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# **EDITOR'S NOTE**

#### BY GERSHWIN WANNEBURG

It's been quite an eventful first quarter of the year. The political hangover of the ANC's 54th conference in December has been felt far and wide. We've already seen the fall of a president and the rise of another. And, after months of inaction, the National Prosecuting Authority has finally sprung into action and effected several arrests linked to state capture. Jacob Zuma himself looks like he may be heading to court, if he doesn't employ further legal tricks to avoid the dock.

In just a few short months, the national mood appears to have done a complete 180. The country seems to have a new spring in its step after the election of President Cyril Ramaphosa in February. Ramaphosa grabbed the national imagination with a rousing State of the Nation Address, committing himself to a more empathetic and cleaner government. But can Ramaphosa live up to the expectations? SPII director Isobel Frye tackles that question in a review of this year's SONA, taking a look at Ramaphosa's uplifting Send Me narrative.

Perhaps the most significant topic covered in Ramaphosa's maiden SONA was the land issue. In this edition of SPII Talk, we take a look at some of the reactions to the controversial proposal to expropriate land without compensation. Our coverage includes a case study of a group of people who have decided to occupy land by force, indicating the desperation of millions of South Africans to find a home where they can live in comfort and dignity.

Land wasn't the only issue that aroused a backlash. In his farewell budget speech, outgoing finance minister Malusi Gigaba announced the first increase in VAT in the democratic era. Gigaba told parliament that from April 1 VAT would rise from 14 to 15% as the government tries to plug a R36 billion revenue shortfall. The Treasury has denied that higher taxes will harm the poor but several civil society groups beg to

differ. SPII, along with other organisations, has responded to the announcement by making submissions to parliament, opposing the rise in value-added tax. The submission is summarised in these pages, posing the crucial question: Is it against the constitution?

The social grants crisis once again cropped up. This time SPII Talk takes a look at the underlying and deep-rooted concerns that have often been overshadowed by the spectacular chaos that former social development minister Bathabile Dlamini has unleased on the social grants programme. Dlamini has been the subject of an inquiry to establish her personal liability in the grants saga.

Dlamini stands accused of failing to ensure that the SA Social Security Agency was able to take over grant distribution from Cash Paymaster Services (CPS). The Constitutional Court has ruled that the contract between CPS and Sassa was invalid. The contract expired at the end of March last year but the court was forced to allow a further extension after Sassa said that it was unable to take over from CPS.

It is vital that Dlamini is held to account for her role in virtually crippling Sassa. However, the inadequacies of our country's social security programme go far beyond Dlamini's shortcomings. Hopefully this edition of SPII Talk reminds us of the core issues that are often ignored in the Sassa melee.

On a more personal note, SPII has great pleasure in welcoming on board two new partners for 2018, namely the Open Society Foundation of South Africa and the Rosa Luxemburg Foundation.

We look forward to fruitful and innovative work with these foundations in furtherance of our mutual commitments to advancing progressive, transformational development of our constitutional democracy.

## **SOUTH AFRICA REBOOTED?**

### IT'S IN HIS SPEECH...

**ISOBEL FRYE** 

Those wondering what the Cyril Ramaphosa presidency holds in store need not gaze into a crystal ball. From the word go, Ramaphosa has made it clear what his intentions are.

Ramaphosa's first State of the Nation Address (SONA) spelled out the kind of South Africa he envisions. The former deputy president, who had been elected by parliament after Jacob Zuma's dramatic departure, referred to the change in guard as a 'new dawn', inspired by our collective memory of Nelson Mandela. Such a statement made it almost impossible not to wonder what might have been had Ramaphosa indeed been the immediate heir to former president Mandela's rainbow tenure. The message of the speech itself was permeated with similar phrases. We had variously entered a 'new era', a time of hope and renewal, or a 'return to ethics', of transition and transformation. Does this signal a reboot for the rainbow nation?

Two things struck the writer when contemplating this piece. The first is a deliberation on the meaning of inequality in South Africa and, the second, that of the concept of social dialogue.

Inequality got a mention in Ramaphosa's maiden address as president but was not nearly as prominent as one might have expected given the amount of time he dedicated to discussing the economy. Ramaphosa mentioned the economy and economic policy 530 times in his first SONA, according to an analysis by Laura Grant and Alastair Otter of the Media Hack Collective. The word 'inequality' itself was only used four times.

Ramaphosa dedicated 474 words of his SONA to nation building, which the Hack Collective believe was Ramaphosa's way of trying to heal the fissures created by the Zuma era. That would explain Ramaphosa's

emphasis on social dialogue during this year's SONA. He announced two major summits to tackle unemployment, poverty, and other social problems.

Back to the topic of inequality. Dispossession and privilege along racial categorisation and racialised difference was one of the cornerstones of apartheid and the colonial predecessors of apartheid policies. Cheap labour to maximise profits of mining houses, both colonial and those that thrived under apartheid, depended on a labour force robbed of their land and their ability to produce for their own needs and for profit. The land question continues to control national narratives today. Income inequality was structured in terms of the wages paid to the majority of workers in South Africa. Our wage structure today continues to mirror apartheid wage levels and structures. According to the 2010 OECD study on inequality in South Africa, the wage differential was a greater contributor to income inequality in South Africa than unemployment. The most recent study released in March 2018 by the World Bank on poverty and inequality in South Africa demonstrates how wealth grew apace at the same time as poverty.

The negative impact of inequality has long been acknowledged, globally. Severe income inequality acts as a barrier to effective economic growth. It renders almost ineffective any poverty alleviation initiatives; the same applies to social cohesion. These were the findings of the 2006 World Development Report. Thomas Piketty's seminal work, Capital in the Twenty-First Century, released in 2013, found that inequality, and specifically wealth inequality,

prevents the necessary stabilising of social distribution unequivocally. Subsequent studies by Oxfam demonstrated the skewing of the right to an equal exercise of a democratic vote, and in December 2017 we saw the release of the World Inequality Report 2018, which emphasised the stranglehold that inequality has had and continues to have on most welfare-state interventions. The current World Bank study on South Africa should therefore not come as too much of a surprise.

What is of concern, however, for South Africa is the apparent class collusion or complacency in this inequality. Despite the wealth of empirical evidence about the impact of inequality on a country – not even delving into the arguments of the morality of liberation – the South African National Development Plan sets out a goal of reducing income inequality by 2030 to a mere 0.6 on the Gini coefficient. On the Gini scale, 0 would represent complete equality, and 1.0, complete inequality. Income inequality within Sweden in 2016 was 0.27. The income inequality Gini in the USA according to their 2016 Census was 0.481. With regard to income inequality globally, 0.6 remains a complete outlier, and a dangerously unambitious goal. Where all evidence speaks to the need for concerted state intervention to reduce income and wealth inequality, our policy pundits rehash the failed 'trickle-down' policies of the Reagan and Thatcher era. To reduce inequality, the failed logic goes, we need to create jobs. To create jobs, we need to grow the economy. This fails to acknowledge the concerns about the dampening effect of income inequality on economic growth. In addition, our policymakers continue to ignore global data on the economic stimulation generated by the redistribution of income to the poor and lower middle classes. In a country of exceedingly high unemployment and high working poverty, to continue to repeat the failing mantra is, at best, stupid, and, at worst, deliberately wrong.

The second aspect of the SONA that we should consider, given recent events, is the central role accorded to social dialogue in change processes. Social dialogue of course lies at the heart of the negotiations that heralded our new democracy, and, finally, our final constitution. It is for this reason that many refer to the constitution as our ultimate social compact. Social dialogue seeks to bring consensus between parties with differing interests towards a concrete goal. By identifying possible gains, it is used to encourage parties to broaden their perceived narrow interests. One very recent example of the outcome of social dialogue is the National Minimum Wage, signed off by parties at NEDLAC last year. While parties to the

especially

negotiations,

Labour and the Community Constituency, despaired that the NMW bore no proximity to a living wage, it was accepted as presenting a negotiated beginning that would provide a foundation for future rigorous negotiation of wages in excess of CPI, towards a living wage. The current rejection of the NMW shows how important it is that social dialogue includes all main players to achieve national acceptance of the outcome. How the national social dialogue mechanism can accommodate a sufficiently inclusive representation for initiatives that differ in essence from representative parliamentary powers is a critical question. And one that needs to be addressed in order for SONA goals and objectives to be realised.

It is still too early to begin to chalk up a 100-day scoring of the achievements of President Ramaphosa against the SONA promises. From our perspective, however, we need to be more self-critical as a nation about our apparent commitment to reducing inequality and we also need to reflect on how the majority of the excluded in South Africa can feel sufficiently included in social dialogue that they are prepared to live with the compromises of negotiation. If we do not achieve this, the 'South Africa Rebooted' machinery might contain new systemic malfunctions.



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# THE SOCIAL GRANTS SAGA:

## IT'S BIGGER THAN BATHABILE DLAMINI

**GERSHWIN** WANNEBURG & HOPOLANG SELEBALO

SAVING LIVES SHOULD BE MORE IMPORTANT THAN SAVING MONEY. BUT THAT'S NOT THE CASE WHEN IT COMES TO DISTRIBUTING AID TO THE COUNTRY'S MOST VULNERABLE CITIZENS.

The department of social development has been patting itself on the back for failing to spend hundreds of millions of rands meant to cater for social grant recipients.

But registering a surplus is not necessarily a virtue. Otherwise state entities responsible for rolling out grants would not be consistently red-flagged for the inordinate amount of money that they spend frivolously or irregularly. Those facts should be borne in mind as former social development minister Bathabile Dlamini once again comes under the spotlight for her role in nearly collapsing the distribution of social grants.

Spectacular as Dlamini's shortcomings may be, those headlines miss the substance of a much deeper issue; that being the intrinsic inadequacies embedded in the country's social security programme.

That's not to say that Dlamini should not shoulder a great deal of the blame for our failure to live up to the state's constitutional obligation to promote equality.

Dlamini is the subject of an inquiry to determine her culpability in the grants crisis, which came to a head last year after the SA Social Security Agency (Sassa) announced that it was unable to execute its core mandate of distributing grants.

The Constitutional Court ordered the inquiry last year after it was forced to extend an illegal contract between Sassa and Cash Paymaster Services (CPS). The contract was due to end at the end of last March but was allowed to continue after Sassa indicated belatedly to the court that it could not take

over from CPS, as it had committed to doing earlier.

The court was scathing in its judgment about Dlamini's role in the saga but stopped of short of ruling on whether she should be held personally liable for the legal costs of an application brought by rights group Black Sash and others. The inquiry was meant to determine whether there was any culpability on the minister's part.

The inquiry wrapped up closing arguments on March 19, when Dlamini's flaws were brought into sharp focus.

Advocate Geoff Budlender, representing Black Sash, accused Dlamini of lying to the Constitutional Court to avoid personal liability. He said she had deceived the court when she said she was not in charge of the workstreams appointed to oversee the transition of grant distribution from CPS to Sassa.

Again, that's only part of the story, which preceded Dlamini and has outlived her. Activists have for years been agitating for social security reform, arguing that the coverage offered by the state was far from adequate.

On the face of it, the government has fared well in expanding the social grants programme. The country's social grants programme has grown from roughly 12 million in 2006 to 17.2 million in 2017. But that largesse has failed to get to root of the problem.

Many poor South Africans still do not have access to state assistance and researchers point out that in fact some grant categories can be exclusionary and inadequate. In his budget speech last month, now-former finance minister Malusi Gigaba announced that the child support grant would increase from the baseline of R380 to R400 on April 1, and to R410 on October 1. But that's still well below the Food Poverty Line of R531 per month. The FPL is considered the minimum amount needed to afford enough food to survive. The Pietermaritzburg Agency for Community Social Action (Pacsa) paints an even bleaker picture. According to Pacsa, the cost of securing a basic but nutritionally complete diet differs by age group & gender (see graphic below).









The question is then about how comprehensive income support is compared to people's needs. In other words, it's not only about who gets in, but also who is left out.

The relationship between poverty and unemployment is the reason comprehensive social security reform must happen, researchers say. The largest gap in social grants is the lack of assistance for unemployed adults aged between 18 and 59, or what is referred to as the "missing middle".

Complex as these problems may be, the solutions are not beyond our grasp. The answer may be as obvious as starting with the resources at our disposable, which are immense. Therein lies the rub. Sassa, which was established with the sole purpose of overseeing social protection, had a budget of more than R8 billion in 2016/17. But Sassa itself seems to be a basket case. The agency has struggled with poor governance and administration, and has not done a good job overseeing private contractors.

## DURING THE 2016/17 FINANCIAL YEAR, IRREGULAR EXPENDITURE AT SASSA GREW TO R1.4 BILLION.

What's more, instead of being the guardian of the poor, Sassa has been accused of putting them at risk.

The agency recently again rushed to the Constitutional Court to ask for a six-month extension of the cash payment portion of the CPS contract. When it was questioned about contingency plans should the application fail, Sassa was forced to acknowledge that it had none.

Sassa appears to have learned nothing from its past encounters with the Constitutional Court, which has not taken kindly to its chronic delinquency. In Sassa, we are presented with a peculiarly South African quandary: the entity designed to improve the plight of millions can barely stand on its own two feet. Perhaps, then, this is where any meaningful reform of this sector should begin – fixing the people who are meant to be our fixers.

## VAT SO!

## THE CONSTITUTIONAL ARGUMENT AGAINST A TAX INCREASE

The proposed increase in VAT has been called anti-poor and regressive but could it also be against the constitution?

That's one of the arguments raised by several civil society groups, including SPII, in a submission to parliament on the proposed VAT increase. Other organisations involved in the submission are: the Children's Institute, Section 27, the Institute for Economic Justice, the Public Service Accountability Monitor, Equal Education, the Rural Health Advocacy Project, the Pietermaritzburg Agency for Community Social Action, the Dullah Omar Institute, and the CSID at Wits University.

Outgoing finance minister Malusi Gigaba announced in his budget speech in February that VAT would rise from 14 to 15% from April 1. Gigaba said the increase was necessary to plug a revenue gap that could reach around R50 billion.

The VAT decision sparked an outcry, with many criticising the government's decision to make ordinary South Africans pay for years of profligacy and corruption. Gigaba tried to pre-empt concerns about how the poorest South Africans would be affected by higher taxes. He said the impact would be offset

a submission to parliament's standing and select

committee on finance.

by zero-rated foods and an increase in social grants. However, the above organisations disputed that in

"As civil society organisations we are alarmed at the regressive taxation measures proposed in the 2018 Budget Speech, particularly the proposed VAT and fuel levy increases," the submission reads. "While we recognise the need to raise additional revenue for the national fiscus, the proposals made to Parliament by Minister Gigaba make the tax regime more regressive and stand to exacerbate already unacceptably high levels of poverty and inequality and retard job creation and economic growth."

The document goes on to explain why Treasury's central case for increasing VAT is fundamentally flawed. "The poor are not adequately protected from a VAT increase through existing zero-rating measures. While beneficial, less than half of the poor's food basket is spent on zero-rated goods, not all zerorated goods are optimally targeted and many other essential goods are not zero-rated (such as canned beans, margarine and soap)," the document states.

"Food consumption patterns mean that an increase in VAT actually has the potential to push the poor away from zerorated items. Considerably more is spent on tax

> breaks for higher-income earners than on zero-rating."

There are also constitutional considerations to be weighed up. "Section 9 of the Constitution requires the state to 'promote the achievement of equality' through 'legislative and other measures designed to protect or advance persons ... disadvantaged by unfair discrimination' and by not unfairly discriminating against such persons. This means that regressive taxation measures violate fundamental obligations the constitution," the document states.

#### THE SUBMISSION PROPOSES THE FOLLOWING ALTERNATIVES:

- 1. Increasing ad valorem excise duties on luxury goods and expanding the number of goods covered by these taxes.
- 2. **Expand zero-rating** to include more items commonly consumed by low-income groups, with particular attention to the needs of women and children, and review existing zero-rated items to assess how they can be optimally targeted.
- 3. Institute a higher VAT rate on luxury goods that could also offset any revenue lost due to expanding zero-rating.
- 4. Reduce tax breaks that predominately benefit higher-income households (such as on pensions and medical aid).
- 5. Make up the necessary revenue gap through an increase in effective tax rates on PIT, CIT and property taxes.

#### **OTHER KEY POINTS RAISED ARE:**

**Tax mix:** Corporate income tax (CIT) has fallen as a share of the tax mix and continues to fall under the proposed budget. VAT is projected to rise. Property taxes make a negligible contribution.

**Tax rates:** PIT effective rates have been in long-term decline with a recent modest uptick. CIT rates have been in long-term decline and have remained static since 2008. Excise duties have risen steeply. Property taxes have remained similar in recent years.

**Comparisons:** Contrary to the assertion by the Minister of Finance, South Africa does not have high PIT and CIT rates by international comparison.

#### FURTHER CONCERNS AROUND THE RISE IN INDIRECT TAXATION (VAT, EXCISE DUTIES AND THE FUEL LEVY) INCLUDE:

**These are the least progressive taxes.** The cumulative share of indirect taxes paid by the lowest 70% of income earners exceeds their cumulative share of disposable income.

Increases to these taxes are therefore likely to exacerbate inequality and poverty.

An increase in VAT will also be at considerable cost to the state through its purchase of goods and services. This will put additional pressure on public services (including basic education, housing and health care) which are already facing funding cuts in this budget.

#### THE SUBMISSION MAKES THE FOLLOWING APPEALS:

- 1. **Withhold approval of the tax proposals**, in particular the increases to indirect taxes, including keeping VAT at its current level of 14%.
- 2. Institute a proper process of public engagement regarding the optimal revenue raising mechanisms.
- 3. To **review the processes of public participation** its timeframes, format, and implementation which presently limit public participation in the budget process.
- 4. Require National Treasury to:
  - a. **Make available, in full, the evidence** upon which it bases its claim that raising direct taxes (such as PIT and CIT) is harmful to economic growth, including the assumptions and models upon which these are based.
  - b. Provide detailed evidence regarding the distributional effects of its proposals.
  - c. Provide evidence and reasoning regarding the level and rate of proposed contraction in borrowing in light of optimising potential economic growth.

For now there appears to be little that can stop the VAT hike from taking effect on April 1, which will apply for 12 months. However, parliament's finance committees have urged National Treasury to consult widely with labour and civil society and report back on those engagements on April 18. The committees were due to hold hearings on the VAT proposals from April 14.

# THE BIG LAND DEBATE:

### WHO SAID WHAT?

You know something significant is afoot when the EFF and ANC speak in one voice. That's what happened last month when Parliament's National Assembly adopted a motion to amend the constitution in order to allow for land expropriation without compensation.

The EFF-sponsored motion proposed amendments to section 25 of the constitution to make it legal for the state to expropriate land in the public interest without compensation. The party had also called for an ad hoc

committee to hold

public hearings to gauge the views of ordinary South Africans.

The ANC backed the motion, which aims to accelerate land reform, but proposed that parliament's constitutional review committee undertake the work. The committee said it would kick off a series of public hearings in April. The deadline for the process is August 30.

The motion was adopted by a vote of 241 to 83. But naturally the debate has echoed far beyond the corridors of parliament. Below are some of the views of political parties and various commentators.

It is not unconstitutional to amend the Constitution. The
Constitution actually allows that. They came here arguing that
simply because our people could not produce title deeds, the land
that they had been living on for thousands of years was therefore not
theirs. The time for reconciliation is over. It is now time for justice. We
don't seek revenge. We don't wish for their suffering. We are saying let us
close this once and for all. Pay no one for land acquired illegally.

-EFF leader Julius Malema

## LAND CASE STUDY DV BAFANA NZIMANDE

Michael Nkuna and his wife moved to Alexandra more than 15 years ago, because he wanted to live closer to his place of employment in Sandton.

The move was meant to ease financial costs on the pair, who are now parents to four teenagers. The single room they've been renting for more than a decade is no longer big enough to accommodate the family of six, hence Nkuna has heeded the call by Landless People's Power to invade open land along Allendale Road in Klipfontein.

Nkuna claims that he applied for an RDP house in 1996 and has not received any positive feedback from government about his application. "I've been told that the

Park and surrounding areas divided the site and corrugated shacks sprang up. But the group's stay in Allendale was shortlived. They were removed by police the following night but they were adamant that they would occupy the land again.

President Cyril Ramaphosa has spoken out against land invasions but that seems to have done little to quell the anger - or hunger for land. Shortly after the Alexandra revolt, other housing protests erupted in Hermanus in the Western Cape. And those scenes took an ugly turn. Residents set alight properties, including a satellite police station.

Landless People's Power chairperson Solomon Molepo said the movement



little money I earn disqualifies me from getting an RDP house but it also doesn't qualify me for a bond house," said Nkuna.

"So many people are in a similar situation and most of us are sinking in debt. Does this mean we have to live in shacks or rent backyard rooms for the rest of our lives while there is open land at our disposal? I support the call to take up open land because we can't continue to suffer like this."

The targeted land along Allendale Road is privately owned. It was recently fenced off to prevent invaders. The wire failed to prevent a large group, led by Landless People's Power, as they occupied the space on a recent Saturday night. People from parts of Alexandra, Klipfontein, Ivory was tired of listening to politicians talking about smooth, legal land reform policies. "Politicians don't care about us. The only time they consider our needs is when they want our votes. "We want land and we want it now. We will move to Allendale Road by force if necessary," said Molepo.

A woman who lost her unborn child due to injuries sustained during a land invasion stampede won't give up her quest for free land.

"It's painful that I've lost my child, the child's father blames me every day for this, but I will return to Allendale Road because I also want to own a piece of land," she said.

"I've lost a child fighting for land. I won't give up now."

THE TARGET IS NOT ALL LAND THAT IS PRODUCTIVELY **UTILISED ... BUT USE IT OR** LOSE IT. EVEN IF YOU ARE **BLACK. IT INCLUDES VACANT** LAND, UNUSED LAND, AND LAND USED FOR SPECULATIVE **PURPOSES ... WE ARE** THINKING ABOUT TITLE DEEDS FOR FORMER HOMELANDS ... IT WOULD BE EMPOWERING FOR RURAL PEOPLE.

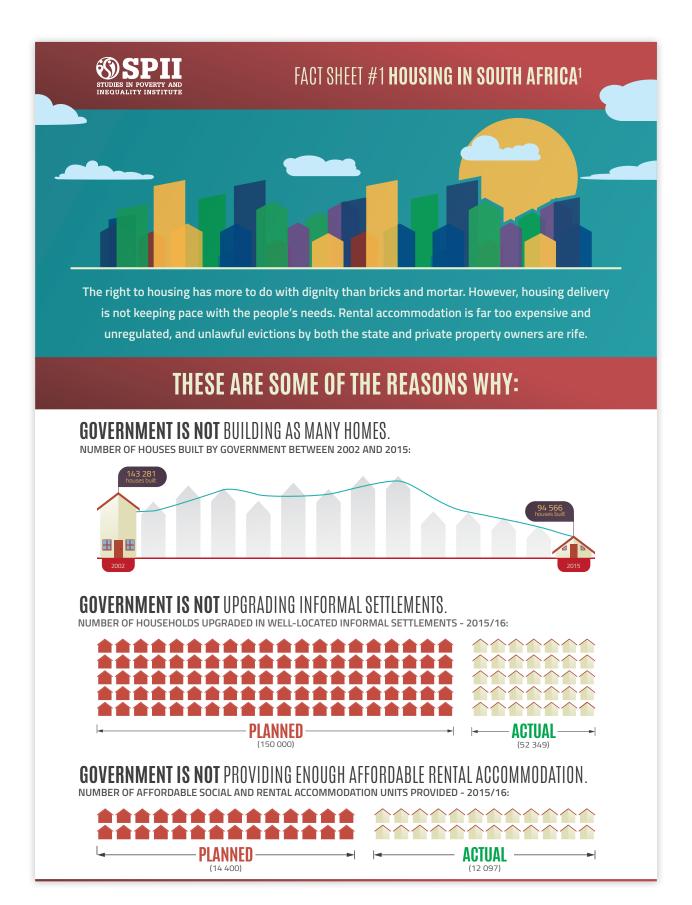
-DAVID MASONDO, ANC NEC MEMBER

THE ANC GOVERNMENT DO NOT HAVE A LAND PROBLEM, WE HAVE A PROBLEM WITH THE WAY THE ANC IS HANDLING LAND. PEOPLE WERE DISPOSSESSED OF THEIR LAND AND THEIR DIGNITY BY THE DISCRIMINATORY LAWS OF THE PAST, A PAINFUL PAST THAT CAN NEVER BE FORGOTTEN. BUT THE ANC'S **CALL FOR EXPROPRIATION** WITHOUT COMPENSATION IS A LAZY ATTEMPT TO DIVERT ATTENTION AWAY FROM THE REAL REASONS THAT LIE AT THE HEART OF THE SLOW PACE OF MEANINGFUL LAND REFORM AND RESTITUTION.

> -KEN ROBERTSON, DA SHADOW DEPUTY MINISTER OF RURAL DEVELOPMENT & LAND REFORM

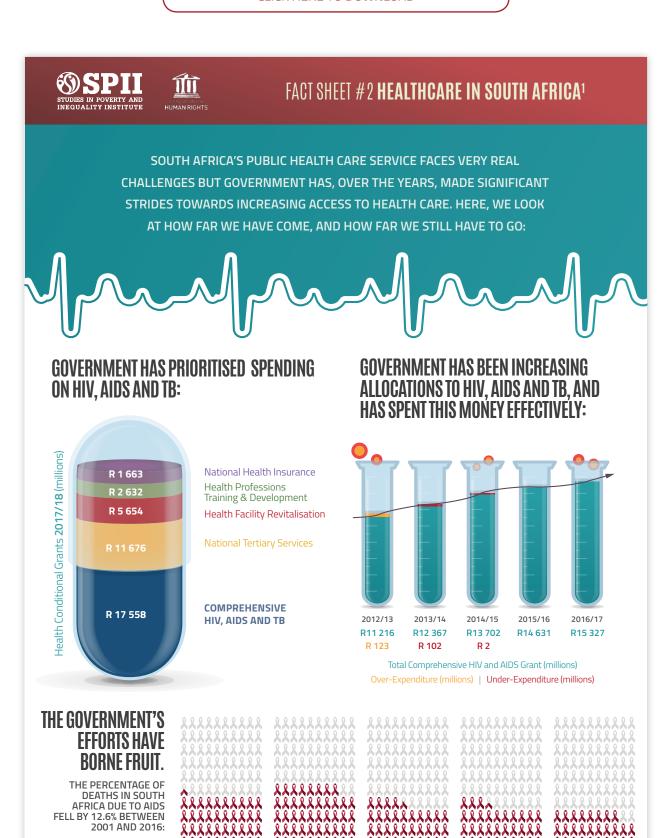
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2010

34.6%

2012

33.5%

2016

27.9%

2005

47.7%

2001

40.5%

Percentage of deaths due to AIDS



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