African Strategic Research Corporation revealed that the Eastern Cape Province is trapped in poverty almost 20 years after the end of apartheid - a situation described as a "national disaster" (Trollip, 2011). The problem

besetting the Province is compounded by poor subsistence agriculture and "systematic destruction of the rural economy", notes the report. The paper further reveals that the province's young and educated are fleeing to other provinces in dozens, leaving behind vast numbers of people dependent on state grants.

Furthermore, poverty has left scars on South African society which the government is trying to heal through its social assistance system and other measures. There is ample evidence that links poverty and HIV/ AIDS. The end-result of this is the increasing numbers of child headed households in areas such as Lusikisiki in the Eastern Cape Province. This unfortunate reality forces children to leave schools prematurely to seek employment and/or act as caregivers. Indeed, this occurrence is becoming so common that the South African society is in danger of accepting the tragedy of child-headed households as a normal fact of life. This is expected to change in the future as a result of the government policy on the provision of HIV drugs to affected people.

Although the South African government has responded reasonably well in instances where extreme poverty has been reported, it is uncertain how many such cases remain unreported. It is believed that many people suffer in silence as a result of a lack of knowledge that the government may assist them or, in some cases, they lack proper identity documents to gain access to government grants. Under these circumstances, people may feel ignored by the government and this would possibly undermine all efforts aimed at social upliftment. Therefore, relevant government agencies must be more vigilant and vigorous in the fight to eradicate poverty.

The author argues that if poverty is not addressed early, it will undermine human dignity with negative consequences for physical and mental health which, in turn, often results in increased mortality. The effects of poverty, if not confronted aggressively, may also spill-over to the relatively affluent communities in the form of communicable diseases, increased criminal activity, civil strife/wars and kindred problems.

The question that remains unanswered is whether South Africa will ever win this fight against poverty if corruption and the system of cadre deployment in key government positions still exist. People allege that "the appointment of people to positions on the basis of political allegiance coupled with corruption has affected the delivery of services to communities and people are becoming more and more intolerant of this practice". An example of these is the various protest actions across the country against the lack of service delivery. These recent protests should stand

as a warning to government officials that laziness, incompetence, corruption and generally, the failure to heed to peoples' call for service delivery is becoming intolerable. It shows that people are prepared to resort to violence if steps are not taken by the state to respond to their demands. The tune of government must change from making more promises to putting those promises into action.

### **THE WAY FORWARD**

#### **The Need to Address the Issue of Unemployment**

Unemployment and poverty are inseparable and interlinked. As such, a lack of employment is a significant contributor to poverty while securing decent employment contributes to poverty alleviation. The strict definition of unemployment measures the number of people available and looking for work within a given specified period. It is generally accepted that South Africa's unemployment problems are structural rather than cyclical in nature, and that it is more difficult for employment policies to cure cyclical unemployment (Van Kerken & Olivier, 2003). Structural unemployment is defined as "the proportion of unemployed persons who cannot find work even when the economy is booming and which cannot be influenced in the short-term by macro-economic policies" (Walwei & Werner, 1998). Unemployment has a greater impact than the loss of income and has significant social costs in terms of the potential of violence and gender conflict. The unemployment rate increased by 0.2 of a percentage point and 0.7 of a percentage point in the first quarter of 2014 (Quarterly Labour Force Survey, 2014). Statistics further indicate that the increase in unemployment is driven by people previously classified as inactive in the job market now seeking employment and the increase in unemployment is not a result of job losses.

It is not only the unemployed that are affected by poverty but also those who are employed but earn insufficient wages or salaries. For most people, work is the primary source of income. In South Africa, like elsewhere in the world, the proximate cause of much poverty lies in the fact that the wages earned by men and women for the work they do are insufficient to cover basic needs for themselves and their dependants. An individual's employment status, in turn, directly impacts on his or her ability to sustain a livelihood and thus contribute towards the reduction of poverty. Poor people face the dual problems of unemployment and underemployment. The challenge is therefore not only to create a large number of jobs, but also to ensure that better quality jobs are created and that existing jobs are retained. Evidence suggests that government's broad-based public works programme is failing South Africans. One of the criticisms of the programme is that, even though it creates employment opportunities for the disadvantaged, struggling people and people in rural

areas through the construction of roads and rural development initiatives and the Expanded Public Works Programme (EWP), employ people as casuals and these positions are both menial and temporary. Relevant role players should know that quality employment is the most important point of departure in poverty alleviation.

The government has enjoyed some success in enhancing accessibility to resources such as housing, water and electricity. These programmes and initiatives are, however, often not well co-ordinated, and are sometimes not sufficiently comprehensive to reach all households. In those households where these services are available, one finds that municipalities (which are the main providers of these services) require people to pay for the services rendered by the government. This raises the question of affordability, considering the widespread unemployment and poverty leaves. When individuals are unable to afford basic services, it is generally expected that relief measures funded by the government will be put into action. An increase in the number of employed people implies that they will be able to look after their own needs (such as buying themselves houses rather than relying on the government to build houses for them), thereby relieving the State of such obligations. Therefore, the creation of employment opportunities will in the long run reduce the burden on the State as more people will be employed and not in need of government's assistance for survival or other basic amenities of life. If more people are gainfully employed and well enough, this will enable government's expenditure to shift to other areas of need which will in turn change the lives of the people.

#### **Private Institutions must be Encouraged to Play an Active Role on Poverty Alleviation**

President Jacob Zuma in his State of the Nation Address, said:

We urge every sector and every business entity, regardless of size, to focus on job creation... All government departments and State owned enterprises will align their programmes with job creation imperatives. We cannot create these jobs alone. We have to work with business, labour and community constituencies. Experience shows that we can succeed when we work together (State of the nation address, 2011).

Corporate social investment in South Africa has a short and dynamic history. Even during difficult economic times, South African organizations have understood the value of good corporate citizenship through assisting affected communities during times of disasters, such as floods. Corporate social investment should be more than just a handing over of large sums of money. Rather it would be a rewarding and mutually beneficial relationship for those involved. A number of community engagement

initiatives that promote social responsibility as well as a sense of good citizenship should be well co-ordinated. This will give private organisations enough space to exploit with a view to assisting indigent people.

Some people may argue that the state should play no meaningful role in the provision of jobs. Let the market do the work, they say. Otherwise, the jobs that are created will not be self-sustaining and will simply increase the burden on the state, and ultimately on the tax-payer, until one day it becomes too heavy for the state to bear and everything then collapses (Wilson & Ramphela, 1991). Certainly, there is a danger of the state creating a bloated bureaucracy of people whose jobs are essentially unproductive and whose salary cheques from the government amount to little more than a welfare payment. This argument contains an important truth that should serve as a warning, a salutary reminder, that there are dangers inherent in any state-employment policy. Nevertheless, one could argue that under the conditions now pertaining to South Africa, with the level of unemployment already high and projected to rise still further, the state has a major role to play in the creation of employment.

In a developing country such as South Africa, social policy must be linked to economic policy. These two policy regimes must be complementary, mutually reinforcing and reflect the contributions of government. To enable policy-making to address social poverty and exclusions, the policy has to be multi-dimensional, through, *inter alia*: linking together social rights and welfare arrangements; introducing measures that would strengthen the links between social security and labour market incentives (such as job-seeking assistance, financial incentives to employ and skills training); and focusing on targeted involvement with particularly vulnerable groups (for example, through specifically targeted programmes reaching certain excluded groups, such as rural women or the young unemployed).

Experience suggests that public-private sector partnerships are vital to sustainable development and poverty alleviation. Such collaboration requires that opportunities be created for the poor to make their own good living rather than relying on government's contributions. Without the public-private sector backing of poverty alleviation efforts, poverty will continue to be a dark cloud hanging over the State with little or no means at all to address it. Due to the large role that the private sector plays in South Africa, much still needs to be done with regard to the redistribution component of social security expenditure.

### **Taking Court Decisions Seriously As Guidelines Towards Winning The Fight Against Poverty**

Since the dawn of democracy in South Africa, there have been a number of decisions that have dealt with the issue of socio economic rights and their impact on poverty. Some decisions have ordered the government to act positively to address the plight of the poor through the implementation of socio-economic rights. Some of the prominent cases in this regard include: (Soobramoney v Minister of Health; Khosa and Others v Minister of Social Development and Others; Mahaule and Another v Minister of Social Development; Joseph v City of Johannesburg, 2010; Minister of Health and others v Treatment Action Campaign and others [No 2]; Government of the RSA and others v Grootboom 2000; Mazibuko v City of Johannesburg 2010; and Kutumela v Member of the Executive Committee for Social Services, Culture, Arts and Sports in the North West Province 2003).

It is common knowledge that the Constitution and the Bill of Rights make provision for various categories of rights. These rights are justiciable and can be enforced by courts during the process of interpretation and application. However, not all rights stipulated in the Bill of Rights have found application and interpretation by the courts. There are areas of conflict of rights that have not been resolved and which appear to be left to the Constitutional Court (a body comprising eight individuals) to resolve.

It is at this juncture that the concept of 'justiciability' applies. Justiciability needs to be distinguished from implementing a court order. Once a court grants a remedy, it still needs to be implemented or given practical application. A court may, for example, declare that people are entitled to basic housing, but these people will remain without housing if the government does nothing to give effect to the court order (Viljoen, 2005). An example which clarifies the distinction between justifiability and implementing a court order is the *Grootboom* case. In this case, the Constitutional Court issued a declaratory order on the basis of sections 26 and 28 of the Constitution, requiring the state to devise and implement a programme of action, including measures to provide relief for destitute people not catered for in land management programmes. The Court held that all three spheres of government are collectively responsible for implementing the right to housing and that they should provide shelter, water and sanitation for the claimant (a mother and her children who lived in dire conditions in a shack settlement which had no running water or sanitation). However, the orders were not heeded to by the respective respondents.

This shameful state of affairs can be attributed to the fact that not one of the three spheres of government

was explicitly burdened by the court with the responsibility of providing the required service. The result could have been very different had the court *a quo*'s judgment been upheld. The trial judge ordered that the three spheres of government report back to court within a month, setting out clearly who would be doing what in giving effect to the claimant's right to a shelter.

To remedy this shortcoming, the Constitutional Court should be concerned with remedies that assist in realising the issue of socio-economic rights and should, therefore, prescribe primarily affirmative remedies including declarations, damages, reading-in, mandatory interdicts and structural interdicts. Of these constitutional remedies, damages and structural interdicts are particularly suitable as these measures would increase accountability on the part of government.

In response to accusations of a lack of service delivery, government commonly alleges a 'lack of available resources'. This defence burdens the Court with the responsibility of discerning the difference between a government's inability to implement a specific obligation or right and its plain unwillingness to do so. The fact of the matter is that the Court cannot order the government to do what it cannot do, which means that the order can only be made in situations where it is possible for the government to provide services to the people depending on the availability of resources. In this respect, the questions that the government needs to find answers to include, for example, how to ascertain whether government is going to reasonable lengths to meet its obligations in respect of poverty alleviation? What standard of review should be adopted to assess the constitutionality of legislative and executive action and inaction in resource allocation and priorities? For instance, in *Van Heerden v Minister of Finance*, 2004 the Constitutional Court was asked to defend a positive measure that sought to equalise pension benefits by subsidising the contributions of members of a disadvantaged group. The Constitutional Court held, as per Moseneke J writing for the majority:

Legislative and other measures that properly fall within the requirements of section 9(2) were not presumptively unfair. Remedial measures were not a derogation from, but a substantive and composite part of section 9 and of the Constitution as a whole. Their primary object was to promote the achievement of equality. To that end, the differentiation aimed at protecting or advancing persons disadvantaged by unfair discrimination was warranted, provided the measures were shown to conform to the internal test set by section 9(2). It was further held that if a restitutionary measure, even based on any of the grounds of discrimination listed in section 9(3), passes constitutional muster under section 9(2), it

cannot be presumed to be unfairly discriminatory and to hold otherwise would mean that the scheme of section 9(2) were a mere interpretative aid or even surplusage.

This case suggests that the courts will largely defer to government measures (Albertyn & Goldblatt, 2002) therefore, it remains an open question as to how far courts may nudge government in more transformative and redistributive directions. In *Khosa v Minister of Social Development*, a case characterised by the conflation of equality and the right to social assistance, destitute permanent residents successfully claimed the extension of social benefits to them.

However, the Constitutional Court and other courts in general should not intervene in social and economic matters. This should be left to policy-makers and the people the policy intends to serve. The courts should only intervene in these matters in a very prudent and limited way, that is, if it is shown that the state is dragging its feet in as far as the realisation of the goals and ideals of the Constitution are concerned or if the state fails to comply with a compelling provision in the Constitution. As watchdogs of constitutional democracy, the courts are empowered to advise Parliament to act in a way that provides the building blocks towards achieving a better society. This goal has to be achieved through a system of checks and balances which is the key to most constitutional states. This system entails that each branch of government should in a way check the other branches of the same government vice versa.

## CONCLUSION

Even though South Africa conquered apartheid twenty years ago, its populace remains hungry for economic freedom. This implies the need, for and the realization of, a significant reduction of current poverty levels. Notwithstanding the failings of South Africa's present social security system, its impact in improving the lives of the poor should not be underestimated. The poverty alleviating effects of, in particular, old age, disability and child support grants is well documented. The government, through its housing programme, has also improved the quality of lives of thousands of people who had no shelter in the past eighteen years. However, many people remain impatient, arguing that the system fails to provide benefits to many people who fall outside its prescribed protective framework and provisions. This can be counter-argued by the fact that by putting in time-frames and targets, the government recognizes some of these gaps and the marathon miles that lie ahead.

South Africa is committed to fulfilling its constitutional obligations to deliver socio-economic rights within the context of its national plan of action, Vision 2015, and the MDGs. One of the indicators of

progress towards the achievement of the MDGs is the effective and equitable delivery of public services (Millennium Development Goals Report, 2012).<sup>1</sup> It is therefore essential that poverty be understood in a social context; that it is not solely a consequence of individual misfortune; or an inevitable result of some pre-ordained natural economic order, but a product of how society and the economy is organised.

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