

Chapter 13

Institutional Framework



13.1 Introduction

The term “institution” refers to more than an organisation. Institutions also refer to regularised patterns of behaviour or systems of legitimate enforceable rules embedded in social relations. The development of both institutions and organisational structures is primarily determined by the existing social, political and economic context.

Major shifts become possible, as in the case of South Africa, with changes from undemocratic to democratic forms of Government and through the introduction of a Constitution. Such shifts may preface the development of new policy, organisations and legislation that previously could not evolve due to imbalances in political and economic power. Nevertheless, the degree to which institutions and organisations change, and the manner in which they change, depends on the influence different stakeholders exercise on policy-making.

Examples occur when programmes ostensibly for the poor are starved of adequate funds or their budget are consumed by administrators. Even apparently well-intentioned efforts to support the poor can be so clouded by ignorance of the real position of the poor that they create greater obstacles:

- Means tested grants create poverty traps that penalise formal job efforts
- It is possible that support for informal sector and marginally viable production mean that effort is directed into risky and low income jobs that never lift people out of poverty

There is no simple solution. The Committee recommends that a number of mechanisms be utilised:

- The views of vulnerable and marginal groups should be sought whenever programmes are being evaluated. They can also be encouraged to participate in decision making, but it must be recognised that their representatives will be open to co-optation as a result of their vulnerability.
- Formal performance evaluation (from within departments and by external auditors) should be made publicly available.
- Periodic reviews should be held that seek to incorporate the widest possible range of local and international views.

Regarding the substance of institutional transformation, there are three important considerations. First, due to the many domestic structural and capacity imbalances, one cannot reasonably expect markets to lead this transformation process. 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. Second, the desired institutional structure must follow the chosen strategic functions and priorities set by the South African developmental state. Third, socially and economically sustainable social security arrangements need to seek to increase the integrity of households and communities to cope with socio-economic challenges, reduce dependency on grants, and effectively rationalise existing grants.

Table 11
Summary of key issues affecting the operational and policy effectiveness of different organisational options within the social security system

| Public sector | Social insurance | Regulated private markets |
|--|---|---|
| <ul style="list-style-type: none"> o Fragmentation in policy making o Linkages between policy making and resource allocation o Efficiency of the budget allocation mechanism o Decentralisation of operational decision-making o Targeting of services and grants | <ul style="list-style-type: none"> o Statutory authority o Independent board with fiduciary responsibility o Chief executive officer (accounting officer) o Independence from civil service HR and procurement requirements | <ul style="list-style-type: none"> o Strong and independent regulatory authorities o Efficient enforcement mechanisms o Appropriate corporate governance o Consumer protection o Unfair discrimination |

13.2 Challenges

13.2.1 Overview

Social security systems typically embody a range of organisational and institutional arrangements, each with different operational and regulatory challenges. The three key arrangements are public sector provision, social insurance organisations, and regulated private markets (table 11).

13.2.2 Public sector

A central challenge affecting service delivery within the public sector is operational inflexibility. Its impact can be felt on everything from human resource management to procurement. Poorly structured hierarchies, over-centralised decision making – particularly with respect to basic operational matters – and the lack of appropriate performance evaluation and remuneration leads to poor morale and ultimately poor service delivery.

In addition, organisational capacity needs to be addressed by in the implementation of effective and disciplined management process.

13.2.2.1 Budget allocation mechanism

Large complex functions within Government require careful attention to policy determination and financing. The processes required to formulate policy may not do so in a manner that links effectively to the budget determination and allocation process. There is therefore a need to better link strategic prioritisation, planning and budgeting processes.

13.2.2.2 Decentralisation of operational decision-making

The public sector operates with a large array of institutions directly responsible for service

delivery. Many suffer from chronic under-performance, amongst other things, due to the lack of a clear model for decentralising the management of these facilities or institutions. One solution may lie in moving away from the standard hierarchical civil service model of reporting and management toward more decentralised approaches. This involves introducing revised governance models, emphasising the role of Boards with comprehensive responsibilities and chief executive officers with appropriate accountability requirements. Decentralised responsibility for procurement, human resource management, and financial management is important. Such approaches do not involve the decentralisation of policy, merely the carrying out of policy.

There is also a need to create optimum opportunities and processes for interaction with, and feedback from, beneficiaries and potential beneficiaries. This will promote better accountability and hence greater operational efficiency.

Where these powers have been delegated to independent Boards, great care must be taken that they are independent and representative, and that members have the necessary expertise and time to fulfil their responsibilities. They must themselves be subject to stringent auditing standards particularly, and be monitored by the central department.

13.2.2.3 Targeted services

Services that are targeted at selected vulnerable groups suffer from the standard problem of having to find and make allocations to those eligible for the support. If managed badly, many eligible people could be excluded from access to

goods, services, or grants to which they are entitled. Attention therefore has to be paid to streamlining targeting criteria or the provision of certain goods and services on a universal basis if the inefficiency of a targeting system is so great as to prove dysfunctional.

13.2.3 Social insurance

Social insurance is typically offered via a statutory institution lying outside of the conventional civil service structure. In many countries this results in a significant improvement in operational efficiency so essential for direct service delivery to the public. In South Africa certain of the social insurance institutions (RAF, COIDA, UIF) are operated as if they were part of the civil service structure, despite the fact that these institutions are engaged in specialised functions with a need for a high degree of operational flexibility.

13.2.4 Regulated private markets

Social security provision in South Africa has, in many instances, placed significant responsibility for financing and delivery onto a regulated private market. This has created a number of challenges. These include the requirement for strong regulatory authorities, streamlined enforcement mechanisms, regulated governance requirements, regulation protecting consumers from abuse, protections against unfair discrimination and requirements for protecting social solidarity principles when these are important, e.g. healthcare and retirement. Without ensuring that these issues are adequately addressed it is likely that policy objectives will be undermined.

13.2.4.1 Regulatory authorities

Regulatory authorities need to be fully independent statutory authorities. It is important to protect such authorities both from inappropriate Government interference and regulatory capture by private stakeholders. Such authorities need good capacity and sufficient scope to offer attractive career opportunities to high quality staff.

13.2.4.2 Enforcement

Regulated markets require efficient methods of enforcement and arbitration by public regulatory authorities. Without this the process of ensuring compliance with legislation or contracts (in the

case of functions outsourced by the public sector), or protecting people from abuse, may become a very slow and arduous process, undermining the effectiveness of whatever legislation has been put in place. Having to revert to the High Court for litigation may substantially diminish the speed of enforcement. In this regard, more efficient options need to be considered, particularly the establishment of dedicated social security adjudication structures and possibly courts.

13.2.4.3 Corporate governance

Poor corporate governance will result in fraud and poor organisational decision making. Each policy area that relies on the private sector requires a coherent approach to corporate governance. In the case of pension funds, for example, elected boards of trustee and the elimination of conflicts of interest are essential to protect against fraud and corruption. This goes together with a strong regulatory authority and streamlined enforcement.

13.2.4.4 Consumer protection

Consumers need a fair degree of protection in areas ranging from defective products to corrupt agents and intermediaries. Relying on consumer watchdogs or following up complaints will be insufficient where consumers are placed at a structural disadvantage relative to private agents. The whole area of consumer protection needs to have a clear policy focus where any aspect of the social security system relies on the private market for delivery.

13.2.4.5 Unfair discrimination

Where an aspect of the social security system relies on the private market for delivery, legislation typically has to be introduced enforcing minimum solidarity and cross-subsidisation requirements. Without these protections, reliance on the private market will be undermined through unilateral decisions made by the market to exclude certain groups from cover.

13.2.5 Policy co-ordination

Since 1994 the government has made significant strides in policy co-ordination through institutions such as the cluster of cabinet ministers. There are, however, still a number of policy areas in which policy co-ordination is lacking. For instance, with regard to retirement and old age, the Department of Social Development develops policy for old age grants,