



**Summary of the Main Recommendations
Relating to Children of the
COMMITTEE OF INQUIRY into a
COMPREHENSIVE SOCIAL SECURITY SYSTEM:
“Transforming the Present – Protecting the
Future”**

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REPORT of the COMMITTEE OF INQUIRY
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“Transforming the Present – Protecting the Future”
(Consolidated Report March 2002)**

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PROVISO:

This document was intended to facilitate debate within the children’s sector on the Report content, recommendations, gaps etc. Therefore, mention is made here only of recommendations relating directly to children and disability. The recommendations of the Committee regarding employment, insurances, COIDA, RAF etc. are not recorded here. Every attempt has been made to present information as put in the Report, however, there are areas which are not clear, and where the Committee has not made a definite stance. (Please refer to “Briefsummary” for a shortened version of this document).

Introduction

The Committee of Inquiry into a Comprehensive Social Security System in South Africa was established in 2001 by the Minister of Social Development to examine the gaps in the current social security system and to make recommendations for the development of a comprehensive system. They examined social protection issues with regard to poverty, health, unemployment, retirement and measures to support people with special needs. Their report was delivered to the Minister and Cabinet in Amrch 2002 (?), and released to the public in May 2002.

Process from here

Cabinet has, according to Minister Skweyiya, tasked the Ministerial Committee (Social Development, Health, Finance, Labour, Transport and the Presidency) to assess the implications of their recommendations. The Ministers are to consider the implications for the fiscus, the tax regime and the capacity of the government. The relevant government departments are also to assess the details of the recommendations that fall within their portfolios, and advise the Committee of Ministers.

The Department has requested public comment by the 15 June, which will be fed to the Cabinet ‘lekgotla’ mid July. It is hoped that there will be, and certainly civil society will be calling for, further opportunity for public input, such as through Parliamentary Hearings.

There is need for public support and mobilization around many of the Committee’s recommendations, in order to put pressure on government to accept its responsibility and to commit to improving the lives of its citizens.

Brief Overview of the Committee’s Comprehensive Package of Social Protection (CSP)

The Committee proposes the following definition:

“Comprehensive social protection for South Africa seeks to provide the basic means for all people living in the country to effectively participate and advance in social and economic life, and in turn to contribute to social and economic development”. (p.41).

The Committee examines a range of social security measures, including private insurances, social insurances and social assistance, and attempts to offer a comprehensive package of ‘social protection’. As an overview, their main recommendations are summarized in Table 7 on page 42, as laid out below.

To address *Income Poverty*, by universal application:

- Basic Income Grant

- Child Support Grant
- State Old Age Pension

To address *Capability Poverty*, through universal application or eligibility criteria:

- Free and adequate public health care
- Free primary and secondary school
- Free water and sanitation
- Free electricity
- Accessible and affordable public transport
- Access to affordable and adequate housing
- Access to jobs and skills training

To address *Asset Poverty*, through universal application or eligibility criteria:

- Access to productive and income-generating assets such as land and credit
- Access to social assets such as community infrastructure

To address *Special Needs*, through *eligibility criteria* application:

- Reformed disability grant and care dependency grant and foster care grant

To address *Social Insurance Needs*, through eligibility criteria application:

- Social insurance cover for old age, disability, survivors, unemployment and health needs.

Each of these issues is addressed in more detail in each chapter described below.

CHAPTER ONE: Introduction

The Introductory Chapter of the report provides a brief look at the government's commitments, made through the Constitution, the RDP and GEAR frameworks, and other policy documents. The purpose for establishing the Committee is described, and its Terms of Reference provided, with a conceptual framework for defining and evaluating social security. A short overview of their process indicates the various sub-committees that considered specific aspects, research that was commissioned and the public hearings enabling public participation.

(NB. there is a fair bit of duplication and overlap between the following chapters, which were written by different authors, causing some inconsistencies, fragmentation and lack of clarity on some issues).

CHAPTER TWO: The Socio-Economic Context

This chapter provides an excellent overview of the socio-economic situation in South Africa, examining inequality, racial imbalances, unemployment, social exclusion and vulnerability. The Report looks in detail at the effect of the apartheid government's policy and the resulting inequality that has changed little since 1996. While the Gini Co-efficient (the measure of inequality) actually worsened from 1991 to 1996 (from 0.68 to 0.69), the racial income differences narrowed slightly, with average incomes per capita among Africans rising by 4.1%, whilst incomes per capita among white people fell by 0.7%. However, the relatively poor African and white households experienced absolute declines in their income.

The current skewed distribution of economic assets was highlighted. The Apartheid regime created this through the social exclusion of the majority, and constructed citizenship and subject rights which determined which groups received what levels of social protection. This provides some explanation for the current structure of the social security system and why it has such huge gaps in provisioning.

The Chapter provides a brief overview of the system, highlighting the categories remaining uncovered:

- Children: 75% of poor children below seven years do not get the Child Support Grant. All children over seven years do not receive any support. Children without primary care-givers, and those in child-headed households, cannot access the grants (p.30). The Committee reports that the CSG has been afflicted with slow up-take rate, and later (p.58) reports that "age limit has no real rational basis and is not consistent with the Constitution's definition of a child". (The CSG is given further analysis in Chapter Five on Poverty and social assistance).

- Disabled: those persons with chronic illness but who do not meet the strict medically based criteria are excluded.
- Unemployed: the UIF covers only 5% of the unemployed. Therefore about 5million unemployed people are without any income support from the system.
- Poverty: those with incomes below the poverty line, including working poor, are without any social security transfers, approximately 11 million people.
- Non-citizens: current social assistance mostly excludes non-citizens
- Social insurances and regulated private schemes: cover relatively small percentage of the population.

In this introductory chapter, little attention is given to the critique of the Foster Child Grant and the Care Dependency Grant. For example, the narrow eligibility criteria for the Care Dependency Grant, and the lack of clear definitions leading to the exclusion of many eligible children in need (referred to on p.57) are not mentioned here. The Committee fails to identify the particularly vulnerable group of children with chronic health conditions currently not being covered. The inadequacy and inappropriateness of the current foster and adoption support services to cater for the increasing numbers of AIDS orphans is also not highlighted here.

The Chapter closes by highlighting the challenges faced by the government, including the high unemployment and loss of jobs, the impact of HIV/AIDS, the continuing racial disparities in access to services, increasing poverty and crime, and the social development/ investment backlogs.

The Committee concludes that:

“Existing levels of poverty have reached unsustainable levels, and left unattended have the potential to reverse democratic gains achieved since 1994. The urgent need to address deepening social exclusion and alienation of those households living in destitution cannot be ignored. A redesigned social security system has to respond to the constitutional, democratic and human development imperatives that provide the framework for transformation”. (p.32)

CHAPTER THREE: Approach to a Comprehensive Social Security System

This chapter provides an insight into the components of a comprehensive package of social protection, in response to the poverty and deprivation faced by the country. It explains the input of the 1998 Presidential Job Summit, which agreed to “implement an effective comprehensive social security system, aimed at especially those living in poverty and the unemployed”. The Chapter revisits the Constitutional imperatives, as well as the socio-economic imperatives, encapsulated in the RDP, to improve the living standards of all people in the country.

The chapter provides definitions of ‘social assistance’ and ‘social insurance’, and an overview of trends internationally. There is some examination of systems in Western Europe, the United States, South East Asia and developing countries. In the developing countries, where the problems of chronic poverty, unemployment and exclusion make the traditional ‘European’ style of social security, which focuses on the risk of formal sector job loss, less relevant. The Committee therefore considers the *condition* of being unemployed within the overall context of poverty and social exclusion, and challenges whether, in the South African situation, social security reforms should primarily focus on the unemployed. *“Is the person in chronic ‘under-employment’ not just as deserving of income security?”* the Committee asks (p.38), and concludes: *“There is growing need for a platform of general social protection that supports both the unemployed and the working poor”* (p.39).

The Committee also examines the concept and effectiveness of ‘workfare’ programmes, which are underpinned by the ancient conservative distinction between the ‘deserving’ and the ‘undeserving’ poor. The Report explains that workfare policies require the existence of jobs, and thus in situations of chronic unemployment are unlikely to have any positive impacts. In addition, they are administrative-intensive

and expensive, with little sustainable job creation. (Public works programmes are revisited in more detail in the Employment Chapter).

An appropriate framework for South Africa

The Committee then goes on to examine a more appropriate conceptual framework for a comprehensive social protection system, and provides their definition of such a system:

“Comprehensive social protection for South Africa seeks to provide the basic means for all people living in the country to effectively participate and advance in social and economic life, and in turn to contribute to social and economic development.

*Comprehensive social protection is broader than the traditional concept of social security, and incorporates developmental strategies and programmes designed to ensure, collectively, **at least a minimum acceptable standard of living for all citizens**. It embraces the traditional measures of social insurances, social assistance and social services, but goes beyond that to focus on causality through an integrated policy approach including many of the developmental initiatives undertaken by the State”.* (p.41).

(This definition is a radical departure from the traditional definitions and concept of social security).

In proposing a Comprehensive Social Protection package (CSP) the Committee arrives at a range of practical measures to address ‘income poverty’, ‘capability poverty’, ‘asset poverty’ and ‘special needs’. Refer to the paragraph in the beginning of this summary, providing a brief overview of the Committee’s recommendations which outlines the aspects of each of these.

In a CSP package, the first three components would form the core elements of a basic platform that should be available to all South Africans (including certain categories of non-citizens). They suggest that these should be provided as a ‘universal-as-possible’ package of income transfers, services and access, in a non-work-related manner and whose availability is not primarily dependent on an ability to pay. The *special need* measures would be added to this basic core, and social insurances would be reformed to ensure equity, inclusivity, consumer protection and efficiency.

It is important to understand this broad package that the Committee is proposing, of which each aspect is intended to support, compliment and supplement the others. So the Basic Income Grant on its own would be insufficient to alleviate poverty, but requires additional services, additional assistance for those with special needs (which may be through the existing Disability Grants, Care Dependency Grants and Foster Care Grants) as well as job creation strategies.

The Report then considers what would determine the ‘minimum’ requirements for such a CSP package. Examination of the Constitutional Court ruling in the *Grootboom et al* case, finds that if the state were providing better social assistance to the poor there would be less pressure on the other socio-economic rights, that such income transfer measures are easier to rollout than other large poverty-reduction programmes, and that *“the state could buy time for progressive realization of its other socio-economic rights if it improved income transfer to the poor in the short term”* (p.43).

The Chapter then looks at the economic, institutional and social mobilization implications of a CSP. It looks at the factors which affect the ‘affordability’ of programmes, including the country’s level of economic development, the relative strength of social forces, the prioritization of spending, and finally the cost of not acting. The Committee advises that:

“Indeed, it is not always economic to defer important interventions and preventative steps for primarily short term cost reasons. In this regard, the social backlog and accumulating challenges present a barrier both to social and economic development, and intervention sooner rather than later may be economically and fiscally prudent. Indeed it could be argued that via the negative social externalities generated by lack of state action, the society, or the affected communities bear the cost” (p.45).

Means Tests

The Committee goes on to examine the social protection and institutional arrangements, and among others, points out that the means-test has negatively affected the ability of the poor to access benefits. Means-tested schemes invariably have low-uptake rates, and also contribute to the ‘welfare-trap’ (p.45). Towards the end of the Chapter, it is stressed that even if consistently applied in their current form they are unfair and create perverse incentives to hide income, or avoid earning cash income. The different and complex means-tests used by the different Departments for the various benefits are mentioned, and thus the Committee *“believes the most efficient, developmentally most effectively and fairest way forward is to abolish all means tests and to recover the costs through increases in tax”*. However, if means tests are to be retained then the Committee recommends some rationalization, fairness and efficiency in the system, and that *“the information as to which elements of the social security package a person is entitled should ultimately be captured on their identity documents”* (p.47).

The Committee then calls for increased involvement of social mobilisation in the social protection process, in particular the potential role of NGOs, CBOs and suggests a ‘Youth Corp’ to engage in comprehensive service delivery (p.46).

Finally in Chapter Three the Committee examines briefly private social insurances, and comments that South Africa has a highly developed private insurance market, covering life, disability, health, property, casualty and retirement. However, it proposes the need for mandatory insurance cover for all participants in the formal sector, and their dependents, and that there should be an unambiguous and manageable dividing line between those for whom cover should be compulsory and those who could voluntarily contribute to social insurance. There is little attention to how to incorporate those in the informal sector and other workers, such as domestic workers – this is covered in more detail in the Chapter on Employment.

CHAPTER FOUR: Constitutional Framework for Social Security in South Africa

This chapter examines the Constitutional imperatives for social security, looking at the status and impact of the Constitution, general principles, a human rights approach, the meaning of social security from a constitutional perspectives, and interpreting and enforcing social security rights.

The Committee concludes that; *“there are unequal, exclusionary and inequitable structure of the present social security system as a whole, and of particular elements of the system, which are therefore not in conformity with the constitutional prohibition of unfair discrimination”*. (p.52).

CHAPTER FIVE: Poverty, Social Assistance Grants and the Basic Income Grant

This chapter provides some analysis of the government’s poverty programmes, finding that programmes to improve health, education, housing, land and basic services, were well conceived and well targeted. However, the administrative and institutional problems were causing barriers to access, especially for the poor. In addition, it was found that the current range of poverty relief projects were unable to make any significant impact on the mass based unemployment and levels of poverty in the immediate term, and many were not cost efficient. The current services were found to not adequately contribute to a minimum package of goods, services and benefits.

Analysis of the current social assistance provisioning

The chapter then provides a more detailed overview of the current social assistance system (than was provided in the introductory chapter 2), and how it impacts on the poverty gap, particularly among different household structures. It concludes that the existing social security programmes do not adequately address the problem of poverty. Half of the poor receive no social assistance benefits at all, and the rest remain poor in spite of the benefits they receive. The modeling calculates that currently the grants reduce the average poverty gap by only 23% (2001) and even with full uptake rates of the existing grants, that is,

to all eligible persons, the poverty gap would only be closed by 37% (as their maximum potential). The current system is therefore described as having considerably high cost relative to its level of social effectiveness.

“The Committee is of the view that one of the most effective means of reducing destitution and poverty is to provide some minimum support in the form of a social assistance grant” (p.60).

Thus the Committee begins its justification for the need for a Basic Income Grant (BIG).

The Basic Income Grant

The Chapter describes the BIG, as an entitlement to be provided without means-testing, so as to be more easily accessible to the poor, and defined as *“a general social assistance grant for all South Africans”*.

The discussion highlights the following points:

- The grant is meant for people currently not receiving social assistance – those who fall through the social safety net (p.61).
- Because the grant has no means test it therefore avoids many of the disincentives to work inherent in other social assistance systems.
- The level of the grant is crucial – providing a minimum level of income support will empower people to break out of the poverty cycle. The grant would therefore become a ‘springboard’ for development, rather than contributing to ‘dependency on the state’.
- Appropriate tax reform linked to the BIG would achieve very effective redistribution of resources (such as a ‘solidarity tax’ proposed by COSATU).
- BIG for children would be paid to their care-givers. No attention is paid to where the children do not have adult care givers.
- The income tax and VAT systems are suggested as mechanisms not only for funding the BIG, but also as mechanisms for targeting the poor more effectively (thus the richer, ‘undeserving’, would pay the BIG back through income tax and VAT).
- The BIG favours the larger households (usually the poorer households), and pooling of resources *“leads to economic efficiencies and the more equitable intra-household distribution of income, which could contribute to the empowerment of women and younger people in the family” (p.61).*
- With a BIG, the number of people receiving no assistance at all would be reduced to zero.
- The average poverty gap would be reduced by 74%.
- The incidence of extreme poverty is nearly completely eliminated.
- *“Income support of this nature would assist the poor to access government’s services, thereby improving the effectiveness of many service delivery programmes and social policies” (p.61).*

Recommendations made by the Committee

The Committee calls for the establishment of an absolute poverty line, versus a relative measure. It suggests that first a ‘destitution line’ be set to act as a realistic benchmark to measure progress in alleviating poverty. This could be set at half of the poverty line.

The Committee finds that a BIG has *“the potential, more than any other social protection intervention, to reduce poverty and promote human development and sustainable livelihoods” (p.62).*

However, the Committee finds that the conditions for the immediate implementation of a BIG do not currently exist, and therefore calls for a phased in approach which would allow for the appropriate capacity and institutional arrangements to be put in place first to ensure effective implementation.

“The Committee recommends the gradual development of a comprehensive and integrated income support that can underpin South Africa’s comprehensive social security system” (p.63).

‘Phased-In’ Options provided by the Committee

The Committee does record the option of ‘maintaining the status quo’, which might be caused by ‘inflexible fiscal constraints’. However, they find that this would be ultimately short-sighted and “*intervention sooner would be both socially and economically prudent*” (p.64).

The Committee concludes that while the current institutional arrangements would not easily allow for immediate implementation and would take several years to plan, resource and implement, there is nevertheless, the “*need to take immediate steps to expand certain poverty relief and de facto schemes to assist those individuals and groups that can access such benefits*” (p.64).

The phased-in approach proposed by the Committee prioritizes the most vulnerable, namely children up to the age of 18, and calls for the introduction of an income support grant for children.

They estimate that the Phase one would operate from 2002 to 2004, and would involve:

- setting minimum income levels to eliminate destitution
- prioritize vulnerable and destitute groups, namely children up to the age of 18
- put administrative systems in place The Committee’s Report does not examine in detail nor propose various concrete suggestions or options for the institutional arrangements required for the efficient administration of the BIG.
- rationalize grants that are currently *de facto* poverty grants (clarity required: does this refer to the DG for example, which has become a poverty grant. It is not clear what would be entailed in the rationalization of the DG – eg. Would the amount be reduced so as to reach more people, or the grant done away with?)
- ensure effective and efficient ways of targeting the most vulnerable
- simplify and eliminate the means-test where they obstruct equity, administrative justice and are costly to implement (The Committee is not clear which means test for which grants should be eliminated and which ones should be simplified).

Of importance is further clarity received from a senior official for the Department of Social Security that for Phase One, the extension of the CSG will occur through the increase of the age limits progressively, from 7 to 12 to 16 and finally to 18 years by the year 2006. However, this would continue to be means tested, with the test only being removed (if at all) in 2006, or at the point where the BIG is rolled out to all South Africans. This is due to the fact that it could only be financed through the tax system once all persons were receiving it, or it would burden the poorer families beyond the benefits gained.

In Phase two (from 2005 to 2015) there would be extension of the income support grant to all South Africans. The key components would be:

- set a level to address absolute poverty
- level of grant to be determined in relation to a comprehensive package (Committee does not commit or suggest an amount, however, all its simulations were based on a grant of R100, at 2001 market prices)

They conclude that their recommendations in this option have been costed and “*can be seen to be financially feasible within the current fiscal framework*” (p.65).

CHAPTER SIX: Employment and Unemployment

This chapter provides some rather vague estimations at levels of unemployment, but with agreement that the number of the unemployed in South Africa has grown substantially over the past few years (from 3 million in 1999 to 4 million in 2001), and the expanded unemployment rates seem to have stabilized at 36-37% as from 1997.

The chapter examines various forms of social security, calling for broader social protection than a conventional safety net. The Committee proposes that the principle of social insurance, based on

entitlements through contributory schemes, should where feasible be extended to include as many of the employed as possible. The chapter looks at the UIF, examining funding options and finds that substantial funds would be required to keep the fund afloat in times of crisis. Also examined are job creation policies and public work programmes, finding that “*structural unemployment requires changes to structures, and structures will to change unless they are explicitly addressed as government level*” (p.73). While public works programmes are necessary to create jobs, they do not offer long term viable employment opportunities for the unskilled structurally unemployed. The report estimates the scale and costs of programmes required to make a meaningful dent on South Africa’s unemployment to be between R14-225 billion per annum. Thus, “*an assessment of the potential of these programmes must find that while they can do quite a bit to relieve poverty, they cannot be introduced on a scale large enough to do much more than dent the surface of South Africa’s unemployment problem*” (p.74).

The chapter makes some rather vague recommendations regarding informal social security measures, institutional arrangement and policy evaluation.

CHAPTER SEVEN: Protecting the Children

The chapter begins by examining the link between adverse circumstances experienced in early life and future success, and thus the Committee believes that strategies to address child poverty must be part of the overall strategy to alleviate and reduce poverty.

NB. The discussion in this chapter is fragmented, with inconsistencies and gap, there is no clear link between the recommendations here and those in the chapter on a CSP package and the BIG. There are many aspects that are not clearly addressed, such as the assumption that the CSG becomes the BIG, or falls away and another administrative structure be developed, or should there be a BIG *and* CSG? No mention of BIG’s relation to CDG.

While some key recommendations are made, eg. Extending CSG to 18years, free health services to all children, etc, these are presented in a discordant manner with no logical explanation of a comprehensive system.

Legislative Framework and Constitutional Obligations

The Committee acknowledges that the South African Law Commission is developing a comprehensive framework through the Child Care Act Review process, and therefore suggests that its own recommendations be considered within that framework (p.55), and further that the new Statute should make provision for a comprehensive package of social security for children (p.61).

The Chapter examines the Constitutional obligations with regard to children, recognizing their particular vulnerability and noting that their socio-economic fundamental rights are not subject to progressive realization or ‘right of access to’ limitations, and that these pertain to all children up to the age of 18years. Other international instruments are examined including the African Charter on the Rights and Welfare of the Child, and the Convention on the Rights of the Child, and notes that urgent attention needs to be paid to the recommendations of the UN Committee so as to ensure full compliance with the Convention.

The chapter does not examine the implications of the *Grootboom* ruling for children.

Evaluation of, and Recommendations for, Current Policies for Children

This section covers in some detail and with some accuracy the problems with the foster grant, the Maintenance Act and adoption processes. The critique of the care dependency grant fails to mention that the grant does not cover children with chronic health conditions. Strangely, this chapter does not offer recommendations for the CDG, which are presumed to be covered, although not specifically, in the Disability Chapter.

The Child Support Grant

The problems of the CSG are only given brief mention in the introductory overview in chapters 2 and 5 in determining a rationale for the BIG, while no analysis of the problems with the CSG are provided in this chapter, apart from mentioning that a lack of nutritional information and education undermines the effectiveness of the grant (?!). The specific recommendations regarding improvement to the CSG are limited to a call for supplementary nutrition and child care support. In the discussion of child headed households and orphans, it is recommended that the CSG be extended to the age of 18 years

Thus the attention paid to the Child Support Grant in the Committee's Report is scant and does not highlight the problems and limitations of the grant, which could be immediately addressed. It could be assumed that the call for an introduction of a BIG, with the first stage being income support to children, makes discussion of the CSG somewhat obsolete. However, the failure to address the real problems with the administration of the CSG would obviously undermine the implementation of universal income support through the extension of the CSG. Eg. the Committee in this chapter does not clearly call for the abolishment of the means-test for the CSG, nor call for the amount of the grant to reflect the real costs of caring for a child and for the amount to be inflation linked, or to deal with the problem of lack of correct documentation. The Committee fails to mention that the two tier means-test for the CSG (rural versus urban threshold incomes) could be considered Constitutionally unfair, leading to discrimination and administrative complexity (Bolani *et al.* 1999¹). Poor children living in urban areas have the same right of accessibility as those in rural areas. If the intention was to compensate for the disadvantages faced by rural applicants, then other measures could have been used to increase their accessibility, such as improving infrastructure, availability of welfare offices and increasing the numbers of mobile units.

Recommendations pertaining to the Foster Care grant

The Committee views the FCG as providing an important support mechanism for children in compromised family environments. The recommendations include: the call to simplify the access to the FCG and to shorten the process, and that non-South Africans should be entitled to the grant.

(Clarity required: There are two further recommendations in this section which would appear to refer rather to the CDG. I.e. uniform application procedures, especially with regard to children in daycare centres or LSEN schools, and programmes at hospitals and schools having frequent contact with candidates for these grants. Since the foster grant eligibility is determined strictly by court procedures, these recommendations logically fall away.

Recommendations pertaining to orphans and child-headed households

It is acknowledged that currently there is no specific social assistance intended for orphans, yet the incidence of AIDS orphans and child-headed households is rapidly increasing, due to HIV/AIDS, poverty, urbanization, and the erosion of the extended family support mechanisms. The Committee calls for efforts for these children to be incorporated into other households, or adult supervised institutions or to some adult in the community. Siblings should be kept together.

The short-term measures suggested for these vulnerable children include:

- extension of the CSG to all children 0-18 years. (NB. Although the report says 'all', it does not clarify if this implies abolishment of the means-test, or is emphasizing the removal of the age limit alone)
- simplify access to the CSG, with child-headed households being assisted by NGOs or CBOs to allow for adult supervision in the application and spending of the grant.
- develop skills training and vocational training for these children

Long-term measures would include:

- projects aimed at prevention and integration of these children into society

¹ Bolani E *et al.* "Family Support" in Olivier MP (eds). 1999. Social Security Law: general principles. Butterworths: Durban.

- encouragement of home- or community-based care
- simplify foster and adoption processes, where informal carers can access the grants
- involve CBOs and NGOs in the identification, assessment and care of vulnerable children
- set up childcare centers to increase their learning opportunities and psychological skills.

We would also recommend encouragement and support for their reintegration into the educational system, such as free primary and secondary schooling. Attention must be paid to preventative measures and rehabilitative interventions. It could be stressed that a BIG would reduce the need for children to have to undertake work, such as commercial sex activities, and could potentially reduce the incidence of children living on the streets due to poverty at home.

Recommendations pertaining to children with HIV/AIDS

It is noted that these children seldom qualify for the CDG, and if over 7 years are not eligible for the CSG. In addition, their informal care-givers cannot apply for the FCG.

Again, the Committee calls for the extension of the CSG to all children up to 18 years of age, for free health services for *all* children, for simplification of the foster process, and AIDS awareness projects.

These recommendations are not extensive nor exhaustive (but they reference CHPI without including all our recommendations in a systematic manner!?)

We would add that it is important for this group of children to have free access to primary, secondary and tertiary health care services, up to the age of 18, with transport vouchers to get to clinics, and nutritional supplements. Currently some HIV positive children receive the Care Dependency Grant when they reach the later disabling stages of the illness. This should be done through the holistic needs assessment procedure suggested by the Committee (in disability chapter) and which has been called for by the disability sector for many years.

Recommendations pertaining to the Maintenance Grant

The report looks quite extensively at the problems under the current Maintenance Grant and makes several sound recommendations. I would suggest that we support their recommendation that the system the Maintenance Act should be maintained, with all the improvements called for by the Committee.

Recommendations pertaining to adoption

Relative to the other issues in this chapter, the Committee gives extensive coverage to the problems with the current adoption system, and mentions that the South African Law Commission proposes an adoption subsidy. The Committee implies that the need for such a subsidy would fall away in the event of a universal child grant being implemented, and goes on to highlight several possible negative implications of such a grant: that adoptive parents may adopt for the wrong reasons, they would be treated differently to biological parents, and that measures encouraging poor people to adopt children would not be in the best interests of the child.

Emergency Relief systems

The Committee fails to address the problem of poor emergency relief services. Obviously, the introduction of a basic income grant that could be quickly and easily accessed would drastically reduce the need for emergency interventions. However, until that time, there is need for the state to improve the access and administration of the Social Relief of Distress Fund for children in dire poverty.

The Chapter finally concludes that it does not purport to provide a comprehensive package of social security for children (they got that right!), as it is envisaged that the SALC would make provision for such a system in the new Child Care Statute.

CHAPTER TEN: Disability

This chapter also suffers from some internal inconsistencies. While many recommendations were ‘cut’n’paste’ from the CHPI&SAFCD report, they have not done so logically nor consistently, so there is a lack of sensible flow, with a failure to make clear, ‘costed’ options. The final recommendations made by the Committee do not include all the suggestions included earlier in the chapter, which undermines these.

The Chapter introduces the discussion with the few available statistics on disability prevalence in the country, highlighting the problems in measurement. It describes the poverty-disability cycle, the impact of disability on society and particularly on children, and the need to “put in place measures to address the growing threat of disabling disease” (p.102)

The report discusses the conceptual issues of disability definitions, consequences, gaps and limitations in the current system, particularly for children with disabilities. It proposes a principled and legislative framework, suggesting that a comprehensive system would require that one piece of overriding legislation would capture the concept, purpose and eligibility of social security for persons with disabilities. There is need for linking and coherence between the various pieces of legislation that currently affect disability.

The Committee’s conceptual recommendations include:

- social security should be seen not only as poverty alleviating but as measures to promote self-sufficiency and independence, ultimately aiming at societal solidarity, and the full development, equality and participation of persons with disabilities.
- A broad definition of disability should be used, with each different scheme adapting this to the purpose and scope of the particular scheme
- Beneficiaries should not be defined according to the disability, but rather the system should measure and respond to their level of need
- Persons with chronic illnesses, including HIV/AIDS, should also qualify for the adult disability grant (p.104). This is not extended to children with HIV for the CDG).
- Eligibility to the DG should not be based on ‘incapacity to work’, but rather determined by a needs-based assessment, which would replace the current means-testing
- The needs-assessment would consider not only the type and severity of the disability or illness, but also other social, economic, physical and environmental factors.
- The assessment should focus on the individual’s capacities, e.g. to undertake re-training and re-employment
- The needs-assessment would include a financial analysis of the individual’s situation and needs. There should be a threshold of income, which should be determined by the Disability Sector and economists.
- This assessment should be undertaken at regular intervals to identify changes in circumstances and need.
- Sudden termination of grants is strongly discouraged, rather adequate warning of phasing out of the grant where an individual is no longer eligible.
- A sliding scale of benefits to suit the range of presenting needs, which would incorporate cash transfers and other indirect forms of social security.
- The DG and CDG should be maintained and kept at their current level, if not increased. (contradiction or lack of clarity regarding BIG – next point...)
- Individuals would receive basic income as the first step in the package of benefits. Thereafter consideration of their extra needs in ‘topping up’ in cash and in-kind benefits.

The Committee’s short-term recommendations:

- Amendments to Social Assistance Act and Regulations and administrative structures
- Remove ‘permanent home care’ clause from CDG
- Extend CDG to children with moderate disabilities (but not to chronic illnesses) and to those in special schools or day-care centers
- Revamp current medical assessment forms

- Utilize a multi-disciplinary panel for assessments
- Develop clear eligibility criteria and guidelines for assessors
- Remove criteria of proving spouse's income from the means-test
- Free public health services to persons with disabilities
- Review processes at regular intervals
- Establish an appeal mechanism
- Speed up processing time for applications
- Education of the public on social security available to them.

The Committee's final recommendations:

- Existing disability benefits should remain until such time as income support measures are universally implemented (Clarity required: this might imply that once a BIG the DG and CDG could possibly fall away. There would always be need for some additional cash transfer for extra needs due to disability, and would also be dependent on other services being in place)
- De-link cash benefits and in-kind benefits so that those not eligible for a grant may still qualify for other free services/ support
- Definitions should be amended to reflect an interactive approach that takes into account both medical condition and social and environmental factors, and broadened to include physical, mental, sensory and intellectual disabilities.
- Use of the ICFIDH-2 (now the ICF) be used in defining disability
- Definition should identify need and appropriate range and level of benefits
- Provision for the purchasing of essential assistive devices
- Simplify administrative procedures
- Establish quantitative indicators and benchmarks
- Officials should be aware of the obligations of the state and the rights of the applicants
- Discriminatory elements in the provisioning of grants and insurance should be removed
- The citizenship restriction for entitlement be removed
- "The Social Assistance Act and its regulations should be adapted in order to comply with the tenets of administrative justice as required by the Constitution, the statutory law, and well-founded common principles" (p.106).

Unfortunately by including issues of the CDG in the general disability chapter, specific problems nor their solutions, are not addressed here. Nor were they addressed in the earlier chapter on children.

Therefore the following points might be made regarding the Care Dependency Grant specifically:

The CDG is limited in its scope and purpose, and suffers from unclear eligibility criteria. By targeting only children with *severe* disabilities in *permanent* home care, it excludes children who may have moderate disabilities but due to their socio-economic situation these become severe handicaps and their needs are therefore great. It also excludes children with chronic illnesses, who similarly have great needs due to the nature of their illness.

The current Social Assistance Act does not define 'severe disability' nor 'permanent home care', leading to subjective interpretation by officers. We therefore support the call for an interactive approach to the definition of disability, "*which takes into account both the medical condition and social and environmental factors*" (p.106). The definition should cover any and all disability types and chronic illnesses which result in special needs. We support the suggestion to use the ICFIDH-2 (now called the International Classification of Functioning ICF) in defining disability along the three components, with the additional attention to social and environmental factors which contribute to the degree of limitation experienced.

Regarding 'permanent care', there are children who would benefit from a few hours each day in a 'day-care' facility, but in such cases the parents would lose the grant, thus discouraging them from seeking

some part-time employment, and denying the child's rights to education and stimulation. Access to the grant should be based on levels of care-need, in conjunction with the other factors mentioned above, and not specifically for permanent home care alone. Therefore we support the call to remove the clause from the Social Assistance Act.

The current assessment tool for the CDG is purely medical-based, and does not consider the socio-economic and environmental situation of the child. It also has serious limitations in measuring childhood age-related disability and functioning. We therefore support the suggestion that eligibility criteria for social assistance should be determined by a **Needs Test**, which considers the extra needs and costs incurred by the child due to his/her illness or disability.

Regarding benefits, we support the call for a sliding scale of benefits based on need that would incorporate cash transfers and access to other free services, such as free and primary, secondary and tertiary health care to the age of 18 years, transport vouchers and nutritional supplements.

Once the BIG is introduced then all persons with disabilities should automatically have access to this with additional support determined by their needs due to the health condition. The Disability Grant and the Care Dependency Grant should be maintained, and persons receiving these should also benefit from the BIG, as the grants serve different purposes.

Several of the recommendations made by the Committee with regard to the disability grants should be applied to all the grants, such as:

- The regulatory environment and enforcement of the Social Assistance Act and its concomitant regulations be adapted in order to comply with the tenets of administrative justice as required by the Constitution, the statutory law, and the well-founded common law principles (p.106).
- Official responsible for dealing with the grants should be made aware of the obligations of the state and the rights of the applicants in this regard.
- The citizenship restriction for purposes of entitlement to social assistance grants be removed.
- Simplify administrative procedures

CHAPTER 13: Institutional Framework

This chapter examines the institutional requirements to implement a CSP package.

“Indeed, with poverty being as persistent and pervasive as it is, building the capacity of the state and its public sector institutions is an essential starting point for institutional transformation” (p.119).

The chapter examines the challenges faced in the public sector, within social insurance, in the regulated private markets, and in policy co-ordination and responsibility.

The Committee makes recommendations for an integrated institutional and organisational framework. This includes the introduction of a social security board and agency, a Social Protection Commission, governance structures for social insurance, regulation of private sector insurances, and a uniform adjudication mechanism involving a specialized court with the power to adjudicate over all social security matters.

CHAPTER 14: Financial framework for the CSP

This Chapter gives consideration to:

- The Constitutional references to government finance
- An overview of the social security financing issues
- The principles underlying the selection of particular forms of taxation, levy or user fees

- Alternative revenue sources in the national accounts and their relationship to the National Revenue Fund
- Financial management issues in mixed financing options.

The bulk of this chapter are not reported here. However, in summary, it can be highlighted that the examination of the current financial expenditure clearly indicated that only 0.7% (R6.4 billion) of the GDP was allocated directly to children in 2001 (versus 7% for retirement, 1.6% for disability and 0.0% for adult poverty). The benefits to children through the health care and education systems could not be quantified. Nevertheless, the under-prioritisation of children in budget allocations is obvious.

The introduction of a BIG and the other recommendations made by the Committee would increase the allocation to children to 2.0% of the GDP, comparable to disability (1.6%) and adult poverty (1.6%), but still under retirement at 7.3% (however this figure also includes private, social and national insurances, which are currently not directly available for children).

The simulations provided of the costs of the Committee's recommendations estimated that an additional 2.3% of the GDP is required to be spent on social security (p.147).

The Commission concludes that:

“The reform path (as suggested by the Commission) is affordable when seen from a long-term perspective, as all improvements in the social security system occur broadly within the current macroeconomic constraints... In particular, the implementation of a universal system of social assistance grant in key areas becomes both feasible and affordable”. (p.149).

CHAPTER 15: Social Security within a Regional Context

This chapter provides some overview of social security in other countries in the region, and finds that co-ordination of social security in the region is lacking.

CHAPTER 16: Conclusion

The conclusion highlights the challenges of poverty alleviation and inequalities, the gaps in the current social security system, and the need for a unique and appropriate system that prioritizes persons with no, or insufficient, incomes and those in the informal sector.

The Committee proposed a comprehensive and integrated medium- to long-term framework for income support, that would ensure all citizens have a minimum standard of living, and thus provide people with their socio-economic rights.