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**South Africa's Hybrid Care Regime:  
The changing and contested roles of  
individuals, families and the state  
after apartheid**

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# South Africa's Hybrid Care Regime: The changing and contested roles of individuals, families and the state after apartheid

## Abstract

*Both cross-national variation and changes over time in the organisation of care work have been well documented, but what happens when different systems collide? This paper examines care work within the context of South Africa. Before and under apartheid, the state sought to institutionalise a dualistic welfare and care regime along racial lines. The system for white citizens drew on (but did not replicate precisely) British practices and norms: white citizens relied on the market (if they could afford it) or public programmes (if they were not rich), with public programmes based on Anglocentric assumptions about the family dynamic. Public programmes generally excluded the poor and effectively disenfranchised African population, who relied on familial provision for care, subject to discriminatory regulation by the state, including through 'Native' or 'customary' law (at least through its codified version). Democratisation (in the early 1990s) posed new policy-makers with two options: deracialisation, i.e. extending to the African majority the privileges that hitherto had been largely confined to the white minority; and transformation, i.e. reforming the welfare and care regime to render it more appropriate to the practices, norms and needs of the African majority. Policy-makers' choices were framed by two contextual factors: the fiscal crisis of the post-apartheid state, and the predominance of a discourse that accorded women and children rights as autonomous individuals. Deracialisation led to the rapid expansion of some programmes to cover the whole population. Fiscal constraints, developmental priorities and conservative norms pushed policy-makers into rolling back some other programmes, transferring functions to the market and preserving some of the roles played by extended kin. When public provision was expanded, it was widely criticised by conservatives for encouraging behaviour that violated conservative familial norms. On the ground, familial norms and values have been highly fluid in the face of social and economic change. Ordinary people have navigated between the market (if they could afford it), the state and the family. The South African care regime is thus a hybrid regime, with diverse origins in European and African practices and norms, refashioned by post-apartheid elites and ordinary people, and subject to continuing politicisation and contestation.*

# Introduction

South Africa's welfare and care regime comprises a mix of market, state and kin. In many households, care is purchased through the market. The rich buy childcare and domestic labour, insure themselves against a variety of risks, and, in their old age, purchase care either in their own homes or in privately-run residential institutions. Many medium- and even low-income households also procure childcare and private insurance against poor health. The state regulates much of the market and intervenes directly, especially through means-tested social assistance programmes for categories of poor people deemed to be deserving, for instance, the elderly, disabled and mothers (or other caregivers) with children. Some of these grants and pensions are much more generous than in other middle-income countries, with the elderly receiving pensions worth more than US\$100 per month (although in South Africa pensioners are likely to have more dependents because of high unemployment and landlessness, AIDS-related illness and death, as well as pervasive poverty). Almost one in three people in South Africa receives a tax-financed monthly grant or pension, and the resulting cost of about 3.5 percent of GDP is more than in any other major middle-or low-income country. The state also spends heavily on childcare through 'early childhood development' facilities for pre-school children, but has largely withdrawn from the provision of residential institutional care for the elderly. Whilst kin provide less support and care than in the past, the role played by family members nonetheless remains important, especially for the poor (Seekings & Moore, 2014).

This mix of state, market and kin roles results in a hybrid welfare and care regime that does not fit neatly into any of the categories identified in typologies focused on the global North. The origins of South Africa's hybrid welfare system lie in its history of colonialism, European settlement and immigration, as well as its history of institutionalised racial segregation and discrimination. A set of classically 'liberal' policies provided minimal support and care to the 'European' (or 'white') minority population, in part to discipline supposed deviants into conforming to the norms of white supremacy. The indigenous 'Native' or African majority population was, for the most part, originally excluded, with the justification that support and care were sufficiently and appropriately provided by kin. The system was never as neatly dualistic as the ideology of institutional segregation would suggest, however. Over time, the 'radius of responsibility' within African, as well as white families, shrank, with growing numbers of people – especially women and children – receiving insufficient support or care from kin. Many programmes were extended to the black majority population, and have come to be viewed as rights (in practice if not in law).

When the African National Congress (ANC) was elected into government in South Africa's first democratic elections in 1994, it was faced with the challenges of completing the deracialisation of public institutions and policies inherited from the colonial and apartheid regimes. The basic premise guiding the ANC was that the African majority should now be included fully in the system set up for the white minority. At the same time, there was pressure for the transformation of this system to take into account either the specific needs of the previously-disenfranchised population or the norms that had been excluded from consideration hitherto. There was little agreement as to how far the existing system for white South Africans needed to be transformed rather than simply deracialised, or over the direction and form of transformation. Both prospective deracialisation and proposed transformation were constrained by a fiscal crisis and widespread agreement on the imperative of restoring economic growth after a decade of stagnation. The result was that ANC-led governments after 1994 expanded some tax-financed public programmes, but retrenched others, whilst denouncing the 'welfare state' and lauding the family in ways not entirely dissimilar to their predecessors in the apartheid state. Ministers, legislators and judges have articulated competing views of how the responsibilities of provision and care should be divided up between state, market and society. In reality, South Africans navigate their way between public programmes, the market and the shifting obligations and responsibilities of kinship.

## **1. The racialised provision of care in pre-democratic South Africa**

Segregation (in the early twentieth century) and apartheid (from 1948) were based on the imposition of dualistic rights and governance on South Africa's population. This segregationist ideology structured the welfare and care regime. One set of public programmes and regulations framed the roles of market, state and kin for the white citizenry, while another, largely separate, set of programmes and regulations framed the roles of market, state and kin among African subjects.

At the end of apartheid, there were strong pressures to extend the privileges enjoyed by white citizens to the entire population. As a result, South Africa's welfare and care regime in the early twenty-first century has clear origins in the institutions, policies and practices introduced primarily for the benefit of white citizens long before the demise of South Africa's apartheid administration. Poor laws (or their equivalent) existed in the British colonies and independent Afrikaner republics that were combined in the Union of South Africa in 1910.

Between the late 1920s and 1930s, these laws were ‘modernised’ in the form of new cash transfer programmes and residential institutions for the deserving poor (the elderly, disabled, and poor children and their mothers). New state institutions were developed to manage these (especially a new Department of Social Welfare), along with programmes and institutions that dealt with delinquent children and adolescents. These new programmes and institutions were predominantly imitations, with appropriate modifications, of programmes and institutions in Britain or other British dominions (especially Australia and New Zealand). The South African context was colonial to an extent far beyond even Australia and New Zealand, however, and one of the key objectives of these new ‘social policies’ (as they were known by the end of the 1930s) was to manage the racialised, colonial order. Public programmes purposefully excluded the African majority; even state-provided drought relief was modest and dependent largely on the provision of labour on workfare programmes.

Reformers had diverse motivations and objectives, but the most important factor behind the expansion of public provision and care for white South Africans in the early twentieth century was the ‘imperative’ of protecting the racial hierarchy through raising ‘poor whites’ above and apart from African (and coloured<sup>1</sup>) people. As one Member of Parliament (MP) from the National Party (NP) put it, ‘in this country, there is a small number of whites against the natives, a few civilised people against uncivilised hordes, and for that reason it is so important that not a single white person should be allowed to go under’<sup>2</sup> (see Seekings, 2007). Public programmes were intended not only to raise the incomes of poor white families so that they (and especially their children) were no longer living in poverty, but also to discipline white families (especially their children) into the norms and behaviours appropriate for a white racial minority in Africa. The 1937 Children’s Act, for example, expanded the range of powers of the state to intervene where (white) children were being neglected and to ‘rehabilitate’ those who were already delinquent, including through foster homes and residential institutions. The Department of Social Welfare explained that this was ‘to conserve for the nation the socially desirable qualities of those persons whose normal development is in danger of being retarded or frustrated

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<sup>1</sup> In South Africa, ‘coloured’ was (and remains) a heterogeneous category, including the indigenous populations (mostly Khoi and San) in what is now the Western and Northern Cape, the descendants of mostly Muslim slaves (and some other immigrants) from South and South-east Asia, and many (but certainly not all) people of ‘mixed race’. Prior to apartheid they were not subjected to complete segregation and even enjoyed some political and social rights (including access to pensions and grants). Under apartheid they were first subjected to more thorough and brutal segregation, but in the 1980s were courted as prospective allies by the apartheid government.

<sup>2</sup> Dr Stals, *Hansard*, House of Assembly, 12<sup>th</sup> August 1924, col.429-32.

through physical or mental defects, social maladjustments or unwholesome environmental stimuli' (South Africa, 1940: 53).

For most white political leaders and government officials, the family was the foundation of 'white civilisation', and the role of the state was to support it, not to supplant it. Roman-Dutch law imposed a duty on individuals to support a wide range of kin, including parents, should they be 'destitute', which meant not merely poor, but extremely poor. Until the 1940s, at least, the incomes of extended kin were taken into account in assessing eligibility for pensions and grants. The 1928 Old Age Pension Act specified that pensions were subject not only to a test of the income of the elderly themselves but also had to consider the capacity of their adult children to support and care for them. Grants (later called 'state maintenance grants') were paid under the Children's Act to single mothers whose husbands were not maintaining them, because the husband was deceased, in prison, had absconded, or was unfit for work on grounds of age, infirmity or disability. The means test considered the incomes of non-resident 'near-relatives': grandparents, brothers and sisters, for instance. Both old-age pensions and state maintenance grants were also dependent on appropriate behaviour by the recipient.

By the late 1930s, South Africa had a well-developed welfare state for its white and coloured citizens. As Gray somewhat dramatically proclaimed in his inaugural lecture in 1937, 'Today the provision for [the] European population ... is scarcely less complete than that of Great Britain' (Gray, 1937: 270). This was hyperbole because public provision in South Africa was more residual than in Britain, with a stronger emphasis on the family. However, in other respects, the 'European' population of South Africa enjoyed privileges that most of their British counterparts did not, including de facto employment guarantees and domestic labour that was kept very cheap. The African majority of the South African population did not share in any of these privileges. Exclusion from welfare programmes was sometimes explained in terms of the supposed impracticality and unaffordability of covering African people. Underlying such explanations lay an explicitly racist ideology of segregation. One National Party MP, for example, told Parliament in the debate over the 1928 Old Age Pensions Bill that 'the provision of pensions would encourage the tendency of natives to de-tribalize themselves', including through urbanisation, which posed a considerable threat to white supremacy.<sup>3</sup> Conversely, ideologues argued that 'the poverty of individuals which occurs among Europeans is not common among Natives' because 'their communal system cares for all its people' (South Africa, 1932: para 998-9). This logic led to the situation where even white working-class families were considered to need a wage high enough to employ

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<sup>3</sup> Hansard, 1928, col.4, 194.

a domestic African worker, while the domestic worker was viewed as needing only a very low wage.

This argument became a pillar of the ideology of apartheid after 1948: the African population had its own traditions and practices, and these should be protected in areas ('reserves', later renamed 'homelands' and 'bantustans') set aside for African settlement and even self-government. 'Native' or 'customary' law would be applied in these areas especially. Customary law was only partially codified (as 'official customary law') and remained in part, at least, as 'living' law. The codified version was partly designed to secure the loyalty of approved traditional leaders to the South African state, and tended to exaggerate and distort the patriarchal element in customary law (Nhlapo, 1995). The core of customary law on care was that the (male) head of the family had an obligation to provide not only for his wife (or wives, in polygamous marriages) and children, but also his younger brothers, their wives (or widows) and children, and any other separated, divorced or widowed women of his family. The father was the natural guardian of his 'legitimate' children. 'Illegitimate' children fell under the guardianship of whichever man was the mother's guardian (Dlamini, 1984: 351).

Whilst customary law covered a wide range of relationships and obligations, by far the most important of these was the regulation of marriage, divorce and succession, not least because South African political and legal elites in the early twentieth century were preoccupied with polygamy and other 'unChristian' aspects of 'African' marriage (Chanock, 2001). Customary law thus provided for the *isondhlo* system of payments (of cattle) for illegitimate children, which might be considered as a form of maintenance (Dlamini, 1984; Bennett, 2004; but see Bennett, 1980). It is not clear how (or how often) the responsibilities and obligations to kin other than wives and children were raised under customary law. The codified version does not appear to have had much to say about these relative to marital and parental responsibilities, but cases dealt with under 'living' law would not have been formally recorded with the State.

In practice, as both magistrates and employers knew well, poverty among African people was widespread and perhaps worsening, as migrant workers in towns became less willing to provide and care for all of their rural dependents, especially elderly widows. At the same time, the rising urban African population posed challenges of social control that prompted calls for the expansion of programmes to discipline the African family (Posel, 2005). During the Second World War, with the NP in opposition and liberal reformists enjoying more influence, parts of the welfare state were somewhat deracialised. Most importantly, in 1944, old-age pensions were extended to African men and women, albeit with much lower benefits than for white pensioners (Sagner,

2000; Seekings, 2000, 2005). By 1946, there were almost twice as many African pensioners as white pensioners, although expenditure on white pensioners remained higher than on elderly black citizens. Ten times as many African people as white people received pensions for the blind (Jones, 1948). Grants for single mothers were barely deracialised, however (Du Toit, 2017).

In 1948, the NP was elected into office, and began to implement the more systematic segregation that came to be known as apartheid. Intensified segregation was imposed on South Africans classified as 'coloured' or 'Indian'. The 'bantustan' strategy entailed stripping the African population of rights in South Africa and removing them to (or confining them within) the supposedly self-governing or even 'independent' 'bantustans'. The NP was also consistently hostile to the idea of a welfare state, at the same time as it continued to intervene where necessary – especially through public education and health care – to uphold white privilege. NP ministers denounced the European welfare state and were ambivalent about even the more limited American social security system. The state pushed white South Africans towards private pensions, and protected their dependence on African domestic labour by ensuring that its cost remained very low. Total public welfare expenditure fell as a share of total government spending. The NP tried to remove the elderly to the bantustans, and to transfer responsibility for old-age pensions to the Bantustan administrations.

Social change, however, ensured continued need for public provision. The absence of any system of national insurance meant that some elderly white people lacked any income. White adults were less and less willing to support or care for their elders, resulting in a rising need for residential institutions for the elderly. Rising numbers of white women entered the labour force and some even continued to work after marriage. Divorce and separation became more commonplace. To avoid spending more itself, the apartheid state had to discipline white men as well as women and children. In practice, civil law focused on the obligations of men to support their wives and children, especially in the case of divorce or death, and paid little attention to obligations to more extended kin.

Public policy and social change also contributed to persistent poverty within the African population. Government controls on who could live where disrupted family relationships and responsibilities. Public housing programmes in urban areas encouraged households to shrink into nuclear family units. Influx control inhibited even this. More and more elderly African women, mostly widowed, were not looked after by their children, or their late husband's kin. At the same time, increasing numbers men failed to support their wives (or former wives) and children, and more and more often their kin failed to step into the gap

opened by this change. Customary law was unsuccessful in protecting many younger women and their children, and failed almost entirely to protect older widows. The Bantustan administrations showed no interest in abolishing old-age pensions, and the NP government was compelled to pay for them. The apartheid state was unable to close the last four old-age homes for African people outside of the bantustans, and even gave permission for a fifth old-age home to be built, in Soweto.

In the 1980s, the NP was caught in its own rhetoric that its policies entailed separation without discrimination, and moved to reduce and finally eliminate explicit racial discrimination in the value of the old-age pension and other grants. The real value of the pension paid to white South Africans was allowed to decline, whilst the real value of the pension paid to African men and women was raised, until parity was finally achieved in 1993. Discrimination continued in other parts of the welfare state, however. Most African women were not eligible for the grants paid to single mothers. Institutional care also remained deeply discriminatory (as well as segregated). By the early 1990s, almost one in ten elderly white people – i.e. 31,000 in total – resided in state-operated or subsidised homes. The number and proportion of African men and women in old-age homes inside or outside the bantustans were insignificant. The racial differences were only a little less pronounced in children's homes, which accommodated 6,500 white children, 2,500 coloured and Indian children, and 1,200 African children (SAIRR 1991: 155-9). Lund calculates that the government subsidy to old-age homes for frail, elderly people was almost eight times higher for white than for black residents (Lund, 1992: 313).<sup>4</sup> The state sponsored research into the challenges of providing for elderly African people, but had not acted on it by the end of apartheid. The state also continued to exempt domestic workers from regulation, ensuring that white families could continue to enjoy the benefits of cheap domestic care. Growing numbers of African families also resorted to the market to ensure childcare.

As late as 1989, the NP Minister of Welfare attributed the enduring differences in public provision to the differing 'traditions of responsibility regarding the care of the aged' in each 'population group' (quoted in SAIRR, 1990: 312). Whether or not traditions differed between 'population' (i.e. racial) groups, these were not the primary reason for the difference in provision by government. The apartheid state chose to discriminate racially in favour of white citizens, in some but not all programmes, until the very end of the apartheid era. When an ANC-led government assumed office in 1994, it had to decide what to do with the system that it had inherited.

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<sup>4</sup> Expenditure on children's homes was less discriminatory: In 1991, R7,000 was paid per white child versus R4,500 per African child (SAIRR 1991: 160; see also 314-5).

## 2. Reforms to existing programmes: Deracialisation or transformation?

South Africa's first democratic elections resulted in the ANC forming a 'Government of National Unity', under Nelson Mandela as president. In most areas of public policy the new Government was confronted with the challenge of unravelling what was still a largely dualistic system, which posed the choice between *deracialising* and *transforming* the policies that existed for white South Africans (often at the expense hitherto of the African majority). This choice was somewhat delayed with respect to welfare policy, because the Minister of Welfare for the first two years was from the NP, which initially participated in Government of National Unity. Only in 1996 did the ANC assume full control of the Ministry and the pace of reform picked up. The Government integrated the multiple, racially-segregated institutions governing social welfare and published a White Paper on Social Welfare that set out the broad objectives of post-apartheid public policy. At the same time, social rights – including, when necessary, 'appropriate social assistance' – were introduced in the widely-lauded new Constitution.

There was strong pressure to deracialise existing policies governing welfare and care. There could be no question of tolerating continued racial discrimination against African people. Prior to 1994, the NP government had already abolished racial discrimination in the level of benefits paid out under the old-age pension and other programmes. Access, however, remained unequal, and there were strong demands to extend the privileges enjoyed by white (and coloured) people to African people as well. The most immediate challenges concerned access by the disabled and poor mothers to grants. It was suspected that bureaucratic impediments meant that disabled African men and women were rarely able to access disability grants, even though the disability grant programme had supposedly been deracialised in 1993 along with old age pensions (Kelly, 2013). State maintenance grants were even more skewed towards coloured, Indian and white children. African women and children in urban areas were excluded by bureaucratic obstructionism, whilst African women and children in the bantustans remained barred altogether (Lund, 2008). An additional challenge concerned the racially-segregated and unequally-funded residential institutions for the elderly.

At the same time, there were strong calls to transform rather than simply extend the programmes that existed for white citizens. Three rather different arguments were made for transformation. The first, and most powerful, was that the imperative facing the new Government and country was development. Faced with poverty and high unemployment, Mandela stated in his inaugural

presidential address in May 1994 that what was needed was development and job creation, not ‘handouts’. Most of the ANC leadership prioritised ‘development’ over ‘welfare’ and sought to transform welfare programmes in a more developmental direction. This position was set out in the 1997 White Paper and subsequent renaming of the Ministry of Welfare as the Ministry of Social Development. Secondly, the ANC was under considerable pressure, especially from progressive technocrats and organisations in civil society, to reform public policy in line with the constitutional recognition that women and children were autonomous, rights-bearing individuals (and to promote more ‘comprehensive’ coverage, to poor individuals, for example, who were not eligible for any of the existing programmes). This ran counter to the premises of large parts of both civil and customary law. Thirdly, many public policies for white South Africans reflected the assumption that the normal construct of the family was the nuclear family household with one or more breadwinners.

Family law focused on the obligations of men to their wives and children, especially after separation or divorce, and public programmes provided support and care for children and mothers when the male breadwinner had died or absconded. Family relations among African people had undergone massive change, with the decline of responsibilities to extended kin, but extended kinship remained important for many African people (including elites) both in practice and normatively. Insofar as the existing, inherited public policies assumed that the ‘normal’ family was nuclear, there were strong arguments for transforming, rather than simply deracialising, these policies.

The ANC-led government’s options were soon constrained by severe fiscal crisis. The apartheid state bequeathed to the democratic state deteriorating public finances, and the crisis was intensified by both choices and errors on the part of the new government. In 1994-95, the budget deficit reached almost 7 percent of GDP, and the debt-to-GDP ratio rose sharply. The new commitment in the constitution to the ‘progressive realisation’ of listed social and economic rights was qualified with reference to ‘available resources’. For some ANC leaders and government officials, the fiscal crisis provided an excuse to reduce public expenditure; for others, austerity was a regrettable necessity.

This shaped the ways in which the government responded to the immediate challenges it faced. First, with respect to disability grants, the government encouraged a rapid expansion in the programme, to reach the large numbers of disabled African people who were thought to have been denied grants in the past. The result was a rapid growth of beneficiaries. As expenditures rose, the Ministry grew alarmed, and sought to rein in and even reverse this expansion (Kelly, 2013). The second challenge – of deracialising access to state maintenance grants – was much larger. It was calculated that the cost of

‘maintaining’ poor African mothers and children on the existing programme would amount to about 2 percent of GDP. Given this, the government considered abolishing the existing programme entirely. Instead, it appointed a committee (chaired by Professor Francie Lund) to examine the options available to government.

The Lund Committee recommended reforming the existing programme whilst keeping its total cost steady at about 0.2 percent of GDP. This would be ensured by extending access to the African majority while reducing benefits and restricting eligibility to very young children. When the issue was debated in Parliament in 1997-98, benefits were raised and the means test was relaxed, raising the cost of the programme, but only to 0.4 percent of GDP (Lund, 2008; Seekings, 2016). Expenses also imposed severe constraints on how the new state could address the third challenge of institutional care for the elderly and children. To provide the entire population with the same provisions that were given to white citizens would require the construction of approximately 1,400 new old-age homes, at massive expenditure. As a result, the state resolved to withdraw slowly from institutional care. It would support the elderly through pensions, but the elderly would need to access personal care through the market or kin.

Fiscal constraints meshed with general ambivalence about an expansion of the statist approach to welfare and care that the apartheid state had employed for its poor white citizens. Some progressive technocrats sought to subordinate welfare and care programmes to developmental objectives. After short-lived and unsuccessful attempts to focus on new developmental programmes, such as facilitating entrepreneurship among young women, this ambition ended up being reduced to presenting developmental arguments for existing social assistance programmes. Other progressive technocrats sought to transform welfare and care programmes in acknowledgement of what they saw as the inherently extended character of African families, at the same time as they sought to recognise women and children as rights-bearing individuals.

The dilemmas were evident in relation to both old-age homes and child grants. Faced with the huge cost of building old-age homes for elderly African men and women, Lund asked whether it was ‘appropriate to chase the white model of provision’ (Lund, 1992: 314). Lund acknowledged that ‘the search for different models of provision comes at the same time as the popular expectation that the high standard of white provision will be shared by all’, resulting in tension between advocates of ‘appropriate’ services and the soon-to-be-enfranchised consumers:

An easy caricature of, say, a pre-school would be a simple mud-and-daub structure, based in the community, with personnel low on formal education but high on energy and commitment, speaking the local language, and able to “mobilise the community”. To those who design and initiate new models, this looks not only rational but also pleasingly “indigenous”. To those in the community it may simply look cheap. Forms of delivery which actually get to people may be perceived as proposals for continuing second-class facilities for second-class citizens. (*ibid*: 314)

In this case, the government chose to cut back on public provision. With respect to child grants, transformation required shifting away from the assumption underlying grants to single mothers that child poverty was due to the breakdown of the nuclear family household. The new Child Support Grant would be paid to the ‘primary caregiver’, who might not be the biological mother. The grant would supposedly ‘follow the child’: it would, in other words, be child-focused and not family-based (Lund, 2008: 51-4). From the outset, however, almost all grants were paid to mothers, perhaps because claimants who were not parents required additional documentation (*ibid*: 64-5, 77-8).

The introduction of the Child Support Grant did not entirely solve the problem of how to provide for children in a society where young people were often cared for by extended kin. The democratic government also inherited a Foster Care Grant, paid to the court-approved foster parents of children ‘in need of care and protection’ on account of having ‘been abandoned or orphaned’ and ‘without visible means of support’ (Meintjes *et al.*, 2003). The value of this grant was not changed after 1994, which meant that it was much more valuable than the new Child Support Grant. The fast-growing number of orphans, due primarily to AIDS, accentuated the need for a child welfare support system. In 2002, the Minister of Social Development stated that the government’s policy was to encourage ‘relatives to take care of orphaned children under the foster care package’ (quoted in Meintjes *et al.*, 2003: 1). The Government considered but rejected proposals for two new social assistance programmes to supplement the Foster Care Grant and pay equivalent benefits: a ‘Court-ordered Kinship Care Grant’ for children placed in the care of relatives but without the full court procedure required by the Foster Care Grant, and an ‘Adoption Grant’ for caregivers who formally adopted orphans (Meintjes *et al.*, 2003).<sup>5</sup> Powerful arguments were made against new programmes by researchers from the Children’s Institute at the University of Cape Town, who presented two claims:

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<sup>5</sup> The draft Bill also proposed an Informal Kinship Care Grant equivalent to the Child Support Grant for kin other than mothers. It is not clear how this would have differed from the Child Support Grant.

first, many orphaned children were no more in need of care than non-orphans, and instead shared with other poor children a need for cash; and, second, programmes needed to follow the child to allow for shifting care arrangements, rather than designate a fixed beneficiary for each grant. This was an argument for extending the Child Support Grant rather than introducing new programmes for selected categories of children (*ibid*).

The relative value of the two grants provided a strong incentive to kin to apply for the generous Foster Care Grant rather than the modest Child Support Grant, including when the child was not an orphan. Between 2002 and 2010 the number of foster care grants paid monthly rose tenfold, from 50,000 to 500,000 (Hall and Proudlock, 2011: 2; South Africa, 2012a: 85). Very few of these grants were paid to non-kin; most were paid to either grandparents or aunts (de Koker et al., 2006). The former Minister of Social Development had encouraged grandparents to apply for the Foster Care Grant. In a 2012 case, a court declined the application for a Foster Care Grant made by a Mr and Mrs Lamani, who were caring for their nephew. A higher court reversed this judgement, however, by finding that grandparents and siblings had a ‘duty of support’ and were eligible only for the modest Child Support Grant, even if they were caring for children who had been abandoned or orphaned, but uncles and aunts had no such duty and were therefore eligible for the more generous Foster Care Grant. The court judgement seemed to also imply that siblings had a duty to support each other.<sup>6</sup>

Obligations to kin also arose in several cases concerning the Road Accident Fund (RAF), which compensated the victims of road accidents. In a 2005 case, Mrs Fosi, who was a woman in her fifties, took the RAF to court when it refused to pay her compensation after her son, who supported her and her other children, was killed in a road accident. The judge cited both Roman-Dutch and African customary law in support of his decision in favour of Mrs Fosi and against the RAF. Roman-Dutch law recognised a duty to support ‘indigent’ parents. The judge found that the plaintiff – Mrs Fosi – was indigent and not merely poor because she was dependent on her son’s contribution for the ‘necessities of life’. Justice Dlodlo also considered African customary law, which recognised the obligation of a child to support a needy and deserving parent.<sup>7</sup> In a later case, in 2016, another mother took the RAF to court over compensation following the death of her daughter, who had been the main

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<sup>6</sup> SS v Presiding Officer of the Children’s Court: District of Krugersdorp and Others (Children’s Court case number 14/1/4-206/10, Appeal Court case number A3056/11 in the South Gauteng High Court) [2012] ZAGPJHC 149; 2012 (6) SA 45 (GSJ) (29 August 2012). <http://www.saflii.org/za/cases/ZAGPJHC/2012/149.html>.

<sup>7</sup> Fosi vs RAF, in the High Court of South Africa (Cape of Good Hope Eastern Circuit Local Division at George), case no. 1934/2005, Justice Dlodlo, 21 Feb 2007.

breadwinner in the family. Evidence was led that the daughter had undertaken to support her mother until the mother turned sixty and became eligible for an old-age pension. The court declared that African children have a financial duty to support their parents under customary law, and thus found that the mother was a dependent and deserved compensation for the death of her daughter.<sup>8</sup> This marked a significant recognition of the claims made by extended kin, thereby supporting and strengthening caregiving and sharing within families.

The courts rule on kinship obligations in a small number of cases brought against institutions such as the RAF or state. There do not seem to be cases brought by individuals against their own kin. In practice, few claims on kin can be enforced. Individuals in need must rely on the benevolence of kin (or neighbours), or public programmes. Fortunately for the poor, public programmes expanded in the 2000s, as fiscal constraints eased and the ANC-led government sought reforms that would demonstrate its commitment to poverty-reduction and shore up its support base. The Child Support Grant programme was steadily expanded, primarily by raising the age at which children ceased to be eligible. In 2009, the government announced that the age limit would be raised to eighteen. By March 2014, a total of eleven million child grants were paid out each month. The cost of the child grant rose to more than 1 percent of GDP (Proudlock, 2011; Seekings, 2016). There was no comparable expansion of institutional care for the elderly, although the age threshold for old-age pensions was reduced to 60 years of age for men, the same age as for women.

There was a massive expansion of institutional care for children below school-going age, in crèches that were supposed to facilitate early childhood development. By the 2010s, therefore, public welfare programmes reached a very high proportion of the population. There remained important gaps in the safety net, and poverty persisted, but total expenditure on social assistance programmes had risen to 3.5 percent of GDP. Pensions or grants were paid for almost one in three South African men, women and children. Most recipients accessed more than one grant, usually because they were receiving child grants for multiple children (Seekings, 2015).

Progressive political leaders and technocrats pushed for the reforms that went beyond deracialising the existing pensions and grants to transforming them as a means of rendering them more appropriate to the needs of the poor, most obviously by recognising that the caregivers of children growing up in poverty were sometimes not the biological mothers of the children. These reforms were generally premised, however, on a classically liberal conception of caregivers as autonomous and rights-bearing individuals. Reformers often defended pensions

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<sup>8</sup> *Motha v Road Accident Fund* (40852/2015) [2016] ZAGPPHC 559 (23 June 2016).

and grants by making the argument that recipients shared their income with other household members or kin. Research suggested that elderly women, especially, spent their pensions in ways that benefitted their grand-daughters (and other kin) (Duflo, 2003). The pensions and grants were paid to individuals, however, with no controls over how grant income was spent. This fuelled controversy over the child grants. It was widely alleged that young women had children in order to access grants and that many used this income on items, like drink, that were of no possible benefit to the child. Research suggested that such irresponsibility was not widespread (Richter, 2009; Wright *et al.*, 2015: 449), but it was possibly sufficiently common for many people to know of (or have heard of) examples of such supposed misuse (Surender *et al.*, 2010: 213). More generally, paying grants to young women violated conservative, patriarchal conceptions of order and justice, as we shall see further below.

In practice, public programmes were deracialised more than they were transformed. The push to restructure welfare around developmental goals did not get very far. Indeed, the government expanded the Child Support Grant in large part because it proved an effective mechanism for measurable poverty reduction at a time when the state was failing to address unemployment. Nor did attempts to institutionalise extended kinship obligations achieve much success. The Child Support Grant could be paid to kin other than mothers, and was supposed to ‘follow the child’, but the vast majority of recipients were mothers. The state lacked the means to enforce the kinship obligations that were supposedly recognised under both Roman-Dutch or customary law. The core architecture of the welfare and care regime in post-apartheid South Africa in the 2010s thus remained for the most part what it had been for white citizens prior to apartheid, seventy-five or so years before. Deracialisation dominated transformation.

Another part of the care regime was reformed, also in the direction of deracialisation in the sense that the regime sought to expand the kinds of protections enjoyed by whites to include African citizens. Democratic South Africa inherited a supposedly dualistic legal system under which the African population in rural areas was primarily subject to customary law. Customary law posed a major challenge to the post-apartheid state. Section 211 of the new Constitution recognised customary law, subject to consistency with the rest of the constitution. The patriarchal content of customary law was clearly inconsistent with the gender equality of the new constitution.

Some sections of civil law also remained deeply patriarchal and required reform. This was mostly true of the protection provided to women and children by the civil and customary regulation of marriage. Married women had few rights, and unmarried mothers (and ‘illegitimate’ children) almost none. Even

under civil law, if an African man died intestate (without a will) then his estate was distributed under customary law, which meant that his property would go to his oldest son or the next male relative. A widow or dependent children would usually be obliged to live with this male kin. Neither daughters nor extra-marital sons had any legal claim to inheritance (Burman, 1984).<sup>9</sup> In the 1960s, 1970s and 1980s both civil and customary courts had slowly expanded the rights of women, for example, with respect to custody (Bekker, 1989), but it was only in 1988 that civil law recognised any general claim to marital property by married African women (Bennett, 2004),<sup>10</sup> and it was only in 1993 that mothers secured equal rights to be guardians of their children (Clark and Goldblatt, 2007). The enduring gender inequality in marriage law and lack of protection of children were inconsistent with the new constitution and required reform.

The 1998 Recognition of Customary Marriage Act (RCMA) provided for equality between men and women under customary marriage. The regulation of domestic relationships was transferred from traditional leaders and families to the state, through its family courts. The powers of traditional authorities were limited to mediation. Women were given the same contractual capacity, locus standi and proprietary capacity as men with respect to property and land claims. Community of property became the default for customary marriages,<sup>11</sup> which gave divorced women a claim on their marital property. These reforms were based on the principles of gender equality and non-discrimination, as well as the protection of children in the family. Democratisation also led to reforms of the customary law of succession. Hitherto, the principle of male primogeniture was applied in the event of a man dying intestate. This was challenged successfully in *Bhe v Magistrate Khayelitsha*, in the Constitutional Court.<sup>12</sup>

Whilst these reforms empowered wives and children, there were some complications. First, policy-makers adopted a narrow, largely nuclear definition of the family and cut back on the claims that could be made on extended kin. For example, the RCMA empowered courts to order former husbands to pay maintenance on the dissolution of a customary marriage, but restricted the

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<sup>9</sup> Some regional codes did modify this. For example, the Natal and Kwa Zulu Codes provided for the estates of intestate African men married under civil law to be distributed according to common law. As such, wives, female children, or younger male offspring would not be disadvantaged (Bennett, 2004: 66).

<sup>10</sup> Until 1988, married African women had no claim on marital property unless they had signed an antenuptial commitment to community of property, which was very unusual. The 1988 Marriage and Matrimonial Property Law Amendment Act introduced community of property as the default arrangement in civil marriages between African men and women.

<sup>11</sup> This reform was contested, including by the National House of Traditional Leaders on the grounds that 'holding property out of community contradicted the communal ethic of customary law' (South African Law Reform Commission, 1998: 115).

<sup>12</sup> *Bhe v Magistrate Khayelitsha* 2005 (1) SA 580(CC).

claims that could be made hitherto on his kin.<sup>13</sup> Secondly, the strengthened claims of wives came in part at the expense of the claims of husbands' kin, including sometimes their female relations. The introduction of community of property in customary marriage set up a tension between the claims that a man's former wife might make and the claims of his kin, including his siblings (Mbatha, 2005). Moore and Himonga (2015) examine the perceptions of women on this issue. One woman in their study asked:

I married my husband in community of property. The house we are living in was my husband's inheritance from his family. I recently filed for divorce and my husband refuses to sell the house, stating that it is his inheritance. What can I do in that situation? (Quoted in Moore and Himonga, 2015: 3).

Mbatha (2005: 46) argued that customary heirs should be prevented from marrying in community of property without having excluded any inherited property from this. Similarly, the *Bhe* case may have strengthened the claims made by widows and children (including extra-marital children), but it did not recognise the claims of dependent parents or other non-nuclear kin. This narrow concept of the family and inheritance is not consonant with the needs of many families (Himonga and Moore, 2015).

The RCMA also drew on the 'best interests of the child' principle with respect to the care of children. The argument was made that it is the Court, through the Family Advocate office, not the parents, who determines how the best interests of the child are served. Moore and Himonga (2015: 224) found little information as to how the family advocate assesses a child's specific interest of maintaining a connection with his or her family, extended family culture or tradition (s.7 (f) Children's Act 2005) when determining the best interests of the child. The case of *Hlophe v Mahlalela* highlighted that the principle of best interest of the child took precedence over the basic principles regulating custody in customary law and issues of the custody of a minor cannot be determined by the delivery or non-delivery of lobolo. In this case, the father of the child was seeking custody of his child following the death of the mother. The mother and father had been living separately for some time and the child resided with the maternal grandparents. The father had partially paid lobolo. The presiding judge stated that 'notwithstanding any general customary law position regarding the

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<sup>13</sup> Section 8 4 (e) of the Act stipulated that 'when making an order for the payment of maintenance', the Court 'may take into account any provision or arrangement made in accordance with customary law'. The Act therefore remained open to reviewing customary agreements or payments made between the families when considering the maintenance of a child following the dissolution of a marriage.

custody of children, the basic principles of customary law regulating child custody had been excluded in favour of the common law'.<sup>14</sup>

In one further respect the care regime was reformed through the deracialisation of privilege. White South African families had long enjoyed the privilege of cheap domestic labour, through state policies that ensured a steady supply of female domestic labour free of any regulation of wages and conditions of employment. Domestic workers were first brought into the unemployment insurance system. The Basic Conditions of Employment Act provided for the Employment Conditions Commission to set minimum wages and regulate working hours and other conditions (Budlender, 2013).

These reforms of social assistance and other welfare programmes, of customary law and of employment regulations further eroded the bifurcated and dualistic system that apartheid ideologues had sought to institutionalise. In the apartheid vision, white people enjoyed support and care primarily through the market and state, whilst African people were pushed into dependence on kin. In reality, the system was never as bifurcated as the planners had imagined, as social change swept through African as well as white society. Nonetheless, practices and norms did vary, as we shall see below. In its reforms, the post-apartheid state generally built on the foundations of the system that existed for white citizens, with only modest reforms of basic apartheid state architecture. In so doing, the ANC most likely reinforced processes of cultural and social change within the African population – to the dismay of conservative African elites.

### **3. Norms and practices of care in the new South Africa**

Democratically-elected, post-apartheid governments unravelled the institutional dualism in the welfare and care regime by deracialising the existing system for white South Africans, with significant reforms to make this more affordable and modest reforms to make welfare more appropriate given the needs and norms of the African majority. On the ground, a diversity of practices and norms persisted. Not only did kin play much more active and extensive roles in the provision of care among African people than among white people, but there also remained variation in popular norms. As public provision expanded and state regulation changed, many African people in South Africa navigated between the state, market and kin, applying and revising the norms of what constituted good and responsible kinship.

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<sup>14</sup> *Hlophe v Mahlalela* 1998 1 SA 449 (TPD).

Research in the late 1990s showed that there were marked differences in family norms between African people in rural areas, African people in urban areas, and white people (Russell, 2003). For example, most of the rural African participants in the study venerated not only their elders but also their ancestors, most especially in the paternal line. White participants in the study saw marriage as a relationship between two autonomous individuals, whilst most rural African participants and some urban African participants saw it as the incorporation of wives into the husband's family. These differences had clear implications for care. Placing the elderly in an old-age home was accepted by many white and urban African participants, for example, but was strongly opposed by almost all rural African participants. The practice of grandchildren being sent to rural areas to live with grandparents was endorsed by some African men and women (especially rural African men) but by none of the white participants. Urban African men and women tended to agree more with white South Africans on some issues, and more with rural African men and women on others (Russell, 2003). This pointed to processes of cultural change, presumably in response to both the changing patterns of public provision (see the programmes discussed above), the discourses accompanying these (notably discourses of individual rights) and the shifting pressures and opportunities of urban life.

In reality, it is lower-income African men and women who face the most acute challenges of navigating their way across the shifting institutional, social and cultural landscape of post-apartheid South Africa. Without the resources to purchase easily care through the market, lower-income people must balance the opportunities provided by public programmes with their enduring responsibilities and obligations to kin. This navigation is complicated by two factors. First, public programmes focus for the most part on individuals, whilst family norms involve these same individuals in networks of kin (and, less often, community) with norms that dictate what it means to be a 'good' daughter, son, mother, father or grandmother. Secondly, economic change has generated both opportunities (for example, for women to work) as well as pressures (most obviously, very high unemployment and resulting dependency). Discourses of tradition, family and interdependence collide with the rhetoric of rights, individuality and economic independence. The reformed public welfare system may retain some Eurocentric assumptions relating to care provision within families, but individuals must negotiate the demands made on them by a wide range of extended kin. In practice, kinship no longer entails 'inescapable moral claims and obligations', as Fortes famously wrote (Fortes, 1969: 242). Instead, support for most kin has become highly conditional, and this is especially true among more distant kin (Harper and Seekings, 2010).

Historically, the elderly in rural areas were often most vulnerable to poverty. Widows were especially at risk, if or when their sons or their late husbands' other male kin had migrated but failed to remit a share of their earnings. The dramatic increase in the 1980s and early 1990s in the value of the old-age of pensions transformed the position of pensioners in kin networks. By the 1990s, elderly women (and to a much lesser extent men) were supporting entire households including children and grandchildren on their pensions (Schatz and Ogunmefun, 2007; Kimuna and Makiwane, 2007; Bak, 2011). 'Good' parents were supposed to use their pensions to assist their financially vulnerable children and grandchildren, even if this stretched them financially; ignoring these obligations would not only be considered 'morally outrageous but tantamount to the denial of the very kinship relationship itself' (Sagner and Mtati, 1999: 401). More recent research corroborates this analysis (Schatz, 2007; Button, 2016; Hoffman, 2016). In supporting their younger kin, pensioners were strengthening, as well as reflecting, norms of interdependence and mutual responsibility, including the subordination of individual interests to collective wellbeing (Sagner, 2002: 548). At the same time, the elderly were increasing their authority and their future claims to reciprocal support and care from younger kin (Sagner and Mtati, 1999).

Research has shown that many young adults' acceptance of their responsibilities to support their elders is mediated by, and dependent upon, circumstance. For instance, in a study in Mpumalanga, Hoffman (2016) found that young adults expressed a willingness to care for their older kin only in so far as they had the means to do so and on the condition that this did not interfere with the care of their children and spouses. A study of Cape Town quoted a 28-year old man saying that 'they know, black people, all black people, they know ... Each and every black guy, every black woman knows that he or she has to provide when they work' (quoted in Button, 2016: 51). Survey data from Cape Town in the mid-2000s showed that young African adults acknowledged that, should they be permanently employed, they would be obliged to support many kin (including kin who would probably not support them if they needed it) (Harper and Seekings, 2010). Some younger adults disappoint their elders, however, by failing to support them even when they are employed (Burman, 1996, Sagner and Mtati, 1999, Button, 2016).

Individualist norms impede responsibilities to kin. In her study of the roles of younger women in their rural households in KwaZulu-Natal, Mathis (2011) found that employed young women tried to limit their financial obligations towards their parents by speaking of themselves as rights-bearing individuals, in contrast to the discourse of tradition used by older people. When employed adult children failed to make financial contributions towards their households, their elders considered them to be 'uncaring':

Today's children, they don't care about their parents ... You find out that you raise your children but once your children get their job, they cannot support you. Instead of supporting you, your children use their money for their personal use, buying clothes, all those things. They forget that at the time they weren't working, you were the one that was supporting them. (Unpublished quote; see further Button, 2016).

It is not clear how widespread such 'uncaring' behaviour is, with its assertion of individual interests over collective well-being and its denial of both interdependence and reciprocity. Nor is it clear what the significance is of the deeply moral judgement that one is 'uncaring'.

In addition to financial support, older women provide care, especially to ill family members and grandchildren (Schatz, 2007, Schatz and Ongunmefun, 2007, Chazan, 2008, Fakier and Cock, 2009, Ardington *et al.*, 2010, Mosoetsa, 2011, Seekings and Moore, 2014). 'Good' grandmothers are moral guides and teachers, passing on to younger generation's knowledge, values and tradition. Caring for grandchildren entails socialising them into appropriate attitudes and behaviours, by educating them on gender roles, respect for elders, and the importance of education (and the undesirability of teenage pregnancy) (Cattell, 1997, Møller and Sotshongaye, 2002, Bohman *et al.*, 2009, Button, 2016). Grandmothers generally describe the role as a joy, but many also point to the financial, emotional and physical burden involved, especially when grandchildren are unruly, disobedient and disrespectful (Cattell, 1997, Nyasani *et al.*, 2009, Blake, 2015, Button, 2016).

Just as grandmothers have come to be seen as providers, so being a 'good' mother also increasingly entails providing financially for children (Blake, 2015: 46; Moore, 2013: 153). Rising female employment rates and declining rates of marriage and even cohabitation mean that more and more women are breadwinners. At the same time, high rates of unemployment and low earnings frustrate the achievement of good motherhood by many younger mothers. In this context, the Child Support Grant has come to play an important role, by imparting some dignity to otherwise impoverished young mothers (Wright *et al.*, 2015: 448, Blake, 2015: 47). 'Good' motherhood requires, however, that the recipients – almost all mothers – spend their grants on their children (Blake, 2015: 47). Researchers have found that most recipients do use their grants to purchase food and clothing for their children, and to cover their schooling expenses (De Koker *et al.*, 2006: 662, Surender *et al.*, 2010, Wright *et al.*, 2015: 449). Recipients are subjected to public scrutiny, judgment and prejudice by neighbours and kin who look out for evidence that recipients are indulging their

own consumerist desires (Blake, 2015; Wright *et al.*, 2015). Grants are thus both empowering and potentially disempowering, as they prompt more intense surveillance.

The Child Support Grant has also prompted criticism and opposition among believers in a patriarchal order. Many men and some women, particularly in rural areas, disapprove of young, and especially unmarried, women controlling resources. Tensions intensify if the young, female grant recipients fail to contribute to their households' expenses, even in cases where there is no similar expectation of young men (Mosoetsa, 2011). Young women who defy patriarchal norms are accused of being selfish, irresponsible and 'bad' daughters. This leads to hostility to the Child Support Grant itself, because the grant is seen to be morally and socially corrosive (Mathis, 2011; Mosoetsa, 2011; Dubbeld, 2013).

Whilst 'good' fatherhood has historically been synonymous with financial provision (Mosoetsa, 2011: 63), research shows that many absent fathers do contribute financially to their children (Clark *et al.*, 2015: 580). Such social and cultural changes have resulted in alternative conceptions of what it means to be a 'good' father (Russell, 2003; Morrell *et al.*, 2016). Almost all the rural African participants in Russell's research believed that it was better for fathers to be absent, but financially supportive rather than unemployed and nurturing. However, two out of three of her urban African participants expressed a preference for an unemployed father, who spent time playing with, and teaching, his child instead of an absentee provider (Russell, 2003: 165). While many fathers do not reside with their biological children, physical separation does not necessarily equate to absence in terms of contact or care (Bray *et al.*, 2010, Madhavan and Roy, 2012; see also Nkani, 2014). In a study of young men in Cape Town, 30 percent of fathers who did not co-reside with their children said that they saw their children every day, while a further 36 percent reported contact with their children several times a week (Clark *et al.*, 2015: 579). The extent of parental contact is likely to be influenced by the status of the relationship between the biological parents of their offspring. Madhavan *et al.* (2012) found that unmarried fathers and paternal kin were more likely to have invested contact with a child if, at least, 'damages' (compensation in other words) had been transferred from the father's family to the family of the mother in acknowledgment of paternity.

Importantly, paternal contact does not necessarily imply fatherly engagement in practical or emotional care work (Nkani, 2014). It is thus difficult to assess whether fathers are emotionally and practically engaging with their children during 'contact time'. Morrell *et al.* (2016) examined the kinds of men who would most likely engage in this type of care work. The authors found that men

who were less violent and who drank less alcohol, who are more communicative with women, who have more gender equitable views and more positive experiences of their own parents are more likely to be engaged in childcare. Furthermore, such men were more likely to engage with children by playing with them or helping with their homework than by talking to them about personal matters or washing their clothes (Morrell *et al.*, 2016). When fathers do not perform fathering tasks, other kin often fill the gap – in contrast to most European societies (Blake, 2015, Meintijies and Hall, 2013, Madhavan *et al.*, 2012, 2014).

Extended kinship remains very important, and a refusal to support or care for family members is a contentious issue. This is in part because of unemployment, illness and death among working-age adults, consequently placing pressure on grandparents to support or care for adult children as well as grandchildren. In return, many adults and even teenagers care for their elderly parents. This is also due to the decline of marriage and cohabitation. Posel and Rudwick report that ‘by 2010, 73 percent per cent of young African women and 28 percent of older African women had never been married and were not cohabitating with a partner, compared to 52 percent of young white women and only 8 percent of older white women’ (2013: 173). In addition, there are rising numbers of women who are divorced, including women who have been married under customary law. Whilst it was widely acknowledged that women married under customary law have a claim to marital property should the marriage be dissolved, in practice women rarely leave a marriage with anything other than personal possessions, whilst the men retain marital property. Women do, however, often gain custody of the children, even when the marriage has been sealed with the transfer of bridewealth, which historically meant that children ‘belonged’ to the father’s family. Divorced fathers are believed to have a moral duty to support their children, if they have the means to do so. This is perceived to be an important way in which a father can demonstrate his commitment to his children. In practice, however, divorced fathers rarely pay child maintenance; when they do, payments are irregular or insufficient (Himonga and Moore, 2016).

Both in towns and in the countryside, the decline in marriage has been accompanied by the transformation of extended kinship. Maternal kin play more important roles with respect to both financial support and care. Just as the state was expanding the social grant system and recognising the rights of women and children as autonomous individuals, so these same women and children were often made dependent on extended kin networks. The expanded role of the state did not so much reduce the roles played by kin, but rather helped to transform them.

## 4. Conclusion: The backlash

The expansion of Child Support Grants in post-apartheid South Africa has proved especially contentious. It is frequently alleged that the grants reward sexual immorality and encourage teenage pregnancy, and that recipients spend grants on drink, airtime and other selfish forms of consumption. Researchers have found little evidence for such assertions, but they persist, suggesting that these perceptions reflect a deeper discontent with social and cultural change. Scholars such as Mosoetsa (2011) point to the challenge that the grants pose to the patriarchy, in that young, often unmarried, women control financial resources. Hickel (2015), drawing on research in rural KwaZulu-Natal in the late 2000s, presents a more sweeping argument. In his analysis, the grant is a symbol of the liberal democracy established under South Africa's 1996 Constitution, based on individual rights, which was rejected by many men (and women) in rural KwaZulu-Natal. According to Hickel, '[w]hile they [his participants] embraced the principles of racial equality and universal franchise, they questioned the underlying idea that all individuals are autonomous and ontologically equal – especially in relation to gender and kinship hierarchies – and objected to what they perceived as a systematic attack on their values by the ANC and its allies' (Hickel, 2015: 2). Hickel's informants contrasted the self-interested individualism of liberal democracy with *hlonipha*: the culture of respect in the sense of deference to a status hierarchy based on gender and age (including veneration for the ancestors) and entailing a related system of taboos. In Hickel's account, real and deep cultural differences persist in post-apartheid South Africa, and these have manifested in divisions over reforms of welfare programmes.

The conservative backlash has also been articulated by sections of the political elite. Whereas the ANC leadership was wary of welfare in the mid and late 1990s on developmental grounds, under President Zuma, criticism has taken on a more conservative form. In 2015, in a speech to traditional leaders, Zuma branded teenage mothers as irresponsible bad mothers, claimed that they were not using the child support grant for their children, and suggested that they were cheating the system.<sup>15</sup> Instead of being allowed to drop out of school, Zuma suggested they should be sent to somewhere like Robben Island – the apartheid prison for political prisoners – where they could complete their schooling, thus empowering them to work and support their children themselves. If they were to be given grants, then the grants should not be paid in cash, which recipients could spend as they like, but rather in vouchers that could only be used to buy designated items. Zuma asked: 'Should we give the money or should we have

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<sup>15</sup> <http://www.gov.za/speeches/annual-official-opening-national-house-traditional-leaders-3-mar-2017-0000>.

vouchers that are very specific, either to buy food or uniforms for the school or to pay for the schools – so that the money will not be used for anything except the needs of the child?’ For the President, and many other conservatives, the problem was the immorality of young women, not the economic and other structural factors that encouraged teenagers to become mothers. In the past, he had said that ‘[t]here were no pregnancies of teenagers and people built families at the right time. Why can’t we do it?’ In Zuma’s view, teenage mothers were a burden on their grandmothers and on society. Their grandmothers might be deserving, but they were not.<sup>16</sup>

ANC ministers expressed the same concern over ‘dependency’ on government that had become widespread among the upwardly-mobile, post-apartheid African middle classes in South Africa, (and among elites elsewhere in Southern Africa) (Seekings, 2014). Announcing a new model for funding public housing, Minister Lindiwe Sisulu, for example, stated that ‘giving free houses creates a dependency syndrome’. The government ‘cannot continue giving out free houses anymore’, but instead would ‘give people subsidies so that they can build houses themselves’ (Xaba, 2016).

This conservative backlash against the expansion of public welfare emphasises familial relations, and blames many of the pathologies of contemporary society on the fragmentation of the family unit. The Department of Social Development was tasked with developing policies to strengthen the family and family values. The ensuing White Paper, in 2012, emphasised ‘self-reliance’ – the converse of dependency – as well as family resilience and solidarity. It proposed to reduce the public burden of care, reflecting the assumption that care should be a private activity, located within the family. The paper relied on the assumed solidarity of families to create a stronger society. The state would ‘undertake activities, programmes, projects and plans to promote, support and nourish well-functioning families that are loving, peaceful, safe, stable, and economically self-sustaining that also provide care’ (South Africa, 2012b: 9). Nowhere in The White Paper was it mentioned who is responsible for care giving, with what resources care giving is achieved, and under what circumstances. This silence mirrors the ways in which much of the caring activity that happens in South Africa is taken for granted, made invisible and not valued (Gouws and van Zyl, 2014). Little attention is paid to the resources required for providing adequate care and the practical support needed for people to carry out their commitments in order to become self-reliant.

The White Paper strongly emphasised solidarity within families. In moralist terms, good families support each other. At the level of policy making, the

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<sup>16</sup> <http://mg.co.za/article/2015-03-11-zuma-send-teenage-mums-to-robben-island>.

language used often implies that there is a deficit of familial responsibility. The emphasis appears to be located on what specific families are missing or lacking rather than what particular members are contributing. No attention is paid to the commitment of specific contributors (such as carers, pensioners or breadwinners). Policy discourse assumes that contemporary social change means that people have lost their sense of moral values or that they are no longer committed to family life. The White Paper specifically stresses the importance of intergenerational relationships and solidarity. It identifies ‘weakened intergenerational relations’ which have resulted in high ‘intergenerational disjuncture’ (South Africa, 2012b: 30). Whilst recognising the range of social, economic and political factors that have created an epoch divide between generations, the paper calls for strengthening ‘intergenerational solidarity in terms of parenting, caring of the aged, and sharing of wealth, skills and knowledge between generations’ (*ibid*). Another key principle in the White Paper is ‘family resilience’: the ‘inherent capacities and strengths’ that sustain families during both prosperity and adversity (*ibid*: 9). This is a largely familialist notion of care. The White Paper tends to underplay the obligation of the state in assuring that care can be and is provided. Protecting vulnerable family members from violence is emphasised, but in general the state’s role is identified as *supporting* individuals and families, not *providing* care itself.

While NP governments may have sought to bifurcate the provision of care and welfare along racial lines, the apartheid state ultimately failed to institutionalise entirely two separate systems. Among white South Africans, the declining role of extended kin and the fraying of the patriarchal order was particularly advanced, but kinship and patriarchy were also transformed in African families. Need ensured that old-age pensions for elderly African women and men were never abolished. Democratically-elected governments after 1994 for the most part deracialised the more generous and extensive systems that existed for white citizens, with the resulting in the sharp rise in the coverage and cost of public programmes.

Among wealthy South Africans, including most white South Africans who continued to prosper after the end of apartheid, care was increasingly purchased through the market. This is particularly evident in residential institutions for the elderly. Lower-income South Africans, however, have to navigate their way through the landscape of market and kin, negotiating with neighbours, strangers and relatives. For numerous South Africans, kinship has remained important. Many conservative South Africans view the erosion of kinship as a major cause of regret, and the expansion of public provision for young mothers causes anger. The relationships between state, market and kin, between individual rights and social responsibilities, and between equality and patriarchal order remain crucially important to the trajectory of policy reform.

## References

- Ardington, C., Case, A., Islam, M., Lam, D., Leibbrandt, M., Menendez, A., and Olgiati, A. 2010. The impact of AIDS on intergenerational support in South Africa: Evidence from the Cape Area Panel Study. *Research on Aging*, 32(1): 97-121.
- Bekker, J.C. 1989. *Seymour's Customary Law in Southern Africa*. 5<sup>th</sup> edition. Cape Town: Juta & Co.
- Bennett, T.W. 2004. *Customary Law in South Africa*. Cape Town: Juta & Co.
- . 1980. Maintenance of Minor Children: A Problem of Adapting Customary Law to meet Social Change. *Acta Juridica 1980*: 115-125.
- Blake, R. 2015. Moral motherhood: The politics of care in a Western Cape township in South Africa. *PhD Thesis*. Cape Town: University of Cape Town.
- Bohman, D., van Wyk N.C., and Ekman, S. 2009. Tradition in transition-intergenerational relations with focus on the aged and their family members in a South African context. *Scandinavian Journal of Caring Sciences*, 23: 446-55.
- Bray, R., Gooskens, I., Kahn, L., Moses, S., and Seekings, J. 2010. *Growing Up in the New South Africa: Childhood and Adolescence in Post-Apartheid Cape Town*. Cape Town: Human Sciences Research Council Press.
- Budlender, D. 2013. *The introduction of a minimum wage for domestic workers in South Africa*. Geneva: International Labour Office.
- Burman, S. 1984. The Interaction of Family Law and Legislation for Urban Africans in South Africa. *Acta Juridica 1984*: 89-103.
- . 1996. Intergenerational Family Care: Legacy of the Past, Implications for the Future. *Journal of Southern African Studies*, 22(4): 585-98.
- Button, K. 2016. The Household Economies of Low-income, African Female-headed Households in Khayelitsha: Intergenerational Support, Negotiation and Conflict. *Master's thesis*. Cape Town: University of Cape Town.
- Cattell, M. 1997. Zulu grandmothers' socialization of granddaughters. *Southern African Journal of Gerontology*, 6 (1): 14-6.

- Chanock, M. 2001. *The making of South African legal culture 1902-1936: Fear, favour and prejudice*. Cambridge: Cambridge University Press.
- Chazan, M. 2008. Seven “deadly” assumptions: unravelling the implications of HIV/AIDS among grandmothers in South Africa and beyond. *Ageing & Society*, 28: 935- 58.
- Clark, B. and Goldblatt, B. 2007. Gender and Family Law. *Gender, Law and Justice*. Edited by Bonthuys, E., and Albertyn, C. Cape Town: Juta & Co.
- Clark, S., Cotton, C. and Marteleto, L. 2015. Family Ties and Young Fathers’ Engagement in Cape Town, South Africa. *Journal of Marriage and Family*, 77: 575-589.
- de Koker, C., de Waal, L., and Voster, J. 2006. *A profile of social security beneficiaries in South Africa*. Stellenbosch: Department of Sociology and Social Anthropology, University of Stellenbosch.
- Dlamini, C.R.M. 1984. The Role of the Courts in Updating Customary Law to meet Socio-Economic Changes. *South African Law Journal*, 101: 346-62.
- Dubbeld, B. 2013. How social security becomes social insecurity: unsettled households, crisis talk and the value of grants in a KwaZulu-Natal village. *Acta Juridica 2013*: 197-217.
- Duflo, E. 2003. Grandmothers and granddaughters: old-age pensions and intrahousehold allocation in South Africa. *World Bank Economic Review*, 17(1): 1-25.
- Du Toit, M. 2017. Mothers’ pensions and the “civilised” black poor: the racialised provision of child maintenance grants, 1921-1940. Unpublished paper.
- Fortes, M. 1969. *Kinship and the Social Order*. London: Routledge and Kegan Paul.
- Gouws, A. and van Zyl, M. 2014. Feminist ethics of care through a Southern lens. In *Care in Context Transnational gender perspectives*. Edited by Reddy, V., Meyer, S., Shefer, T., and Meyiwa, T. Cape Town: HSRC Press, pp. 99-125.
- Gray, J. 1937. The Comparative Sociology of South Africa. *South African Journal of Economics*, 5: 269-84.

Hall, K. and Proudlock, P. 2011. Orphaning and the foster child grant: a return to the “care or cash” debate. Cape Town: Children’s Institute, University of Cape Town.

[https://open.uct.ac.za/bitstream/item/3868/CI\\_factsheets\\_fostercaregrantsbrief\\_2011.pdf?sequence=1](https://open.uct.ac.za/bitstream/item/3868/CI_factsheets_fostercaregrantsbrief_2011.pdf?sequence=1) [Accessed 5 July 2017].

Harper, S. and Seekings, J. 2010. Claims on and Obligations to Kin in Cape Town, South Africa. *CSSR Working Paper* no. 272. Cape Town: Centre for Social Science Research: University of Cape Town.

Hickel, J. 2015. *Democracy as Death: the moral order of anti-liberal politics in South Africa*. Berkely: University of California Press.

Himonga, C. and Moore, E. 2015. *Reform of Customary Marriage, Divorce and Succession in South Africa: Living Customary Law and Social Realities* Cape Town: Juta & Co.

Hoffman, J. 2016. Negotiating care for older people in Sub-Saharan Africa: Towards conceptual development. In *Ageing in Sub-Saharan Africa: Spaces and Practices of Care*. Edited by Hoffman, J. and Pype, K. Bristol: Policy Press, pp. 159-81.

Jones, J. R.1949. Social Welfare. In *Handbook of Race Relations in South Africa*. Edited by Hellmann, E. Cape Town: Oxford University Press, pp. 413-441.

Kelly, G. 2013. Regulating access to the disability grant in South Africa, 1990-2013. *CSSR Working Paper* no. 330. Cape Town: Centre for Social Science Research, University of Cape Town.

Kimuna, S. and Makiwane, M. 2007. Older people as resources in South Africa: Mpumalanga households. *Journal of Aging & Social Policy* 19(1): 97-114.

Lund, F. 1992. Reshaping Old Designs: South African Welfare into the Nineties. In *South African Review* 6. Edited by Moss, G., and Obery, I. Johannesburg: Ravan, pp. 309-21.

-----, 2008. *Changing Social Policy*. Cape Town: HSRC Press.

Madhavan, S. and Roy, K. 2012. Securing fatherhood through kin work: A comparison of black low-income fathers and families in South Africa and the United States. *Journal of Family Issues*, 33(6): 801-22.

Mail & Guardian. 2015. Zuma: Send teenage moms to Robben Island. *Mail & Guardian*. <http://mg.co.za/article/2015-03-11-zuma-send-teenage-mums-to-robben-island>; [Accessed: 3 February 2016].

Mathis, S. 2011. Disobedient daughters? Changing women's roles in rural households in KwaZulu-Natal. *Journal of Southern African Studies*, 37(4): 831-48.

Mbatha, L. 2005. Reflection on the Rights created by the Recognition of Customary Marriages Act. *Agenda*: 42-47.

Meintjes, H. D. Budlender, S. G. and Johnson, L. 2003. Children "in need of care" or in need of cash? Questioning social security provisions for orphans in the context of the South African AIDS pandemic. Cape Town: Children's Institute and the Centre for Actuarial Research, University of Cape Town. [https://www.commerce.uct.ac.za/Research\\_Units/CARE/RESEARCH/PAPERS/FosterCarePaper-final.pdf](https://www.commerce.uct.ac.za/Research_Units/CARE/RESEARCH/PAPERS/FosterCarePaper-final.pdf) [Accessed: 7 July 2017].

----- and Hall, K. 2013. Demography of South Africa's children. In *South African Child Gauge 2013*. Edited by Berry, L., Biersteker, L., Dawes, A., Lake, L and Smith C. Cape Town: Children's Institute, University of Cape Town, pp. 86-9.

Møller, V. and Sotshongaye, A. 2002. "They don't listen": Contemporary respect relations between Zulu grandmothers and grandchildren. In *Ageing in Africa: Sociolinguistic and anthropological approaches*. Edited by Makoni, S. and Stroeken, K. Aldershot: Ashgate, pp. 203-25.

Moore, E. 2003. Transmission and change in South African motherhood: black mothers in three-generational Cape Town families. *Journal of Southern African Studies*, 39(1): 151-70.

----- and Himonga, C. 2015. Division of Marital Property upon the Dissolution of a Customary Marriage in a Legal Pluralist State: A View from Inside and Outside the Courts. *CSSR Working Paper* no. 350. Cape Town: Centre for Social Science Research, University of Cape Town.

Morrell, R., Dunkle, K., Ibragimov, U. And Jewkes, R. 2016. Fathers who care and those that don't: Men and childcare in South Africa. *South African Review of Sociology*, 47(4): 80-105.

Mosoetsa, S. 2011. *Eating from one pot: the dynamics of survival in poor South African households*. Johannesburg: Witwatersrand University Press.

Nhlapo, T. 1995. African customary law in the interim constitution. In *The Constitution of South Africa from a Gendered Perspective*. Liebenberg, S. Claremont: Community Law Centre, University of the Western Cape, pp. 157-66.

Nkani, N. 2014. Early motherhood, education and childcare: Experiences of social and institutional support among young mothers at schools in Inanda, KwaZulu-Natal. In *Care in Context: Transnational gender perspectives*. Edited by Reddy, V., Meyer, S., Shefer, T., and Meyiwa, T. Cape Town: HSRC Press, pp. 376- 94.

Posel, D. 2005. The Case for a Welfare State: Poverty and the Politics of the Urban African Family in the 1930s and 1940s. In *Worlds of Possibility: South Africa in the 1940s* .Edited by Dubow, S. and Jeeves, A. Cape Town: Double Storey, pp. 64-86.

Posel, D. and Rudwick, S. 2013. Changing patterns of marriage and cohabitation in South Africa. *Acta Juridica 2013*: 169-180.

Proudlock, P. 2011. Lessons learned from the campaigns to expand the Child Support Grant in South Africa. In *Social Protection for Africa's Children*. Edited by Handa, S., Devereux, S. and Webb, D. London: Routledge.

Richter, M. 2009. Bread, baby shoes or blusher? Myths about social grants and 'lazy' young mothers. *South African Medical Journal*, 99(2): 94.

Russell, M. 2003. Are Urban Black Families Nuclear? A Comparative Analysis of Black and White Family Norms. *Social Dynamics* 29(2): 153-76.

Sagner, A. 2000. Ageing and social policy in South Africa: Historical perspectives with particular reference to the Eastern Cape. *Journal of Southern African Studies*, 26(3): 523-53.

----- and Mtati, R.Z. 1999. Politics of pension sharing in urban South Africa *Ageing and Society*, 19(4): 393-416.

SAIRR. 1990. *Race Relations Survey 1989/90*. Johannesburg: South African Institute of Race Relations.

----- . 1991. *Race Relations Survey 1990/91*. Johannesburg: South African Institute of Race Relations.

Schatz, E. 2007. "Taking care of my own blood": Older women's relationships to their households in rural South Africa. *Scandinavian Journal of Public Health*, 35: 147-57.

----- and Ogunmefun, C. 2007. Caring and contributing: The role of older women in rural South African multi-generational households in the HIV/AIDS era. *World Development*, 35(8): 1390-1403.

Seekings, J. 2000. The Origins of Social Citizenship in South Africa'. *South African Journal of Philosophy*, 19(4): 386-404.

----- 2005. Visions and Hopes and Views about the Future: The Radical Moment of South African Welfare Reform. In *Worlds of Possibility: South Africa in the 1940s*. Edited by Dubow, S. and Jeeves, A. Cape Town: Double Storey, pp. 44-63.

----- 2007. Not a Single White Person Should be Allowed to go under: *Swartgevaar* and the Origins of South Africa's Welfare State, 1924-1929. *Journal of African History*, 48(3): 375-94.

----- 2014. Fragile mobility, uneasy privilege and middle class formation on Cape Town's poor eastern periphery', *Paper presented at colloquium on Emerging Communities*. University of the Witwatersrand: 30th October 2014.

----- 2015. Income support through the welfare state. In *Policy, Politics and Poverty in South Africa*. Edited by Seekings, J. and Nattrass, N. London: Palgrave Macmillan, pp. 133-61.

----- 2016. Redefining the affordability of social assistance programmes: The Child Support Grant in South Africa, 1998-2014. *CSSR Working Paper* no. 379. Cape Town: Centre for Social Science Research, University of Cape Town.

----- and Moore, E. 2014. Kinship, market and state in the provision of care in South Africa. *Soziale Welt*, 20: 435-450.

South Africa. 1932. *Report of the Native Economic Commission*. Pretoria: Union of South Africa.

----- 1940. *Report of the Department of Social Welfare for the Financial Years 1937-1939* U.G. 15 of 1940. Cape Town: Government Printer.

----- 2012a. *Budget Review 2012*. Pretoria: National Treasury.

-----, 2012b. *White Paper on Families in South Africa*. Pretoria: Department of Social Development.

South African Law Reform Commission. 1998. *The Harmonisation of the Common Law and Indigenous Law: Report on Customary Marriages*.

Surender, R., Noble, M., Wright, G. and Nshongwana, P. 2010. Social assistance and dependency in South Africa: An analysis of attitudes to paid work and social grants. *Journal of Social Policy*, 39(2): 203-21.

Xaba, V. 2016. No more free RDP houses to curb dependency. *The Sowetan* <http://www.sowetanlive.co.za/news/2016/04/10/no-more-free-rdp-houses-to-curb-dependency>. [Accessed: 3 February 2017].