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**Saving as a means to improve the right to development: A  
human rights based strategy towards improving the  
livelihood of car guards in Pretoria**

**By**

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## DECLARATION

I, the undersigned, hereby declare that the work contained in this dissertation is my own original work and has not previously in its entirety or in part been submitted at any other university for a degree.

Signature..... Date.....

## ACKNOWLEDGEMENTS

I would like to dedicate this mini-dissertation to my parents, Prof. C M Fombad and Dr M C Fombad, and to my brothers Njumba, Tosah, Tichanung and my sister Bi-Ake for the support and encouragement they have given me. I specially want to thank my supervisor Prof. F. Viljoen, firstly, for accepting the task of supervising this mini-dissertation, secondly, for the patience he showed throughout and lastly for the valuable input contributed. I also acknowledge the input of friends and colleagues - you made a big difference. God bless you all.

## ABSTRACT

The car guarding phenomenon is an economic activity that has grown sporadically over the past few years without any form of government assistance. This phenomenon has grown from strength to strength over the years without any sign of slowing down. It can therefore be inferred that income made from the practice is sufficient to motivate individuals to make a career out of it. However, despite car guards earning a source of income, however uncertain, they live in poverty. Hernando De Soto attributes this to restrictive legal processes in place that hinder informal workers from fully accessing the gains that come with formalised employment. This mini-dissertation aims to integrate the fields of human rights law and finance to argue that, because car guards are locked out of the formal economy, they have no access to financial products like saving accounts through which they can better absorb the effect of future unforeseen eventualities therefore improving their livelihoods. This mini-dissertation argues that this situation constitutes a violation of their right to development. The African Charter on Human and Peoples' Rights calls for "creating a favourable environment" where people can take advantage of available resources and thus achieve their own development. Not only is South Africa a state party to the African Charter, it is hailed as having one of the most progressive Constitutions in the world on the basis of it including most of the human rights laws. However, in South Africa, car guards still live in deep poverty with little opportunity for improvement. Therefore, this mini-dissertation calls upon the government of South Africa to create a favourable environment that recognises car guarding as a formal profession by formalising the trade. Furthermore, it argues that legislation making saving a right should be passed. Lastly, government should support programmes geared towards encouraging saving among low income individuals.

## LIST OF ABBREVIATIONS

**ACHPR:** African Charter on Human and Peoples' Rights

**DRC:** Democratic Republic of Congo

**ESCR:** Economic, social and cultural rights

**HLTF:** High Level Task Force

**ICCPR:** International Covenant on Civil and Political Rights

**ICESCR:** International Covenant on Economic, Social and Cultural Rights

**KYC:** Know Your Customer

**MIT:** Massachusetts Institute of Technology

**M-PESA:** 'M' for mobile, 'Pesa' is a Swahili word for money

**NAM:** Non Aligned Movement

**ROSCA:** Rotating Saving and Credit Association

**RTD:** Right to development

**SEED:** Save, Earn, Enjoy Deposits

**SEWA:** Self Employed Women's Association

**SMME:** Small Medium and Micro Enterprises

**SMS:** Short Message Service

**UNICEF:** United Nations International Children's Emergency Fund

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## CHAPTER 1: INTRODUCTION

Economic, social and cultural rights (ESCR) are rights that concern what may broadly be described as the conditions under which people live and work.<sup>1</sup> Economic rights are those rights related to guarantees and claims to participation in the economic life of the community in order to gain advantage from activities undertaken. Social rights relate to aspects of employment, particularly the protection of workers, as well as to the conditions in which people live. Cultural rights may be defined as the right to preserve and enjoy one's cultural identity and development.<sup>2</sup> What holds common amongst these rights is the fact that these rights are not only part of the right to development (RTD), described as the right of all persons to participate in, contribute to and enjoy development in which all human rights can be fully realized, but their implementation places both positive and negative obligations on the state.<sup>3</sup>

The South African Bill of Rights is hailed as one of the most progressive in the world.<sup>4</sup> This is based on the fact that the drafters of the Constitution, in which the Bill of Rights is contained, were bold enough to essentially make justiciable all basic human rights.<sup>5</sup> The South African Constitution has enshrined within it categories of all human rights laws as found in most international human rights instruments.<sup>6</sup> Therein the interests of this study lie. It has been argued that the reasoning behind including social, economic and cultural rights in the South African Constitution is to improve the socio-economic needs of the poor in order to uplift their dignity.<sup>7</sup> The South African Bill of Rights was adopted in 1994, yet

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<sup>1</sup>Coomans argues that these are rights upon which people can lay claim to an adequate standard of living with emphasis placed particularly on material and moral security. F Coomans & M Galenkamp 'Economic, social and cultural rights' (1995) *SIM Special No 16*.

<sup>2</sup>D Shiman 'Economic and social justice' retrieved from:

<http://www1.umn.edu/humanrts/edumat/hreduseries/tb1b/Section3/hrglossary.html> (accessed 3 October 2013)

<sup>3</sup>Negative violations call for negative remedies such as prohibitive measures, while positive violations call for positive remedies such as mandatory injunctions. Furthermore positive remedies are argued to be relatively difficult to implement as it is easier for courts to request a state to desist from doing something than for the courts ordering a state to take affirmative action requiring a state to do or undo something (which may require state funds) C Mbazira 'Litigating socio-economic rights in South Africa: A choice between corrective and distributive justice' *PULP* (2009) 26.

<sup>4</sup>JC Mubangizi & BC Mubangizi 'Poverty, human rights law and socio-economic realities in South Africa' (2005) 22(2) *Development Southern Africa* 7.

<sup>5</sup>as above.

<sup>6</sup>This however did not come without its fair share of criticism.

<sup>7</sup>S Liebenberg 'South Africa's evolving jurisprudence on socio-economic rights: An effective tool to challenging poverty?' (2002) 6(2) *Law, Democracy & Development* 159-160.



today, more than twenty years later, poverty is still a major concern in the country.<sup>8</sup> The plight of the underprivileged has been adequately summarized by Achille Mbembe who states that, the poor live their present lives in modern day South Africa as though the law and Constitution betrayed them.<sup>9</sup> Furthermore, they feel as though they have been cheated of not only wealth and power, but also of life's possibilities. Their feeling of betrayal is manifested through a sheared belief that the only way they can be heard is through civil strife and protests instead of invoking the law.<sup>10</sup>

Despite the inclusion of socio-economic rights in the South African Constitution, there are great difficulties when it comes to their justiciability. Litigation on the grounds of violation of one's socio-economic rights may be heard by the courts. Yet the courts are criticized as being toothless bull dogs, "all bark and no bite" due to the weakness of their remedies. In most instances, litigants expect their victory to be followed by an immediate improvement of their socio-economic conditions. However, more often than not, court victories are followed by minimal improvements or no improvements at all.<sup>11</sup> This situation may be attributed to the nature of socio-economic rights, which requires resources and at times extended periods of time to be realized. For example, it takes time and money to construct a house, build a road and create employment. It is no wonder the International Covenant on Economic, Social and Cultural Rights (ICESCR) also provides for the "progressive realization" of socio-economic rights by states within their "available resources".<sup>12</sup>

It is against this background that the plight of car guards in South Africa is introduced. The car guarding phenomenon is an economic activity that has grown sporadically over the past few years without any form of government assistance.<sup>13</sup> The development of this sector comes as a result of the confluence of two disparate yet interrelated factors. The first factor is the high rates of unemployment amongst immigrants and locals alike, and the second

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<sup>8</sup>According to the Afro-barometer poverty survey's Lived Poverty Index (LPI), poverty levels in South Africa have actually increased slightly over the last decade. Poverty survey available at: <http://www.iol.co.za/business/companies/sa-poverty-levels-increase-slightly-1.1585170> (accessed on 2 October 2013).

<sup>9</sup>A Mbembe 'Democracy as a community of Life' available at: <http://www.jwtc.org.za/resources/docs/salon-volume-4/1-Salon-Vol-4-Mbembe.pdf> (accessed on 13 April 2014).

<sup>10</sup>JW De Gruchy 'The Humanist Imperative in South Africa' (2011) 107(7-8) *South African Journal of Science* 11-13.

<sup>11</sup>C Mbazira (n 3 above) 11.

<sup>12</sup>International Covenant on Economic, Social and Cultural Rights (CESCR) Article 2(1).

<sup>13</sup>H McEwen & A Leiman 'The car guards of Cape Town: A public good analysis' (2008) *A Southern Africa Labour and Development Research Unit Working Paper Number 25*.

factor is the high crime rates.<sup>14</sup> These two factors have drawn many individuals desperate for survival to this practice. Blaauw commented that the informal sector soaks up all who are unable to find employment in the formal sector.<sup>15</sup> Car guarding is one of the many means of making ends meet for those unable to find better employment or for those trying to supplement the little they make elsewhere.

Since there is no binding contractual agreement between car guards and car drivers, a puzzling question that arises is whether drivers actually pay for the service.<sup>16</sup> Intriguing enough, and in response to the question, the car guarding industry seems to be growing. This thus suggests that there have been, and is still sufficient incentives in the form of payment by those who either see value in the service, or as a form of altruism, as to motivate its growth.<sup>17</sup> McEwen and Leiman found that car guards on average earn between R1300 and R1500 a month.<sup>18</sup> Blaauw found that day labourers<sup>19</sup> -within which car guard's fall- are on average males, who are fairly young, generally unskilled, experiencing uncertain cash flows and support on average four other people including themselves.<sup>20</sup> This implies that the average car guard has to support about five individuals with an uncertain monthly income of between R1300 to R1500 a month.

This study focuses on individuals who work as full time car guards.<sup>21</sup> Given the above mentioned challenges faced by car guards and their limited resources, a question thus arises as to whether they put any thought into catering for the future or for unforeseen future eventualities such as health and economic shocks or for educational purposes, be it for themselves or their children. The question thus is: To what extent are car guards able to save?

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<sup>14</sup>PF Blaauw 'The dynamics of the informal sector in South Africa – a case study of day laborers in Pretoria' (2005) Paper presented at the biennial conference of the Economic Society of South Africa, 7 – 9 September 2005 in Durban, South Africa.

<sup>15</sup>as above.

<sup>16</sup>Taking advantage of a seemingly free service is also called 'free riding'. In an article attempting to make economic sense of the car guarding phenomenon McEwen & Leiman (n 13 above) sought also to find out whether drivers paid car guards as recognizing a valuable service provided or due to altruism.

<sup>17</sup>as above.

<sup>18</sup>as above.

<sup>19</sup>Blaauw (n 14 above) categorized all forms of informal labor as day laborers of which car guards are a part of.

<sup>20</sup>as above.

<sup>21</sup>In other words the study focuses on individuals that rely solely on car guarding for survival and with no other forms of employment.

Saving gives people the ability to turn irregular or regular cash flows into lump sums in order to make larger purchases, tend to emergencies, or even for purposes of investment.<sup>22</sup> Saving, however, is a very difficult activity, as it requires people to subdue their natural inclination to prioritize the present over the future. This is even more so for the poor, who generally do not have much left after tending to the necessities with their negligible and irregular cash flows. The lack of savings of some sort may have negative consequences as they will be prone to the effects of health or economic shock.<sup>23</sup> Furthermore, the onset of old age may work against them as they may no longer be able to provide for themselves, which ultimately imposes additional burden on the state budget and tax payers to support them. Financial service providers such as banks exist to help people save their money. However these institutions have made it very difficult for the poor to access their services. Examples of how this transpires will be discussed later. Most notable of all is the requirement for one to have a stable source of income. Car guards do not have a stable source of income. In fact, their cash flow is almost always very uncertain.

### **1.1. Aim of study**

This mini-dissertation aims to integrate the fields of human rights law and finance to highlight and come up with a solution to the major challenges faced by informal labourers when it comes to saving, looking specifically at car guards. In so doing, this study aims to highlight the indignity associated with being unable to have a suitable cash pool to draw upon during emergency periods. Furthermore, this mini-dissertation aims to demonstrate by investigating human rights laws, more especially the RTD, to show that the onus is on the government of South Africa to make conditions favourable for car guards to better take control of their lives. This mini-dissertation concurs with the work of Hernando De Soto, Vargas-Falla and Rebecca Browning who argue that it is only through empowering low income individuals such as car guards that they can achieve freedom,<sup>24</sup> freedom being the ability to take advantage of available resources to achieve a higher standard of living for

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<sup>22</sup>Blaauw (n 14 above).

<sup>23</sup>These risks and economic shocks include loss of ability to work (old age), illness or generally any problem that money is required to solve. JM Zimmerman & Y Moury 'Savings-linked conditional cash transfers: A new policy approach to global poverty reduction' (2009) 7.

<sup>24</sup>H De Soto *The mystery of capital: why capitalism triumphs in the west and fails everywhere else* (2001); AM Vargas-Falla 'Legal empowerment of informal workers, formalizing street vending as a tool for poverty reduction' (2012); R Browning 'The right to development in Africa: An emerging jurisprudence? Examining the Endorois recommendation by the African Commission for Human and Peoples' Rights (2011).

themselves. Car guards already make a living. They simply need an avenue through which they can take care of their future. One such avenue is easy accessibility to savings accounts and the only way they can have such easy access is if their profession is legally recognised through formalisation.

## **1.2. Research questions**

Against the previously described background, this study aims to answer the following research questions:

- Why is saving important to the livelihood of car guards?
- To what extent do car guards save?
- What factors impede saving amongst car guards?
- What roles can a human rights based approach play towards promoting saving among car guards?
- What can governments do to improve saving amongst car guards?
- What financial innovation can be implemented to makes saving easier among car guards?

## **1.3. Methodology**

This study is of a qualitative nature. It uses a combination of different methodologies in order to explain the relationship between savings and poverty alleviation. Permission was obtained from the ethics committee of the University of Pretoria to carry out interviews to tackle the question on the extent to which car guards save. The interview questions posed are, in Appendix A. The expected sample size, given limits of time and resources, was initially set at 10 car guards located within Hatfield and Sunnyside area in Pretoria, South Africa. However, due to the nature of their work it was really difficult to maintain a steady conversation with any one car guard. In some instances during the interview, a vehicle may pull up prompting car guard to spring into action ushering the driver to available parking lots. Oftentimes, about four or five guards would answer questions at the same time. Therefore, this affected the sample size. Foreign car guards were not corporative at all even after being assured of their anonymity.

The findings of the interviews are compared to the works of other researchers on the topic. For the remainder of the questions, desk research is used. The desk research entails drawing information from other authors who have written on the topic as well as case law. Furthermore text books and journalist reports will also be used to source information.

Michael Freeman argues that a purely legal approach to solving human rights related issues is simply inadequate.<sup>25</sup> Viljoen supports this by arguing that focusing on the law as it is opens the door for staid positivist attitudes that may inhibit and disempower attempts by activist and change agents because the rights they may want to invoke are formally not provided for.<sup>26</sup> Both authors agree on the importance of a multi-disciplinary approach to understanding, finding solutions and implementing solutions to human rights issues. This mini-dissertation seeks to extend this methodology by using a multi-disciplinary approach to demonstrating the role that finance can play in alleviating human rights issues specifically poverty among car guards. This will be achieved by introducing saving as a solution to alleviating socio-economic problems among car guards in Pretoria.

#### **1.4. Ethics statement**

I am fully aware of the position of responsibility and trust in which I stand. Therefore when conducting this study, I observed the highest possible ethical standards, furthermore, for each interview carried out, interviewees were fully informed of their rights to confidentiality and anonymity if they so choose. Ethical clearance has been obtained prior to conducting the study. Furthermore, participants will be presented with a form wherein they may give their informed consents, otherwise they are free to do so verbally. All information gathered throughout this study is strictly confidential and unless expressed permission is given by respondents the information will be published anonymously.<sup>27</sup> Lastly all information gathered will be stored for the required number of years as stipulated by the ethics committee and will also be called upon whenever needed.

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<sup>25</sup>M Freeman 'On the interactions between law and social science in the understanding and implementation of human rights' in F Viljoen *Beyond the law: Multi-disciplinary perspectives on human rights* PULP (2012) 17.

<sup>26</sup>as above, xv.

<sup>27</sup>For instance instead of writing the participants name respondent X or Y will be used. However in the event that numerous respondents are present at the time, the location along with and X or Y will be used, for example Sunnyside (X).

## 1.5. Literature review

The economist John Galbraith noted that money is of equal value to those who have a lot of it (the rich) as well as those who do not have much of it (the poor). Despite this, problems only arise in the case of the less fortunate where numerous occasions arise where there is dire need for money but have little to no money available. The best known way to counteract this shortage of money in times of need is through saving. It thus does not come as a surprise that a number of authors have argued against the ability of the poor or needy to save. Abhijit Banerjee and Esther Duflo economists at the Massachusetts Institute of Technology (MIT) however disputed these arguments.<sup>28</sup> They argue that poor people can indeed save.<sup>29</sup> Their arguments are centred around strong evidence showing that poor are noted to spend relatively large portions of their money over time on non-essential goods. Benerjee and Mullainathan have termed these sorts of goods as “temptation goods”.<sup>30</sup> These goods are the likes of alcohol, tobacco and other drugs. This seems to suggest that they (the poor) have surplus money and are not just living hand to mouth.

It is however important to understand the difficult situations car guards find themselves in. A combination of factors conspires to make wealth accumulation difficult for these Individuals.<sup>31</sup> Among the many factors are the massive levels of inequality in modern day South Africa. These make for an environment where the less fortunate are trapped in a cycle of poverty and are unable to escape.

South Africa celebrates 20 years of independence this year 2014. However despite being 20 years into its democracy, there are still massive documented levels of inequality among its populace. The state of poverty and inequality present in country has its roots in the countries past (oppressive apartheid regime). In modern times it is further fuelled by the manner at which the countries resources are plundered with impunity by those in power

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<sup>28</sup>AV Banerjee & E Duflo ‘The economic lives of the poor’ (2006) 21(1) *The Journal of Economic Perspectives: A Journal of the American Economic Association* 141.

<sup>29</sup>as above.

<sup>30</sup>A Banerjee & S Mullainathan ‘The shape of temptation: Impact on the economic lives of the poor’ (2010) *NBER Working Paper No. 15973*.

<sup>31</sup>J Bernstein ‘Car watch: clocking informal parking attendants in Cape Town’ *Centre for Social Science Research (CSSR) Working Paper No. 55* (2003) 1-38. Bernstein argues that their circumstances or lack of education makes car guarding the only option through which they can scrap a living. The ‘circumstance’ is directed at foreign car guards who are usually more educated, but due to their lack of work permits or necessary documentation cannot find better sources of income. The local car guards however have very little educational backgrounds.

was well as those affiliated with them. Corruption, resource mismanagement and incompetence are rife within the current government.<sup>32</sup>

Poverty not only affects local South Africans, but also foreign nationals living within the country's borders. Ever since the country gained independence in 1994, it has witnessed a massive influx of foreign nationals most of whom are escaping civil unrest and poverty from their home countries. However, for most, South Africa has not been the land of milk and honey they imagined. A combination of xenophobia and stiff labour and immigration laws make finding jobs in the formal sector nearly impossible. It therefore comes as no surprise that the informal sector has absorbed all these individuals (foreigners and locals) wherein they are carving out a living. Car guarding is a "survivalist" activity, providing a minimal income that allows people to survive but not to prosper.<sup>33</sup> Furthermore, some have families to support and provide food and shelter not only for themselves but on average four others.<sup>34</sup>

John and Betty Mubangizi argue that poverty is a complex and multi-dimensional issue and so any attempts to deal with it should take a multi-faceted and multi-dimensional approach.<sup>35</sup> They further note that poverty alleviation requires the support of the public sector and civil society to plan, design, implement and monitor poverty alleviation programs that are effective and efficient.<sup>36</sup> Dan Banik found that despite the important services and goods provided by informal workers,<sup>37</sup> they (informal workers) are denied social, economic and legal protection.<sup>38</sup> He further asserted that informal workers contributed to the economy and constituted an "emerging frontier for poverty reduction at the bottom of the

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<sup>32</sup>A recent example is the damning Public Protector Report that found that tax payer's money was wasted in upgrades made to the Presidents Nkandla house. In this report numerous senior government officials were fingered for having being complacent to wastefulness during the construction process leading to a ballooning in cost of the upgrades from R27 million to close to R250 million rand.

<sup>33</sup>Bernstein (n 31 above).

<sup>34</sup>Blaauw (n 14 above).

<sup>35</sup>Mubangizi & Mubangizi (n 4 above) 13.

<sup>36</sup>as above.

<sup>37</sup>This argument is congruent with the work of McEwen & Leiman (n 13 above), who argued that car guards provide a service that exhibits characteristics similar to a public good.

<sup>38</sup>Vargas-Falla (n 24 above) 1. Much like it was discovered in Cape Town, car guards and other informal workers are routinely harassed by security personal and law enforcement officials. McEwen & Leiman (n 13 above) 3.

economic pyramid.<sup>39</sup> However because their trade is not formally recognised, it is difficult for them to empower themselves economically.

In light of the above, Vargas-Falla came to the conclusion that it was of great importance for the law to be used to bring about social change, with the ultimate goal being poverty reduction and economic development.<sup>40</sup> This is not a new theme argues Vargas-Falla.<sup>41</sup> This theme has been reiterated over and over again by numerous development movements and researchers the world over, the most famous of which is Hernando De Soto.<sup>42</sup> Vargas-Falla highlights the importance of the potential role the law could play in contributing towards the empowerment and development of street vendors in Colombia.<sup>43</sup> To demonstrate this, she monitored a social experiment carried out in Columbia where legislation was passed that essentially formalised street vending in the country. This had the effect of improving the working conditions of these individuals. She noted that formalisation was a tool that improved the human rights of the vendors.<sup>44</sup> This was accomplished by improvement to their sense of autonomy, self esteem as well as an accompanied feeling of empowerment that that was brought about.<sup>45</sup> Another improvement in the livelihoods of these individuals the noticeable ease of access to bank accounts.<sup>46</sup> However, the only downside noted was the fact that they still faced challenges in getting loans from banks. This in part was due to the high levels of uncertainty that was common with their trade. Looking into the potential that law has towards promoting or making saving easier for the poor is an important goal, it is for that reason that this mini-dissertation aims to understand whether human rights-based legislative change can in fact bring about empowerment of car guards by providing avenues for them to start saving.

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<sup>39</sup>Vargas-Falla (n 24 above)1.

<sup>40</sup>as above.

<sup>41</sup>as above.

<sup>42</sup>De Soto (n 24 above) argues that legal recognition of the informal sector through formalization was the key to developing the informal sector.

<sup>43</sup>These individuals form part of the informal sector. Vargas-Falla (n 24 above).

<sup>44</sup>Vargas-Falla (n 24 above).

<sup>45</sup>Vargas-Falla (n 24 above).

<sup>46</sup>One of the leaders explained how after formalization they got help from the government to open bank accounts. Vargas-Falla (n 24 above) 23.



## 1.6. Chapter outline

The study will be structured as follows:

**Chapter 1:** It is the introductory chapter of the mini-dissertation. It is the skeletal frame of the study upon which later chapters are built on and flesh out. The reader is given an idea of what to expect from the study. It further states out the research aims, research question, methodology and literature review.

**Chapter 2:** The origins of poverty and inequality prevalent in South Africa today are explored. Secondly, the importance of saving in the livelihood of car guards is looked at in light of the effects of economic and health shock. Lastly, the extent to which car guards actually save is examined.

**Chapter 3:** This chapter outlines the various factors hindering saving among car guards.

**Chapter 4:** The role that human rights law and government can play in promoting savings is explored.

**Chapter 5:** A M-PESA inspired financial innovation geared towards facilitating and encouraging saving within car guarding community is introduced.

**Chapter 6:** In this chapter, conclusions and recommendations are given.

## CHAPTER 2: WHY IS SAVING IMPORTANT AND TO WHAT EXTENT DO CAR GUARDS SAVE?

This chapter briefly touches on the origins of poverty and inequality in modern day South Africa. Thereafter, empirical evidence is used to show the importance of saving to low income individuals like car guards especially with the onset of economic and health shock. Lastly, the chapter will explore the extent to which car guards actually save.

### 2.1 The historical context of poverty and inequality in South Africa

The history behind the prevalent state of poverty and inequality among nationals and non-nationals living in South Africa is briefly explored.

#### 2.1.1 Poverty and inequality among South Africans

The state of poverty and inequality prevalent in South Africa has its roots in the history of the country. Historically, inequality was first perpetuated by the past apartheid era government. Today the menace of poverty is further fuelled by corruption, resource misappropriation and mismanagement within the government.<sup>47</sup> The Republic of South Africa gained its independence from the apartheid regime in 1994 following the victory of the ruling ANC party in its first ever democratically held elections. The apartheid era was characterised by racial segregations and discrimination.<sup>48</sup> As a means of stifling the development of black consciousness, the apartheid government imposed discriminatory labour, market and educational laws.<sup>49</sup> This had the effect of restricting access to blacks and other non-white communities to resources, be it land, mineral or capital.<sup>50</sup> This further had the ultimate effect of ensuring that there was very little competition to the white race. This system started and perpetuated the vicious cycle of poverty among non-white communities which is still prevalent today.<sup>51</sup> The blacks being the majority were affected the most.

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<sup>47</sup>G Hosken (Monday 27 January 2014) 'Poverty of ideas perpetuates inequality' *The Times* 4. Poor attitudes and lack of accountability demonstrated by government officials as well as the absence of information concerning rights further perpetuates poverty within the country.

<sup>48</sup>Mubangizi & Mubangizi (n 4 above).

<sup>49</sup>as above.

<sup>50</sup>as above.

<sup>51</sup>The restrictive policies of the past prevented many non-white South Africans of which the blacks formed the majority from moving upward within the labor market. This in turn led to highly skewed income distribution. as above.

Ramose attributes the disproportionately high levels of wealth inequality present today to the manner through which South African gain independence.<sup>52</sup> He points out that the transition from the oppressive apartheid government to one of “democracy” we have today was not done in such a way as to redress the inequalities of the past. It was expected that the new government will restore and enhance a sense of pride into each and every citizen of South Africa whilst promoting unity, integrity and enhancing what the ordinary South African can do and can be. Ramose argued that the socio-economic field was not made level such that the previously disadvantaged and those who gained from the oppressive regime were placed on equal footing economically.<sup>53</sup>

South Africa’s transition from apartheid to democracy was achieved through negotiations between the apartheid regime and the then liberation movement. It is argued that this was done to avoid bloodshed. The Truth and Reconciliation Committee (TRC) was set up to lubricate the process of transitional justice. However, Ramose argues that the TRC instead became a mental veil that covered the failures of the negotiation committee. Ramose argues that the negotiators failed to emphasis what really mattered.<sup>54</sup> What mattered to many South Africans after such long suffering and discrimination under an oppressive regime, was the freedom to be able to take advantage of readily available resources to provide for their families. He therefore concludes this to be a grave injustice to the people. Ramos’s definition of justice is similar to that of Tailor and Nozicks.<sup>55</sup> He defines justice within the post-apartheid South African context as justice in the form of “economic freedom”.<sup>56</sup> To him, the omission of land in the negotiations as well as the failure of prominent leaders to clearly articulate the importance of land redistribution presented its

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<sup>52</sup>BM Ramose ‘Reconciliation and Reconciliation in South Africa’ (2012) 1(5) *Journal of African Philosophy* 26

<sup>53</sup>He argued that the only field that was leveled was the civil and political plane.

<sup>54</sup>Ramose (n 52 above) 21.

<sup>55</sup>IE Chachine ‘Community, justice, and freedom, liberalism, communitarianism, and African contributions to political ethics’ (2008) 121. Chachine defined justice according to Robert Nozick, who explains that justice, within the context of the conqueror and the conquered revolves around three premises. Firstly, he defines justice on the principle of acquisition, then justice in the principle of transfer and finally justice in the principle of rectification, or ‘redress of injustices’. He argues that if acquisition of property is achieved through the first and second principle is achieved without coercion then ownership is justified. However if force was used to acquire assets, then the third principle has to come into play in order for justice to prevail.

<sup>56</sup>Ramose (n 52 above).

self as a challenge to the full reconciliation of modern South African society.<sup>57</sup> And as such, many blacks in South Africa<sup>58</sup> are yet to experience economic freedom. As a result other means have to be resorted to in order to provide for their families. Those individuals who are not educated enough to enter the formal economy, or those who could not find work at the mines had to come up with innovative and creative ways to make ends meet. One of the ways to doing this is through car guarding.

### **2.1.2 Poverty and inequality among non-nationals living in South Africa**

Ever since the end of the apartheid era and the ushering in of the new democratic South Africa, the country has been seen as a beacon of hope by many African nationals living under oppressive regimes. Dissatisfied with the state of affairs in their home nations, they flood into the country in the hope of securing a better future for themselves and their families.<sup>59</sup> They are classed as either economic or political refugees.<sup>60</sup> Over the years, since independence South Africa has seen a constant influx of foreign nationals from countries such as neighbouring Zimbabwe, Mozambique and other far flung nations such as the Democratic Republic of Congo (DRC), Nigeria and Cameroon, all seeking to share in the fruits of the “struggle”.<sup>61</sup> However, as noted earlier, South Africa’s formal economy was and is still not able to accommodate the large labour supply. The situation was made worse by the 2007 – 2008 global credit crises which crippled economies the world over. Moreover, foreign immigrants living in South Africa are trapped between a wall of xenophobia and harsh labour policies. They face hostility from locals who level a host of unfounded accusations against them, including bringing and spreading diseases as well as being drug pushers.<sup>62</sup> Furthermore policy makers have tightened immigration and labour law.<sup>63</sup> For instance, the high bureaucracy involved in application for necessary residency and work permits makes the process long, expensive and onerous. Furthermore, things are made

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<sup>57</sup>as above.

<sup>58</sup>More especially those whose forefathers were driven off native lands into camps which form part of today’s townships and rural areas.

<sup>59</sup>In 1997, four million refugees left their native lands in Africa and relied on the generosity of the international community and receiving countries in order to survive. South Africa is among the receiving countries. UNHRC ‘An exploration of the livelihood strategies of Durban Congolese refugees’ (2006) *Evaluation and Policy Analysis Unit 5*.

<sup>60</sup>as above.

<sup>61</sup>Fruits of the struggle, meaning the expected economic, social and political benefits accrued to all with the abolishing of the apartheid regime.

<sup>62</sup>Ramose (n 52 above).

<sup>63</sup>as above.

worse by the fact that more often than not, applications for these permits are rejected.

## 2.2 The impact of aggregate shock on the welfare of low income individuals

A “shock” can be defined as a sudden unexpected upsetting or surprising event or experience. In economics and finance, shocks are unexpected or unpredictable events. Shocks may have either positive or negative consequence on either an economy, a company or on an individual level, an individual’s personal finances. Focus is here placed on the negative effects of health and financial shock on the personal finances of low income individuals in order to highlight the importance of having a cash pool from which to draw from during those times of shock.

### 2.2.1 The effects of health shock on the welfare of low income individuals

One of the biggest threats to the wealth of poor households is the onset of major illness, injuries or death of the bread winning member of the household. This argument is supported by the works of Wagstaff and Lindelow,<sup>64</sup> as well as Islang and Maitraz.<sup>65</sup> Although health shock affects all persons, it is more likely for low income individuals to be adversely affected. Surprisingly, some authors found contrary to expected results regarding the effects of health shock on households in developing countries. Townsend, Kochar and Skoufas and Quisumbing found no relation between health shock and decline in household welfare.<sup>66</sup> However, the majority of researchers tend to agree that health shocks negatively affect household welfare.<sup>67</sup> Focus will be placed on the study and findings of Wagstaff and Lindelow.

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<sup>64</sup>A Wagstaff & M Lindelow ‘Are health shocks different? Evidence from a multi-shock survey in Laos’ (2010) 23(6) *Health Economics* 706-718.

<sup>65</sup>A Islang & P Maitraz ‘Health Shocks and consumption smoothing in rural households: Does microcredit have a role to play?’ (2010) 97(2) *Journal of Development Economics* 232-243.

<sup>66</sup>Islang & Maitraz (n 65 above) found health shocks to be fairly well insured.

<sup>67</sup>JH Cochrane ‘A simple test for consumption insurance’ (1991) 99 (5) *Journal of Political Economy* 957-976; S Dercon & P Krishnan ‘In sickness and in health: Risk sharing within households in rural Ethiopia’ (2000) 108 (4) *Journal of Political Economy* 688-727. P Gertler & J Gruber ‘Insuring consumption against illness’ (2002) 92 (1) *American Economic Review* 51-76; A Asfaw & J Braun ‘Is consumption insured against illness? Evidence on vulnerability of households to health shocks in rural Ethiopia’ (2004) 53 *Economic Development and Cultural Change* 115-129.

Wagstaff and Lindelow set about to examine the effects of health shock on poor individuals in Lao PDR.<sup>68</sup> Lao is described as one of the poorest countries in South East Asia with a rural population predominantly occupied with farming activities.<sup>69</sup> It was found that natural, biological and health shocks were more prevalent in this area than economic shocks. Furthermore, the widespread and often devastating effect of illness, injury and deaths weighed heavily on household welfare.<sup>70</sup> The authors argued that the lack of formal insurance and other safety nets made low income households increasingly vulnerable to risks.<sup>71</sup> On the same note, Islang and Maitra argue that commercial financial institutions within most developing nations fail to effectively service low income individuals.<sup>72</sup>

The authors discovered that expenditures resulting from health shocks were far greater than that of non-health related shock.<sup>73</sup> For example, injury and illness resulted in far costlier expenditures. Illness entails costs such as transportation costs to and fro hospital, coupled with out of pocket medical payments for medicines contributed to the increasing the medical bill. Also noted were indirect expenditures like the resulting loss of potential income due to inability to work. This rings especially true for car guards who need to be mobile in order to earn their living. Also noted was the tendency of women and children to stay back and tend to the sick bread winners.<sup>74</sup> It was also noted that households implemented coping mechanisms to smoothen consumption. Examples of coping strategies identified include pulling children out of school, ignoring their medical needs and selling off of assets and livestock to smoothen consumption.<sup>75</sup> The authors also recorded an increase in “di-saving” with an accompanied increased reliance on micro-credit institutions for loans to smoothen consumption. Banerjee and Mullainathan argue strongly against low income individuals relying too heavily on micro-credit institutions.<sup>76</sup> They argue that such unregulated institutions charge clients exorbitant rates contributing to further entrenching

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<sup>68</sup>Wagstaff & Lindelow (n 64 above)

<sup>69</sup>Wagstaff & Lindelow (n 64 above) 8.

<sup>70</sup>Wagstaff & Lindelow (n 64 above) 9.

<sup>71</sup>Wagstaff & Lindelow (n 64 above) highlighted the fact that initially, health care was primarily a government responsibility, therefore free for all citizens. However the private sector slowly took over health care system eventually leading to the mushrooming of private healthcare facilities that were unaffordable to the poor farmers.

<sup>72</sup>as above.

<sup>73</sup>as above.

<sup>74</sup>as above.

<sup>75</sup>Wagstaff & Lindelow (n 64 above) 11

<sup>76</sup>Banerjee & Mullainathan (n 30 above).

them in poverty.<sup>77</sup> On a positive note, it was found that health shock triggered inter-household assistance.<sup>78</sup>

### 2.2.2 The effects of economic shock on the welfare of the poor

The effects of economic shock on the wealth of poor households will be examined with reference to the work of Ronald Mendoza who examined the impact of the 2008 – 2009 global financial crises on low income households.<sup>79</sup> Mendoza highlighted two levels through which economic shock was transmission to low income households. The first mechanism is a macro transmission model and the other, a micro level transmission model.<sup>80</sup>

The magnitude of macro level effects impact social welfare depending on; the countries macro-economic situation, initial household and community conditions and the extent and types of policy responses implemented by the government.<sup>81</sup> Amongst the many effects of the 2008 – 2009 financial crisis, was the disruption of global fuel and food prices. This price disruption was felt the world over and developing nations were not spared. Given that the majority of the world's poor population is concentrated in developing countries.<sup>82</sup> Furthermore, given that low income individuals spend a large portion of their wealth on food and the means of its preparation. It can thus be inferred that a rise in global food and fuel prices had a significantly negative impact on their welfare. In the case of car guards, two reasons in particular arise in support of this assumption. Firstly, car guards do not enter into a formal contract with car owners, therefore implying that their income is at the mercy of

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<sup>77</sup>B Patrick 'Debt, uneven development and capitalist crisis in South Africa: from Marikana microfinance mashonisas to Moody's macroeconomic monitoring' (2012) 30 *Rosa Luxemburg Stiftung Workshop, Berlin*. Financial institutions and money lenders lend money at an interest rate above prime. The central bank sets the prime interest. Depending on the credibility of the lender, the financial institution will either charge interest at or above prime. For a lender with a history of bad debt or poor credit history (mostly low income individuals) interest rates are set very high. Patrick Bond argued that one of the major factors that led to the 2012 Marikana tragedy where 34 miners were killed by the South African Police were microcredit institutions. He argued using evidence from reports from various newspapers on how miners were lured into taking out unsecured loans at interest rates of up to 50 percent. Failure to service the loans meant incurring extra charges onto of loan including the legal fees of law firms hired to recover the loan. This ultimately spilled out into violent wage strikes from mine workers who were heavily in debt.

<sup>78</sup>Wagstaff & Lindelow (n 64 above) 12 noted that less than 2 percent of shocks triggered assistance from the government. This assistance normally came in cases of floods or droughts. NGOs assisted as well but to an even smaller degree (about 1 percent).

<sup>79</sup>R Mendoza 'Aggregate shocks, poor households and children: transmission channels and policy responses' (2009) 9(1) *Global Social Policy*.

<sup>80</sup>Macroeconomics is focused on the movement and trends in the economy as a whole, while in microeconomics the focus is placed on factors that affect the decisions made by firms and individuals).

<sup>81</sup>Mendoza (n 79 above) 3.

<sup>82</sup>as above.

car owners. Furthermore, car owners themselves are also vulnerable to the effects of the global financial crises and this in turn may affect whether they pay the car guards or not.<sup>83</sup>

Mendoza argues that the micro shock transmission model affects three main areas of household welfare.<sup>84</sup> Firstly economic shock leads to diminished income and increased poverty, secondly economic shock also triggers coping strategies which are especially detrimental to women and children. Lastly, economic shock was found to cause long lived and possible intergenerational consequences. On the point of diminished income and increased poverty, Mendoza argues that rising international food prices impacted the poor or near-poor alike depending on factors such as whether they are net food consumers or producers, whether the food items they consumed were internationally traded, their ability to adjust their menus to other food stuff and finally the effectiveness of government policy interventions.<sup>85</sup> Therefore, increased food prices leads to food stuff becoming even more unaffordable. Furthermore, government is forced to tighten its budgets and reduce social spending.<sup>86</sup> This ultimately results in low income individuals having to foot heavy food bills. With higher food prices, more and more people will descend into poverty. The International Food Policy Research Institute predicts that, at the rate at which food prices are increasing year on year, they expect the number of malnourished children by the year 2020 to have risen to 16 million.<sup>87</sup> Of which one in every four children will be from Africa, up from one in five.<sup>88</sup>

Mendoza found that similar to health shock, coping strategies triggered by economic shock range from the sale of household assets and livestock to lending from credit institutions. Furthermore, during times of economic shock, women were noted to eating less so other household members could have more to eat.<sup>89</sup> In another instance, Durgea, Lam and Levinson in a study conducted in Brazil, found that children found it worthwhile to drop out

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<sup>83</sup>On the other hand the threat of car theft may work in over riding this effect and car owners may find it in their best interest to reward the guards for their services. This argument however is beyond the scope of this mini-dissertation.

<sup>84</sup>Mendoza (n 79 above) 12.

<sup>85</sup>Mendoza (n 79 above) 12.

<sup>86</sup>Mendoza (n 79 above) 15.

<sup>87</sup>Mendoza (n 79 above) 28.

<sup>88</sup>Mendoza (n 79 above) 16.

<sup>89</sup>as above.



of school and work to supplement household income during periods of economic shock.<sup>90</sup>

### 2.3 The extent to which car guards save

In order to be able to save any money, one has to first earn a lot more of it than can be consumed at the moment. Car guards in Pretoria do earn money, but their earnings are extremely volatile and unstable. Abhijit Banerjee and Esther Duflo, economists at the Massachusetts Institute of Technology (MIT), argue that poor people can indeed save.<sup>91</sup> They argue that the mere fact that low income individuals are noted to spend money on non-essentials like alcohol, tobacco and other drugs<sup>92</sup> suggests that they have surplus money and are not just living hand to mouth.<sup>93</sup> Saving is a very difficult activity because it requires people to override their natural tendency of prioritizing the present over the future. This decision is especially difficult for low income individuals. Substantial evidence shows that low income individuals have a substantial (latent) demand for savings.<sup>94</sup> This can be deduced from the fact that when formal methods of saving have proven inaccessible or unaffordable, they either save under the mattress or in informal groups or by investing in livestock. Of all the car guards I interviewed in the Pretoria area, none had opened savings accounts.<sup>95</sup> Only one happened to have opened a non interest bearing deposit account with the post office.<sup>96</sup> The majority of the younger guards were not aware of savings mechanisms, whereas the older car guards were essentially living hand to mouth and saved in their pockets. The following chapter will touch on some of the factors that hinder low income individuals including car guards from saving.

### 2.4 Conclusion

The future brings with it many uncertainties and therefore the effects of health and economic shock on low income households cannot be underestimated. The last point by Mendoza drives home this fact. He argues that in the case of women shouldering a

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<sup>90</sup>as above.

<sup>91</sup>as above.

<sup>92</sup>Banerjee & Mullainathan (n 30 above) call these sorts of goods 'temptation goods'. More on temptation goods will be discussed later in chapter 3.

<sup>93</sup>Banerjee & Mullainathan (n 30 above).

<sup>94</sup>Mendoza (n 79 above) 16

<sup>95</sup>Interviews with car guards in Hatfield and Sunnyside, Pretoria, South Africa (14 July 2014).

<sup>96</sup>as above.

disproportionally large portion of the burden during periods of shock, they are often left with long term psychological and physical ailments.<sup>97</sup> Furthermore, selling of assets such as livestock or lending of money to smoothen consumption may dig households into debt traps so deep that future generation may suffer the indignity of having to pay for their predecessor's sins. Children growing up lacking good education, malnourished and in poor health suffer stunted physical, cognitive and psychological development. All the above mentioned problems are in turn transmitted from generation to generation, inevitably trapping whole households in the cycle of poverty. It is therefore apparent that low income individuals are at the mercy of health and economic shocks and the only way they can ride out these shock is if they have existing cash pools to draw from in the form of savings account. It has therefore become increasingly important for certain actions to be taken in the present in anticipation of future expected or unexpected expenditures.<sup>98</sup>

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<sup>97</sup>Mendoza (n 79 above).

<sup>98</sup>Expected expenditures for educational purposes and unexpected expenditures for health or economic shocks.

## CHAPTER 3: BARRIERS TO SAVING

This chapter juxtaposes the results of interviews I carried out against empirical evidence on barriers to saving to explore factors impeding saving among low income individuals.

Karlan et al categorises barriers to saving into two: systematic and non-systemic barriers.<sup>99</sup> Systemic barriers can be classified as those barriers that arise from direct interactions or dealings with banking institutions. Examples of which include, pecuniary and non-pecuniary costs, regulatory barriers and information and knowledge gaps. Non-systemic barriers are those that are more unique to individuals or a group of individuals. Examples of non-systemic barriers include, social constraints, psychological and behavioural barriers.

### 3.1. Systemic barriers to saving

Systematic barriers to saving are: pecuniary and non-pecuniary cost, regulatory barriers as well as information and knowledge gaps. Pecuniary costs are the monetary costs that deter low income individuals from wanting to save.<sup>100</sup> Non-pecuniary costs are non-monetary costs that also deter low income savers.

#### 3.1.1. Pecuniary costs

The largest monetary cost associated with owning bank accounts are transactional cost. Transactional costs can be separated into account opening fees, minimum balance requirements and withdrawal fees. These costs can be problematic especially since they eat into a large proportion of a low income individual's income.<sup>101</sup> Furthermore, the accounts may be generating negative interest because the interest received on the account balances most often is not enough to offset the transactional costs incurred in running the account. Demircuc-Kunt and Klapper agree, noting that having a formal account is not costless in

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<sup>99</sup>D Karlan, AL Ratan, J Zinman 'Savings by and for the poor: A research review and agenda' (2014) 60(1) *Review of Income and Wealth* 5.

<sup>100</sup>as above.

<sup>101</sup>A Demircuc-Kunt & L Klapper 'Measuring Financial Inclusion: The Global Findex Database' *The World Bank Development Research Group Finance and Private Sector Development Team* (2012) 3. The authors similarly site affordability as another important barrier. They argue that fixed transactions costs and annual fees tend to make small transactions unaffordable for large parts of the population. As an example, maintaining a chequing account in Sierra Leone, for example, costs the equivalent of 27 percent of GDP per capita in annual fees!

most parts of the world and as such is a big obstacle for low income individuals.<sup>102</sup> They further note that 25 percent of adults did not have bank account because bank charges were too high.<sup>103</sup> This was also the case among car guards around the Sunnyside area where one particularly well informed car guard argued that the bank charges were sufficiently high enough to deter him from opening an account. He asserted that he arrived at this conclusion from what he saw and heard on a number television and radio bank adverts. He said he preferred depositing his money in the post office.<sup>104</sup>

### **3.1.2. Non-pecuniary costs**

The non-monetary costs are the opportunity costs involved in accessing banks.<sup>105</sup> Given two mutually exclusive choices, opportunity cost can best be explained as losses incurred by not enjoying the potential gain had an alternative choice been made. More often than not, in developing countries, formal banking institutions are located some distance away and so a trip to a bank branch can mean a long trek on foot or a costly bus trip, followed by a lengthy wait in line.<sup>106</sup> There is therefore an opportunity cost forgone in terms of both time and money involved in making trips to the bank. Because of the inconveniences associated with banking, most often, low income individuals see no value in opening bank accounts.<sup>107</sup> Demirguc-Kunt and Klapper pointed out that distance from a bank is a much greater barrier within rural areas.<sup>108</sup>

### **3.1.3. Regulatory barriers**

Regulatory barriers refer to limitations in the form of rigid documentation requirements that make the whole banking process onerous. Examples of such requirements are permit requirements, filling out numerous forms or reports as well as notification requirements demanded by the banks and savings institutions. These requirements can be harmful to low income individuals if they see them as cumbersome or if their requirement becomes a

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<sup>102</sup>as above.

<sup>103</sup>as above.

<sup>104</sup>(n 96 above).

<sup>105</sup>Karlan et al (n 99 above).

<sup>106</sup>as above.

<sup>107</sup>The non-monetary costs associated with formal banking can be large enough to discourage most poor households from using formal savings services. as above.

<sup>108</sup>Demirguc-Kunt & Klapper (n 101 above) 3.

barrier because they (low income individuals) do not possess the required documentations. This barrier affects mostly foreign nationals. In South Africa, as in most other countries, in order to open a bank account the requirements are so strict that immigrants may find it better not to own one in the first place.<sup>109</sup> Probably the biggest regulatory requirement that will deter all car guards, omitted by Karlan et al is proof of a regular income stream.

### 3.1.4. Information and knowledge gaps

If individuals simply understand and appreciate the value and use of saving as a strategy for improving their lives, it will be easier for them to take advantage of saving opportunities and incorporate them into their livelihoods. Conversely, individuals will shy away from something unfamiliar or foreign to them. Lack of information, for instance low financial literacy is often cited as a potential cause of under saving.<sup>110</sup> However increasingly, scholars argue that the link between low knowledge and under saving is tenuous and therefore questionable.<sup>111</sup> Karlan et al argue that there are several ways in which low financial literacy could be associated with under-saving.<sup>112</sup> One of which is described to be truly just an association, not causation: they note that, low literacy may be correlated with psychological or cognitive biases that actually drive under-saving.<sup>113</sup> Other mechanisms could just be causal for instance due to social influence.<sup>114</sup> Most of the car guards I interviewed demonstrated little to no knowledge about banking. One in particular gave the impression that he was hearing about banks for the first time during my interview with him. Based on my interviews, I tend to side with Karlan et al's argument that ignorance of savings institutions may be due to socialization. This I reasoned to be due to influences of older car guards who are ignorant of saving and eventually negatively influence younger car guards.

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<sup>109</sup>Visit the following sites for further details: Angloinfo, available at: <http://southafrica.angloinfo.com/money/banking/opening-a-bank-account/> (accessed on 25 July 2014); Initiate Immigration, available at: <http://www.initiateimmigration.com/working-in-south-africa/bank-accounts/#.U5Ygo3KSzDU> (accessed 25 July 2014).

<sup>110</sup>Karlan et al (n 99 above) 11.

<sup>111</sup>Karlan et al (n 99 above) 12.

<sup>112</sup>as above.

<sup>113</sup>as above.

<sup>114</sup>as above.

## 3.2. Non-systemic barriers to saving

Non-systemic barriers to saving include: social constraints as well as psychological and behavioural biases.

### 3.2.1. Social constraints

As humans are social beings, they tend to conform to the norms as practiced within the societies they live in and so sociological variables may play a hand in determining whether an individual saves or not. Beverly and Sherraden argue that socialization, with respect to social learning of norms within individual's reference group, as well as socio-economic characteristics of the neighbourhood in which they live have effects on saving behaviour.<sup>115</sup> Historically, the dominant mechanism that individuals and households used to smoothen consumption and respond to shocks has been to turn to the financial support offered by family and kin networks.<sup>116</sup> These links can be both advantageous and disadvantageous when it comes to the issue of saving. Karlan et al explores two ways through which savings can be affected by social constraints. Firstly, savings uptake can be affected by intra-household bargaining and sharing strategies.<sup>117</sup> This deals with the differences in preference between male and female headed households. Karlan et al argue that this can have large effects on the direction a household takes in matters relating to savings and investment.<sup>118</sup> Children are noted to benefit indirectly from women having autonomy over their own savings decisions. This is because women are said to be more family oriented when it comes to saving patterns.

The second way through which social constraints could affect savings as examined by Karlan et al was through inter-household relations. The authors argued that not only were family and kin relied on as a source of risk sharing but the community at large as well. Robinson suggests that within a well ran community risk sharing group there will hardly ever arise the need for precautionary savings.<sup>119</sup> However going according to the relational dynamics

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<sup>115</sup>SG Beverly & M Sherraden 'Institutional determinants of saving: Implications for low-income households and public policy' (1999) 28(4) *Journal of Socio-Economics* 457-473.

<sup>116</sup>as above, 16.

<sup>117</sup>These are basically family dynamics between partners in a marriage situation.

<sup>118</sup>Karlan et al (n 99 above) 16.

<sup>119</sup>Karlan et al (n 99 above) 16.

between social claimants and savings behaviour in a typical community setting as explained by Platteau the suggestion by Robinson comes off as romantic and idealistic.<sup>120</sup> As I argued under the previous heading, judging from my interviews I tend to believe that social constraints play a significantly large role in influencing poor savings decisions among car guards in the Pretoria area.

### 3.2.2. Psychological barriers

Psychological barriers may be described as self-limiting beliefs that individuals have which may in turn affect their behaviour.<sup>121</sup> There are a number of self-limiting beliefs that low income individuals have about banks and the idea of saving that may inadvertently limit their ability to make use of them. Not to say that their doubts about banks and the financial markets at large are entirely unfounded, however for theirs and the sake of their dependents it will be beneficial for them to overcome their phobia. Furthermore, as Karlan et al earlier noted, psychological barriers could inhibit ones drive to seek information on saving.<sup>122</sup> Karlan et al also touched on the issue of trust as a psychological barrier.

Rousseau defines trust as a psychological state comprising the intention to accept vulnerability based upon positive expectations of the intentions or behaviour of another.<sup>123</sup> In one setting whilst interviewing a group of car guards, the issue of trust came up, however the individuals (who did not wish to be named) brought up the issue of trust, however upon being asked to elaborate shied away from the question. I am led to believe that the lack of trust demonstrated by the car guards is because they simply do not understand how banks function and as previously argued due to socialisation. There are studies showing that many low income individuals harbour negative feelings about the financial service industry.<sup>124</sup> Furthermore, the recent financial crisis only served to magnify and deepen that distrust. It must be pointed out however that the trust issue predates the financial crisis. This distrust stems from cultural norms, discrimination against certain population groups<sup>125</sup> as well as

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<sup>120</sup>as above.

<sup>121</sup>Beverly & Sherraden (n 115 above).

<sup>122</sup>Karlan et al (n 99 above) 12.

<sup>123</sup>as above.

<sup>124</sup>J Springford (ed) *A confidence crisis: Restoring trust in financial services* (2011).

<sup>125</sup>This may be based on appearances. Low income individuals may feel they do not fit in when they enter banks based on their appearances (dress).

past episodes of government expropriation of banks, uncertainty as well as economic crises.<sup>126</sup> Or the distrust could be as a result of socialization.<sup>127</sup> Rhine, Toussaint-Comeau and Hogarth noted that poor people cited distrust in banks as well as privacy concerns among reasons why they did not and were not interested in opening bank accounts.<sup>128</sup> No study so far has come up with methods of tackling this issue as of yet, however innovative products and target marketing strategies have been designed in attempts to improve the trust issue.<sup>129</sup> Furthermore, following the recent global financial crisis, banks have come under greater scrutiny and are more heavily regulated than before. However, on the downside, increases in bank regulations are generally accompanied by increases in bank regulatory requirements which as described earlier have a hand at hindering bank account take-up among low income individuals.

### 3.2.3. Behavioural bias

Behavioural social sciences suggest several cognitive tendencies that can lead individuals to under-save or more broadly to value the present over the future.<sup>130</sup> They point out that the main reason people do not save is because they excuse not saving today by assuming they will begin saving at a later date in the future. This behavioural bias is called self-control bias. The lack of self-control is a major factor explaining irrational purchasing decisions made by people. Research on human psychology has shown that people generally struggle with self-control in many domains, for instance over-eating, over-snoozing and under-saving.<sup>131</sup> This manifests itself as procrastinating behaviour, and or as consumption splurges.<sup>132</sup> Consumption splurges among low income individuals is compounded by the fact that they find it very difficult not to have money directly on them or within easy access just in case something comes up.<sup>133</sup> This in turn makes them susceptible to making poor spending

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<sup>126</sup>After the global financial crisis, banks may not be viewed as the most trustworthy organizations. M Rich 'The World's Unbanked Poor' (2012) available at: [http://economix.blogs.nytimes.com/2012/04/30/the-worlds-unbanked-poor/?\\_php=true&\\_type=blogs&\\_r=0](http://economix.blogs.nytimes.com/2012/04/30/the-worlds-unbanked-poor/?_php=true&_type=blogs&_r=0) (accessed on 20 April 2014), Karlan et al (n 99 above) 21.

<sup>127</sup>as above.

<sup>128</sup>NP Retsinas & ES Belsky (eds.) *Building assets, building credit: Creating wealth in low-income communities* (2005).

<sup>129</sup>Karlan et al (n 99 above) 23.

<sup>130</sup>Commonly known as 'present-bias'. Karlan et al (n 99 above) 26.

<sup>131</sup>as above.

<sup>132</sup>as above, Succumbing to temptation to consume today, perhaps by borrowing.

<sup>133</sup>M Circosta, D Cushing, T Nelson, B Secl, S Ueno 'Overcoming Barriers to Saving for the World's Poorest' available at:



decisions. Bernergee and Mullianathan argue that there is a direct correlation between present day bias and poverty, in their study looking into the implication of temptation goods on the economic lives of low income individuals.<sup>134</sup> They discovered that the relationship between temptations and the level of consumption plays a key role in explaining the observed behaviours of low income individuals.<sup>135</sup> The authors argue that low income individuals tend to spend a large chunk of their income on temptation goods. The temptation goods of choice among low income individuals in South Africa include alcohol, cigarettes and worst of all a drug by the name of “nyaope”.<sup>136</sup>

Another behavioural bias noted by Karlan et al hindering saving is one of problem solving. The authors argue that this bias arise as a result of errors in conclusion arrived at by individuals given their preferences, expectations, price perceptions and information from their surroundings.<sup>137</sup> The authors believe that the leading problem solving explanation for under saving behaviour is centred on inattention to certain aspects of the trade-offs involved in allocating consumption over time.<sup>138</sup> For example, Della Vigna argues that spending and borrowing are more top of the mind for the majority of people than saving, complementing this argument, casual empiricist argue that company advertisements are more focused on promoting spending and borrowing than they do saving.<sup>139</sup> So people are in a way easy prey to adverts because they (the adverts) target their natural psychological disposition.<sup>140</sup>

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[http://cf.linnbenton.edu/artcom/social\\_science/clarkd/upload/Chapter%208%20Overcoming%20Barriers%20to%20Saving%20for%20the%20World's%20Poorest.pdf](http://cf.linnbenton.edu/artcom/social_science/clarkd/upload/Chapter%208%20Overcoming%20Barriers%20to%20Saving%20for%20the%20World's%20Poorest.pdf) (accessed on 26 April 2014).

<sup>134</sup>Banergee & Mullainathan (n 30 above).

<sup>135</sup> as above.

<sup>136</sup>Nyaope, also called ‘whoonga,’ is the street drug that is ravaging South Africa’s impoverished townships. Cheap and highly addictive, it is said to include marijuana, low-grade heroin and other additives like rat poison and antiretroviral. One rehab clinic in Vereeniging near Johannesburg, reported 63 people undergoing treatment for nyaope addiction in April. In June there were 134 people, while in August, 223 people sought assistance. E Conway-Smith ‘Nyaope, the street drug that’s the scourge of South Africa’s townships’ available at: <http://www.globalpost.com/dispatch/news/regions/africa/south-africa/131030/nyaope-street-drug-south-africa> (accessed on 26 April 2014).

<sup>137</sup>Karlan et al (n 99 above) 27.

<sup>138</sup> as above.

<sup>139</sup> as above.

<sup>140</sup> as above.

### 3.3. Conclusion

Saving mobilization is important for individual and household welfare. At both levels, savings helps to smoothen consumption during periods of economic and health shock as well as to finance productive investment in human and business capital.<sup>141</sup> However factors such as high cost of maintaining bank accounts as well as the time and the effort required to reach the banks have been demonstrated to hinder saving among low income individuals. Furthermore, even though the lack of information on modern saving mechanisms has proven to have very minimal effect on whether individuals save or not, however, when looked at in combination with the effect of social pressures and psychological or cognitive biases, have the effect of making individuals resistant or uninterested in seeking information on saving mechanisms. From the interviews I carried out with car guards, I found that the biggest hindrance to saving among the car guards may in fact be social constraints. As Beverly and Sherraden argue, socialization, learning of norms within individual's reference group and socio-economic characteristics of the neighbourhood in which one lives in has effects on saving behaviour.<sup>142</sup> Because the older generations of car guards are completely ignorant of saving mechanism, it is likely that the younger generation pick up from them. As I noted earlier social constraints has the added negative effect of making the car guards unwilling to seek information on saving. This behaviour is then passed on to younger generations of car guards thus trapping them in ignorance and poverty. Another limitation observed is the self-control limitation. Most of the car guards spend a large portion of their incomes on either alcohol or drugs.

In light of fact that car guards are extremely vulnerable to the effects of economic and health shock, the added fact that there are also barriers hindering them from saving is indeed worrying. It is therefore important that financial innovations that incorporate the above mentioned barriers to saving geared towards encouraging savings among car guards be introduced. The financial innovation coupled with the necessary government backing should go a long way towards empowering car guards to be able to ride out the effects of economic and health shocks as well as to escape the clutches of poverty.

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<sup>141</sup>Karlan et al (n 99 above) 1.

<sup>142</sup>Beverly & Sherraden (n 115 above).

## CHAPTER 4: A HUMAN RIGHTS BASED APPROACH TOWARDS PROMOTING SAVING

The general thrust of this chapter is as follows: Human beings have a basic right to those conditions that are necessary for the realisation of a minimally decent human life, inclusive of which is the genuine prospect of securing their human rights. Using the right to development as a point of departure, this chapter argues that saving constitutes an enabling environment and support structure towards a minimally decent human life for car guards. The only way this may be realised in the capitalistic society we live in is if car guarding is recognised as an actual profession through formalisation. In so doing, car guards may be mainstreamed into society and so enjoy the benefits accompanied.

As earlier noted in chapter one, economic, social and cultural rights (ESCR) are rights that concern what may broadly be described as the conditions under which people live and work. Furthermore, they mandate a fair distribution of resources and opportunities, prioritisation of and addressing the needs of the vulnerable and disadvantaged groups.<sup>143</sup> Similarly, central to the basic goal of the right to development is that people ought to be empowered to actively participate in their development and benefit from it.<sup>144</sup> The underpinning motivation for development, just like human rights, is to establish a society founded on values of human dignity, equality and freedom.<sup>145</sup> Development is concerned with ensuring access to resources, services and opportunities necessary for a decent standard of living.<sup>146</sup> Access to these necessities is essential for a person to lead a life with dignity. Therefore, development or the right to development is a component of ESCR.

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<sup>143</sup>S Khoza *'The link between development and social and economic rights: Are socio economic rights development rights'* (2002) Socio-Economic Rights Project, CLC, UWC.

<sup>144</sup>as above.

<sup>145</sup>as above.

<sup>146</sup>as above.

#### 4.1. What is a right?

Rights are powerful and empowering.<sup>147</sup> They enable marginalised groups within society to assert themselves against powerful entities in the public and private sphere and thereby draw attention to their plight.<sup>148</sup> Where the objects of rights include social goods or services, rights further recast claims for access to such goods or services as moral and legal imperatives, rather than “mere” cries for help.<sup>149</sup> Therefore rights impact on the structures and systems through which social goods and services are delivered, especially where the rights are legally enforceable against the architects and drivers of such systems and structures.<sup>150</sup>

However enforcement issues weaken the power granted by rights.<sup>151</sup> Judicial enforcement of rights has the real potential to deepen democracy by amplifying the voice of citizens in conversations over the satisfying of their socio-economic needs, but factors such as unequal access to courts, the power of social movements and interest groups, judges individual perspectives and value system as well as the issue of progressive realisation contribute to destabilising the pursuit of democratic projects.<sup>152</sup>

#### 4.2. Saving as a right to development

The right to development (RTD) has been a topic of much debate ever since the adoption of the Declaration on the Right to Development on the 4 December 1986 by the United Nations General Assembly. According to the Declaration, the right to development entitles all persons to participate in, contribute to and enjoy development in which all human rights can be fully realized.<sup>153</sup> The core norm of the RTD is for the rights of peoples and individuals to the constant improvement of their well-being and to a national and global enabling

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<sup>147</sup>M Pieterse ‘Can rights cure? The impact of human rights litigation on South Africa’s health system’ (2014) PULP 1-194.

<sup>148</sup>as above, 1.

<sup>149</sup>as above.

<sup>150</sup>as above.

<sup>151</sup>as above, 2.

<sup>152</sup>as above.

<sup>153</sup>K De Feyter ‘Towards a Framework Convention on the Right to Development’ (2013) *International Policy Analysis*. Available at: <http://library.fes.de/pdf-files/bueros/genf/09892.pdf> (accessed on 14 September 2014).

environment conducive to just, equitable, participatory and human centred development respectful of all human rights.<sup>154</sup>

In order to clarify the content of the RTD, a High Level Task Force (HLTF) was set up.<sup>155</sup> This HLTF espoused three levels of state responsibility in relations to the RTD. Firstly, states acting collectively in global and regional partnerships. Secondly, states acting individually as they adopt and implement policies that affect people not within their jurisdiction. Thirdly states acting individually as they formulate national development policies and programmes affecting persons within their jurisdiction.<sup>156</sup> The role of states towards persons not within their jurisdiction was a major source of tension between the global North and South.<sup>157</sup> Third world nations took the third obligation as a departure point to make claims against first world countries in relation to their perceived economic inequalities. They saw that the RTD as a platform to voice their call for a new economic era favourable to them.<sup>158</sup>

The global North comprising of European states and America did not see the RTD in the same light as third world nations. Their thoughts on the idea of having to contribute to the development of other nations is perfectly summarised by Weber who on discussing the topic of public aid for less fortunate in America noted that “the percept of the poor as unworthy is deeply ingrained in the American ethos, with a general view that people must obtain resources through their own efforts”.<sup>159</sup> Developed nations further argued that the RTD should remain confined within national boundaries and not be internationalised. Taking it further, authors such as Donnelly and Abi-Saab in support of limiting the RTD within the confines of the state asserted that idea of human rights should be held completely separate from the notion of development.<sup>160</sup> They ground their argument in the belief that such a link

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<sup>154</sup>A Vandebogaerde ‘The right to development in international human rights law: A call for its dissolution’ (2013) 31(2) *Netherlands Quarterly of Human Rights*, 188.

<sup>155</sup>The high-level task force on the implementation of the right to development was established by the Commission on Human Rights, in its resolution 2004/7, and the Economic and Social Council, by its decision 2004/249, at the recommendation and within the framework of the intergovernmental Working Group on the Right to Development, in order to assist it in fulfilling its mandate. Available at: <http://www.ohchr.org/EN/Issues/Development/Pages/HighLevelTaskForce.aspx> (accessed on 29 January 2015).

<sup>156</sup>Vandebogaerde (n 154 above).

<sup>157</sup>Vandebogaerde (n 154 above).

<sup>158</sup>Vandebogaerde (n 154 above).

<sup>159</sup>M Cheung & E Delavega ‘Child Savings Accounts: Learning from poverty reduction policies in the world’ (2012) 55(1) *International Social Work* 71-94.

<sup>160</sup>SAD Kamga ‘The right to development in the African human rights system: The Endorois case’ (2011) 44(2) *De Jure* 381-391.

will distract the fulfilment of the ultimate goal of human dignity. Donnelly also sought to highlight what he perceived to be a danger of internationalising the RTD. He foresaw a situation where developing nations used the internationalisation of the RTD as a way of diverting attention away from systematic national human rights violations within their own borders and in so doing avoid responsibility.<sup>161</sup> In the same breath, Rosas and Bello criticised the HLTF in their argument about the exact meaning and status of the RTD. They argued that the right was too vague. Bello found the concept of a right to development to be “woolly” and lacking the power to command commitment and support for an inescapable conclusion and fulfilment.<sup>162</sup> This goes to show that most scholars believe that the right to development to be a fantasy lacking direction and clarity. Alfredson noted that this fantasy, if indulged, will blindly lead the international community for many years in a senseless and urgent pursuit of that which cannot be attained.<sup>163</sup>

However, a different note is struck by regional bodies on the RTD. The African Charter on Human and Peoples’ Rights (ACHPR) as well as the Arab Charter are noted to have the RTD within legally binding instruments. The obligations and standards set by the ACHPR are binding and non-negotiable. The ACHPR has not only consolidated the RTD in article 22, but it has also explicitly stipulated further in article 24 that “[all] people shall have the right to a general satisfactory environment favourable to their development”. The right to development like other rights in the African Charter is a legal right which should be fulfilled by all state parties without compromise and objection.<sup>164</sup>

The African Commission has not always been bold in its decisions regarding states violating the RTD. The Commissions earlier rulings were seen to be highly submissive to state sovereignty and the intra-state party politics.<sup>165</sup> Commencing on a rather restrained note, the first opportunity that presented itself to the Commission was the case of *Kevin Mgwanga Gumne, et al. v. Cameroon*.<sup>166</sup> The complainants alleged that they suffered

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<sup>161</sup>Vandenbogaerde (n 154 above).

<sup>162</sup>Kamga (n 160 above) 6.

<sup>163</sup>as above.

<sup>164</sup>M Hansungule ‘The right to development’ *Centre for Human Rights, Faculty of Law, University of Pretoria, South Africa* (on file with author).

<sup>165</sup>OC Okafor ‘A Regional Perspective: Article 22 of the African Charter on Human and Peoples’ Rights’ in S Marks (ed) *Realizing the right to development: Essays in commemoration of twenty-five years of the united nations declaration on the right to development* (2013).

<sup>166</sup>African Commission on Human and Peoples’ Rights, communication No. 266/2003.

economic marginalization due to lack of infrastructural development, coupled with the relocation of an important sea port from their region by the government of Cameroon. They argued that this constituted a violation of their right to development under article 22 of the African Charter. Okafor notes that the Commission's decision in the case was too restrained.<sup>167</sup> Rather than prioritise the RTD, the Commission gave greater emphasis to political discretion, worse still the matter of the RTD was relegated to the doldrums of "progressive realization".<sup>168</sup> Okafor notes that the issue of progressive realisation is a limitation more popular with the better-established kinds of economic, social and cultural rights.<sup>169</sup> To the Commissions credit, their findings however gradually evolved for the better over time in terms of its jurisprudence with particular emphasis to article 22 of the ACHPR.

A case demonstrating that evolution is that of the *Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v Nigeria* (the *SERAC* case). This case was ground-breaking in that the Commission recognised people's collective rights, furthermore it was bold enough to point out the responsibility of the state party to the ACHPR in failing to regulate the actions of non-state actors (Shell Corporation).<sup>170</sup> However, the Commission still drew criticism in its lack of clarity on what exactly "peoples" were under article 21 and 22 of the ACHPR. The Commission is noted to having later redeemed itself as it rendered what would be its most authoritative decision on article 22 in the case of the *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of the Endorois Welfare Council v The Republic of Kenya*.<sup>171</sup> Sing'Oei commented that the African Commission through the *Endorois* decision exorcised the ghosts of its previous wobbly conception of peoples.<sup>172</sup> This case clearly identified the beneficiaries or rights holders of the RTD, the Commission went further to stress the role of the state as the primary duty bearer.<sup>173</sup> Furthermore, the holistic manner in which the Commission interpreted the African Charter served to demonstrate the interconnectedness and

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<sup>167</sup>Okafor (n 165 above) 376.

<sup>168</sup>as above.

<sup>169</sup>Okafor (n 165 above) 376.

<sup>170</sup>Okafor (n 165 above).

<sup>171</sup>African Commission on Human and Peoples' Rights, communication No. 276/2003. The *Endorois* case is argued to have broken new ground for the Commission, furthermore it contributes significantly to the evolution of the international human rights jurisprudence.

<sup>172</sup>Okafor (n 165 above) 380.

<sup>173</sup>Okafor (n 165 above) 381.

seamlessness of the rights contained in the African Charter.<sup>174</sup> It clarified the RTD as being both “constitutive and instrumental” hence the violation of either procedural or substantive element constitutes an encroachment on the right.<sup>175</sup> Most importantly, in the *Endorois* decision there was no emphasis on the progressive realisation of rights. It was thus established for the first time by the Commission the principle of immediate realisation of human rights enshrined in the ACHPR by simply calling upon Kenya to remedy the violation of the rights of the *Endorois* community.<sup>176</sup>

### 4.3. Integrating saving into the existing right to development framework

The HLTF proposed 3 components of the RTD: enabling environment, social justice and equity, and comprehensive human-centered development. Of significance to this study is the fact that the task force went further to elevated the status of the “enabling environment” component to make it definitional of the right.<sup>177</sup> This serves to emphasise the importance of an enabling environment in the discourse of development. The UN Charter also highlights the importance of an enabling environment in its preamble by affirming that conditions needed to be established under which justice and respect for the obligations arising from treaties and other sources of international law could be maintained.<sup>178</sup> In the same breath, the International Convention of Economic, Social and Cultural Rights (ICESCR) as well as the International Covenant on Civil and Political Rights (ICCPR) identically call for the creation of an enabling environment in their preambles, noting that it is only when conditions are made so that people can enjoy their rights without fear that they may be free.<sup>179</sup> Subsequently, within regional documents, the African Charter has also recognised the need for an enabling environment so much so that it has been made justiciable.

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<sup>174</sup>as above.

<sup>175</sup>Okafor (n 165 above) 382.

<sup>176</sup>Okafor (n 165 above) 383.

<sup>177</sup>Vandenbogaerde (n 154 above) 6.

<sup>178</sup>Vandenbogaerde (n 154 above) 7.

<sup>179</sup>Vandenbogaerde (n 154 above). In their preambles they declare identically that in accordance with the Universal Declaration of Human Rights’, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.



In order to dissolve the concept of saving into the RTD, the right to an enabling environment will be read in context of the definition of the right to development as forwarded by the late independent expert on the RTD Arjun Sengupta. He argued that the RTD should be seen as “the right to a process that expands the capabilities or freedom of individuals to improve their wellbeing and to realize what they value”.<sup>180</sup> Using the guidelines set by the teachings of Sengupta, the UNDP conceives development in terms of human development.<sup>181</sup> Following this, Okafor argues that human development implies the creation of an environment in which people can develop to their full potential so that they may lead a full and productive life in accordance with their needs and interests.<sup>182</sup> Essentially, what this implies is that development should loosely translate to freedom, with freedom comes the enjoyment of basic human dignity. In international human rights law, the core norm of the right to development entails the right of peoples and individuals to the constant improvement of their wellbeing and to a national and global enabling environment conducive to just, equitable, participatory and human-centred development respectful of all human rights.<sup>183</sup>

Problems have arisen on what exactly an enabling environment constitutes. For instance, in attempting to understand what article 24 of the African Charter entailed, Amechi argued that the Charter was just too vague on the meaning of the phrase “general satisfactory environment favourable to development” or the range of issues that it might embrace.<sup>184</sup> He then concludes that, since the Charter gave no indication of what it meant, this therefore implied that the Commission was leaving the subject open to interpretation.<sup>185</sup> For example based on the nature of the cases presented before the African Commission so far, a generally satisfactory environment has been taken to mean a clean, unpolluted natural environment.<sup>186</sup>

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<sup>180</sup>Vandenbogaerde (n 154 above) 9.

<sup>181</sup>Okafor (n 165 above) 375-146.

<sup>182</sup>as above.

<sup>183</sup>Vandenbogaerde (n 154 above)7.

<sup>184</sup>EP Amechi ‘Enhancing environmental protection and socio-economic development in Africa: A fresh look at the right to a general satisfactory environment under the African Charter on Human and Peoples’ Rights’ (2009) 5 *Law, Environment and Development Journal* 58.

<sup>185</sup>as above.

<sup>186</sup>as above, 62.

This study aims to contribute to the emerging jurisprudence and scholarly debate on the RTD by taking advantage of the ambiguity to the terms dictated by the ACHPR relating to RTD. It aims to broaden the discourse of what development entails as defined by the African Commission. By virtue of being human, people are entitled to a basic right to those conditions that necessitate the realisation of a minimally decent human life inclusive of which is the genuine prospect of securing their human rights. In line with this, Rebecca Browning argues that we are entering a new phase in our approach to development where the appreciation of a person's ability to influence in and participate in their own development and the effective distribution of aid and a more coherent idea of what human development encompasses is evolving.<sup>187</sup>

From Browning's stand point, car guards need no aid, and as such are already a step closer to realising their own version of development. They already have a source of income albeit unreliable but substantial enough to support themselves and their dependants. Browning goes further to explain that the definition of development varies between developed and developing societies.<sup>188</sup> To the development community, development can be seen as the use of social, economic and more recently legal mechanisms to effect change and achieve a higher standard of living.<sup>189</sup> This study concurs with this definition of development and in so doing argues that access to a savings account is therefore a constitute of the right to development read from the angle that a savings environment satisfies a modern definition of an "enabling environment". The right to an enabling environment based on savings entails creating tailor made financial solutions that take into account the peculiar circumstances that car guards find themselves in. All this goes towards promoting equal cognitive, physical, emotional, linguistic, and social abilities of car guards and other informal workers that both partly constitute a minimally decent human life and make all other rights and domains of value meaningfully available.<sup>190</sup>

The findings of chapter two indicate that car guards do not save. Furthermore, chapter three shows that car guards do face barriers when it comes to saving. It was found that a combination of social coercion and systemic barriers played a major role in hindering saving

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<sup>187</sup>Browning (n 24 above).

<sup>188</sup>Browning (n 24 above) 11.

<sup>189</sup>as above.

<sup>190</sup>K Brownlee 'A human right against social deprivation' (2013) 63(251) *The Philosophical Quarterly* 199-222.

among these individuals. Taking into consideration the state of poverty car guards find themselves in, it can be inferred that the government of South Africa is not doing enough to fulfil its duty of ensuring that car guards individually or collectively exercise their RTD. The failure of the government can in part be attributed to the disillusion of capitalism and their inability to fully grasp the concept.

#### **4.4. Government's role: Recognition through formalisation**

In attempts to address the issue of the ever growing divide between the rich and the poor, the economist Hernando De Soto set about to reignite what he argues to be a forgotten dictum on the origins of capitalism conveniently lost to the world today.<sup>191</sup> According to De Soto the solution to the poverty crisis faced by a large part of the developing world lies in a perfectly functioning capitalistic system. However the blue print of such a system has been misplaced in time. De Soto argues that the secret to the success enjoyed by the West lay in the interaction between law and economic progress. He argues that today, capitalism seems to fail everywhere but the west because, for most of the developing world, the legal systems in place are rigid and resistant to the inevitable process of globalization, in other words the legal systems fail to embrace the informal sector. De Soto aimed to highlight the importance of formalization and property rights for informal entrepreneurs by assessing the potential impact that legal institutions could play.

De Soto reasons that the majority of those said to be poor, mostly found in developing nations, are actually not poor at all. He argues that our understanding of poverty has been grossly misguided by the west.<sup>192</sup> He challenges the circular definition of poverty as being without the means of fulfilling basic needs and wants, by arguing that the majority of so called desperately poor people really do have the means to fulfil those needs and wants but are restricted in their ability to do so. He argues that in fact the so called desperately poor possess far more wealth than researchers have bothered to investigate.<sup>193</sup> However, their wealth is really not represented in such a way as to conform to modern measurements of wealth. This to a large extent is due to their extra legal status. As a result these individuals

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<sup>191</sup>De Soto (n 24 above) 15.

<sup>192</sup>De Soto (n 24 above) 15.

<sup>193</sup>as above.

have created their own little economies outside the legal system with their own set of laws. However they will forever be unable to fully realize the potential of their assets within their informal “extra-legal” system. In effect De Soto labels the assets of these individuals as “dead capital”.<sup>194</sup> Therefore car guards are unable to fully realise the potential value in their entrepreneurship capital.<sup>195</sup>

De Soto reasons that capitalism grows in stages and so it is only normal for developing nations to be at the stage they are in presently given the length of time from liberalisation and decolonisation to the present. He qualifies this by drawing socio-economic similarities between the current developed nations in the early 1800s and the present day developing nations. He points out that both periods are characterized by high unemployment rates increased feelings of disenchantment by people towards the ruling government due to poor service delivery and harsh laws as well as occasional civil and political unrest which could spill into over into violence.<sup>196</sup> However, the most important similarity between the two eras as pointed out by De Soto are the high prevalent levels of unrecognized entrepreneurship among the low income earners.<sup>197,198</sup> De Soto aimed to demonstrate that it was the manner with which the governments of the currently developed nations treated those entrepreneurs of the 1800s that influenced their transition into functioning capitalistic nations we see today.<sup>199</sup> The governments at the time were faced with the same two choices present governments are also faced with, whether to integrate those entrepreneurs into the mainstream market economy through expansionary legal frameworks or to live in anarchy.

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<sup>194</sup>as above.

<sup>195</sup>Car guarding is an informal occupation that has grown sporadically over the past few years due to the upsurge in car theft and high unemployment rates. Car guards managed to achieve this all without any form of government assistance. Just like entrepreneurs, car guards found a gap in the market and have slotted themselves in and are earning a living. However, unlike other entrepreneurs car guards lack formal recognition.

<sup>196</sup>De Soto (n 24 above). A prime example of which in South Africa is the Marikan tragedy of August 2012 where 34 striking miners were killed by police. There are also numerous service delivery strikes taking place in different parts of the country on a regular basis.

<sup>197</sup>De Soto (n 24 above) 25, notes that, although refugees of the law, informal workers have hardly retreated into idleness. The informal markets in developing nations are abuzz with hard work and ingenuity.

<sup>198</sup>De Soto (n 24 above) 32, notes that in every country that he and his team have examined the entrepreneurial ingenuity of the poor has created wealth on a vast scale, wealth that also constitutes by far the largest source of potential capital for development.

<sup>199</sup>De Soto (n 24 above)103, Those countries that outlawed informal entrepreneurs instead of adjusting their legal systems to absorb them not only delayed economic progress but fueled civil unrest with eventually spilled into violence. Those nations that adapted their markets to the informal entrepreneurs made relatively peaceful transitions to market economies.

In all capitalistic societies, capital is an important driving force behind productivity and as such is an essential component in creating the wealth of nations.<sup>200</sup> De Soto argues that capital is the life blood of a capitalist system, the foundation of progress, and the one thing that the poor countries of the world cannot seem to produce for themselves, no matter how eagerly their people engage all the other activities that characterize a capitalist economy.<sup>201</sup> However, capital should not be confused with money. Whilst money is simply a facilitator for making transactions easier, capital in contrast is an asset that is fixed and realized on a particular subject.<sup>202</sup> Capital is the most tangible and detectable of assets.<sup>203</sup> Yet it is not the subject itself. Take a house for example, the house in this sense is the key to capital but it is not capital in itself but rather within it lays the potential to create additional capital. Capital is thus not the house itself, but rather an economic concept about the house, embodied in a consensual legal representation.<sup>204</sup> In this manner, capital is the potential that a legally recognized accumulation of stock of assets has to deploy new production, in the process creating wealth.<sup>205</sup>

In presenting the dual nature of capital Shackelford draws an analogy between capital and livestock. He explains that coupled with the primary function of producing milk, meat, skin and fuel, surplus value can be extracted by breeding livestock. However, most importantly, in order for one to benefit from this surplus value it is necessary for one to own the right to the livestock so that others cannot take the produce or offspring.<sup>206</sup> In other words, rights of exclusion are imperative for capital to produce surplus value.<sup>207</sup> De Soto goes further to emphasise that being stuck in the informal sector makes it extremely hard for one to unlock the capital held in property such as small businesses, street vendors, taxicabs, bus services, shops, tiny factories, and urban market places or car guarding.<sup>208</sup> To accomplish that feat, state sanctioned recognition through formalized, property rights ownership is necessary.<sup>209</sup>

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<sup>200</sup>De Soto (n 24 above).

<sup>201</sup>De Soto (n 24 above).

<sup>202</sup>SJ Shackelford 'The promise and peril of property rights formalization' (2009) *Available at SSRN 1395958*.

<sup>203</sup>De Soto (n 24 above)

<sup>204</sup>Shackelford (n 202 above) 6.

<sup>205</sup>as above.

<sup>206</sup>as above.

<sup>207</sup>as above.

<sup>208</sup>De Soto (n 24 above) 28, argues that due to their informality, they are not legally recognised and as such their property can easily be taken away by authorities thus making it very difficult for informal workers to freely extract value from their assets.

<sup>209</sup>as above.

De Soto calls for a change to the current rigid legal framework from one that stifles development and entrepreneurship to a more inclusionary one in order to absorb those low income entrepreneurs stuck outside the bell jar.<sup>210</sup> The big idea behind De Soto's work is the adoption of a formalized state-sanctioned property rights system. Proponents for formalization argue that formalization may lead to improved market efficiency through reduced uncertainty due to easily accessible information to potential credit providers.<sup>211</sup> This positive information is incentive enough to spur investments in property development, growth in small businesses and other industries which will inevitably positively affect the market economy.<sup>212</sup> This is how the developed world got to where they are today. Shackelford demonstrates the role formalization plays in promoting development by giving the example of what he describes as the single most vital source of start-up capital for small businesses; mortgages.<sup>213</sup> He argues that due to recognition through formalization, small business owners in the developed world were able to mortgage their homes in exchange for loans in order to grow their ventures. It is estimated that up to 50 percent of the wealth of the developed world is tied up in some form of real estate.<sup>214</sup>

Work in the informal sector is characterised by the absence of: official protection and recognition, minimal wage legislation or social security coverage, trade union backing, little job security as well as limited access to the banking system. Despite this, the importance of the informal sector to the general health of any countries economy cannot be overlooked. Not only does the informal sector ease the burden of high unemployment rates, it also provides numerous invaluable services to the general public. Logic thus dictates that if the informal sector is so important, then it should be recognised both legally and otherwise. Nigeria is one of the few cases in the developing world demonstrating how recognising the importance of the informal economy can greatly affect the general economic outlook on paper at least. Through rebasing, the Nigerian economy almost overnight became the largest economy on the African continent. Even though rebasing is just a matter of adding

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<sup>210</sup>as above.

<sup>211</sup>Markets are expected to improve due to the inclusion of previously excluded entrepreneurs with new and innovative ideas into the system. Furthermore, with proper government backing, it is expected that the informal entrepreneurs will now be able to take out loans from financial institutions with ease, growing the economy in the process.

<sup>212</sup>Shackelford (n 202 above) 11.

<sup>213</sup>Shackelford (n 202 above) 12.

<sup>214</sup>as above.

information that was previously omitted, information on the informal economy, and has no positive implication to the man on the street, it still goes to show just how significant a role player the informal economy is to the general economy at large. The informal sector according to Vargas-Falla constitutes an emerging aphorism for poverty reduction strategies at the bottom of the global economic pyramid.<sup>215</sup>

A number of researchers have carried out studies aimed at investigating the soundness of De Soto's theory. Boudrau noted that in South Africa, title-holders invest in improving their homes, which often lead to increased property values.<sup>216</sup> She further noted that some title-holders used their homes as secure places of business to generate income to support themselves and their families.<sup>217</sup> Anna Paulson and Robert Townsend found similar results in their survey in Thailand. Their findings suggested that titling encouraged entrepreneurship.<sup>218</sup> However, there were some major setbacks recorded as well. De Soto argues that with government's recognition and titling will come easy access to credit because property would now be used as collateral. However, Shackelford notes that banks are still very reluctant to use formalised title as collateral.<sup>219</sup> He notes that only about 10 percent of start-ups are ever funded by banks in developing nations.<sup>220</sup> The reason for this may be that banks demand, for instance in Mexico, collateral that is roughly three times the value of the loan.<sup>221</sup> However, the issue of titling capital to be used as mortgage is beyond the scope of this study. This mini-dissertation only focuses on the ease of access to bank accounts following government recognition through formalisation. The study by Vargas-Falla is best suited for this purpose.

The government of Colombia formalised informal street vending in the city of Bogota as an initiative to encourage self-development. Following this, Vargas-Falla examined whether this initiative had any effects on the livelihood of street vendors. The author made the following observations: the results showed that the street vendors were able to use their newly acquired statuses to bring about positive change to their livelihoods. The study also

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<sup>215</sup>Vargas-Falla (n 24 above).

<sup>216</sup>Shackelford (n 202 above) 28.

<sup>217</sup>as above.

<sup>218</sup>as above.

<sup>219</sup>Shackelford (n 202 above) 29.

<sup>220</sup>as above.

<sup>221</sup>Shackelford (n 202 above) 30.

proved that with their newly acquired legal status these street vendors now actively participated in reforms geared towards poverty reduction without any aid from the government. As a direct result of formalisation, the author noted improved working conditions and income generation ability among the test group. This the authors attributed to no longer having to fear eviction or confiscation of their property by law enforcement officials. Additionally, the formalisation strategy implemented by the government involved allocating each and every street vendor a tent under which they were able to protect their products from bad weather conditions. This contributed to improved work and living conditions as well as also contributing however slightly to improved cash flow streams.

Another set of improvements noted by the author were life improvements. The effect of not having to hide from law enforcement officers implied that street vendors could freely advertise their products this resulted in an increased customer base, therefore translating into improved revenue streams. Freedom from police harassment also brought about increase pride and self-esteem as they felt that they were now law abiding citizens. There were however a few outliers representing those who did not appreciate the government's efforts at formalisation.<sup>222</sup> The authors reasoned that these individuals refused to participate for competition reasons, it was thought that the close proximity to competitor may negatively affect profits.<sup>223</sup> The author also set about to determine whether the formalisation process lead to economic freedom through ease of access to bank accounts and credit services. It was noted that most of the street vendors did indeed open bank accounts, however access to credit was a great disappointment. Similar to what Shackelford noticed, banks showed great reluctance to extend credit to the street vendors despite their government backing. It could be reasoned that an advantages and disadvantages of a capitalistic system is its autonomy. The financial sector under a capitalistic economy operates best under minimum government intervention, therefore are under no obligation to play along with government plans. Thus banks may still consider these individuals to be high credit risk despite government giving them the thumbs up, furthermore, their collateral may not be sufficient to back any loan uptake. However what can be taken away from the

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<sup>222</sup>Outliners represent the few individuals who refused to participate in the government formalisation strategy.

<sup>223</sup>Vargas-Falla (n 24 above).



Bogota experiment is that formalisation is tantamount to a foot in the doorway to development and self-improvement.

#### **4.5. Conclusion**

Juxtaposing the work of De Soto, Browning and articles 22 and 24 of the ACHPR, a few similarities can be extracted. They all point out that in order for there to be full realisation of development, all parties in the economy from both the formal and informal sectors have to be brought to the table. Furthermore, all three stress the role of government as central to ensuring that all people have a generally satisfactory environment favourable to their development.

The study by Hernando De Soto points out that individuals trapped in the informal sector cannot extract fully the benefits within their capital wealth material or entrepreneurial. In order for this to happen, they have to be formalised. However, De Soto also points out that accessing the formal sector for these individuals is extremely difficult because of existing unfavourable laws. The law has been, and still is a tool used to persistently relegate low income individuals to the fringes of social structure. In most developing countries, most governments believe that if a balance is struck between stabilising the economy and allowing formal businesses to prosper as well as maintaining enough foreign investment then they can rest on their laurels. However, they forget that the most critical resources represented by the mass of entrepreneurs present in the informal sector are left untapped and wasted. The informal economy played a significant role in getting the West to where they are now and so governments in developed nations need to change their legislation to be more accommodating to these informal entrepreneurs. Shackelford and Vargas-Falla, building on De Soto's work, conclude that formalization is more than access to credit, it is a tool to improve the autonomy, self-esteem, and empowerment of the poor. Car guards in Pretoria have the potential to not only benefit greatly from formalisation, but also contribute meaningfully to the overall economy of South Africa.

Therefore, the government of South Africa needs to create a favourable environment for car guards by formalising their trade so that they may be able to not only meaningfully contribute to the economy of the country, but also participate in their own development.

## CHAPTER 5: A PROPOSED SAVING MODEL

In this chapter, I explore a potential saving mechanism that could be used by car guards. This saving mechanism takes into consideration the impediments to saving faced by the car guards as noted in chapter three, furthermore, the model will rely on the support of government and the private sector for its success.

### 5.1. Using financial innovation to promote saving among car guards

#### 5.1.1. Finance and innovation

It is important to note that before any innovation geared towards making it easy to save can be successfully implemented, legal backing is required. As argued in the previous chapter, the law has a very important role to play towards creating an enabling environment where saving can take place. However, the process of encouraging saving among people in general is beyond the law and thus calls upon a multidisciplinary approach to identify and overcome the various systemic and non-systemic barriers to saving.

In the financial sector, there is very rarely anything that is truly new, but rather seemingly new concepts are updated versions of old programs or build upon on other innovations.<sup>224</sup> The economist Robert C Merton speaks of the innovation spiral, whereby the existence of one financial innovation permits another.<sup>225</sup> With this in mind, I aim to come up with a saving innovation built upon an already existing financial innovation. The strategy will incorporate the best characteristics of innovations geared towards stimulating savings yet with the mindfulness of its target consumers, car guards. To begin with, I will examine a number of saving methodologies put forth by Tufano and Schneider with the ultimate aim of reflecting on the interplay between impediments and solutions to saving and scaling them against the level of voluntarism with the intention of merging this interplay with an already growing phenomenon in the telecommunication world in sub-Saharan Africa, M-PESA. Already existing saving models, as per Tufano and Schneider, include: coercing saving models, models geared towards making it hard not to save, models geared towards making

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<sup>224</sup>P Tufano & D Schneider 'Using financial innovation to support savers: From coercion to excitement' (2009) 6 *Insufficient Funds: Savings, Assets, Credit, and Banking among Low-Income Households*.

<sup>225</sup>as above.

it easier to save, models that bribe people to save, models that leverage social networks and making saving exciting.

### 5.1.2. Saving models

The coercive saving model is one that literally looks at inducing or forcing individuals to save.<sup>226</sup> The assumption behind this model is that without paternalistic government interventions, individuals will fail to accumulate adequate savings. These programs do not target individuals but rather are very often far reaching and require widespread involvement with the ultimate goal of reducing inequality. Examples of this model of saving include taxing to force saving, or more commonly recognised as social security. This is a mandatory percentage deferral of consumable income of every registered workers salary towards ensuring future consumption.<sup>227</sup> Another subcategory of forced saving model is the United Kingdom's Child Trust Fund (CTF).<sup>228</sup> This is an involuntary program similar to social security only that it is geared towards ensuring that all British children will have a savings account upon reaching their eighteenth birthday.

The second saving model by Tufano and Schneider is one that advocates for making it hard individuals not to save.<sup>229</sup> The underlying behavioural basis of this model is that people are susceptible to procrastination, problems of self-control, orientations towards the status quo and other behavioural shortcomings that have powerful effect on human actions.<sup>230</sup> Thaler and Sunstein argue that when dealing with behavioural flaws, it is inevitable for third party interventions to help influence decision making.<sup>231</sup> They further argue that designs that guide choice in ways that are beneficial but not so paternalistic as not to leave room for choice. Choice is what differentiates this model from the coercive saving model. A prime example embodying this philosophy is the 401k plan with the "opt in" and "opt out" option used in the United States.<sup>232</sup> Another strategy making it difficult to avoiding saving is

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<sup>226</sup>Tufano & Schneider (n 224) 7.

<sup>227</sup>In the United state a 6.2% of the first \$102,000 of income is contributed towards social security. Tufano & Schneider above.

<sup>228</sup>Tufano & Schneider (n 224) 9.

<sup>229</sup>Tufano & Schneider (n 224) 12.

<sup>230</sup>Tufano & Schneider (n 224) 12.

<sup>231</sup>as above.

<sup>232</sup>The 401k plan is an investment policy established by employers for eligible employees to make salary contributions towards retirement. In the past this plan had an 'opt in' option to participation, but increasingly

through “bundling”. This is where savings are bonded with a product or service that consumes would typically otherwise purchase, for instance bonding savings to shopping or the use of a credit or debit card or borrowing.<sup>233</sup>

The next model is one that makes it easier for people to save.<sup>234</sup> This model however requires individuals to make a conscious decision to save. Furthermore making saving easy requires making products available that essentially are easily accessible at individual’s points of need or when and where people can and have the ability to save with ease, or where people have free money. The key behavioural problem that is tackled is lack of self-control. It must be pointed out that lack of self-control could come as a result of the savers weak will or it may arise as a result of demands imposed on the saver by social ties such as friends and family. One of the most widely accepted methods of making it easier to save is through withdrawal commitments. These commitments take many forms the likes of withdrawal penalties, private equity investments with limited exit opportunities. Another interesting example of a method of making it easy to save is the retail point of sale savings. Tufano and Schneider lamented at the ease with which products are purchased at shopping centres whereas one typically has to present a variety of documentation and follow numerous time consuming steps in order to access savings accounts.<sup>235</sup> All of which have the effect of putting off low income individuals from saving. Innovations that make it easier to save by incorporate retail purchasing could be implemented so customers could “buy” savings in the same way one bought bread and other goods from shops. The authors point out that this technology will especially be beneficial to low income savers.

The next model is one that involves bribing people to save.<sup>236</sup> It is a widely known and generally accepted principle that people respond well to incentives. Just like in the formal sector where employees are encouraged by bonuses or the promise of promotions, so too could savings products be innovated to incorporate this general principle. In the United States, there are Individual Development Accounts (IDAs) which are financial incentives for

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employers are automatically enrolling employees into the scheme upon hire and employees now have the option to ‘opt out’ of it. See Tufano & Schneider (n 224 above).

<sup>233</sup>Tufano & Schneider gave a better explanation of the innovation by comparing it to amortisation. Where if one wanted to buy a house, they secure a loan where over time the borrower essentially pays themselves or saves by investing in the equity in their home as the loan is paid off.

<sup>234</sup>Tufano & Schneider (n 224 above) 22.

<sup>235</sup>Tufano & Schneider (n 224 above) 29.

<sup>236</sup>Tufano & Schneider (n 224 above) 30.

low income individuals.<sup>237</sup> The methodology underlying IDAs is that all deposits made into the account by low income individuals will be matched. Another aspect of IDA is the accompanied financial education lessons to help individuals better manage their finances. This serves to alleviate the information and knowledge gap.

The next model as advocated by Tufano and Schneider is one aimed at making savings a group activity.<sup>238</sup> Economists see money as the universal motivator, on the other hand, psychologist and sociologist see other motivators like the leverage power of groups as motivators.<sup>239</sup> A prime example of the leverage power of groups is embodied in the Rotating Savings and Credit Associations (ROSCA). In the ROSCA model, a number of people come together for regular meetings where contributions are made into a pot. In turn, at each meeting each member of the group gets a turn to keep the pot. The advantages of such a structure are numerous, from a sociological standpoint, intra family relations are better managed through ROSCA as members take free cash out of home and essentially invest it in a commitment device at least until they receive the pot.<sup>240</sup> Furthermore, there is the added benefit of avoiding financial demands by family members and other social ties.<sup>241</sup> It also plays an important role in group dynamics as it develops group unity, cohesion and the spirit of saving. Furthermore, an added benefit for low income savers is that pooling resources might give them access to financial choices that might otherwise be unavailable individually.

The last model by Tufano and Schneider is one geared towards making saving exciting or fun.<sup>242</sup> The authors examined a lottery linked saving account. The idea behind this product was to create a savings product that blends both classical economics with behavioural elements.<sup>243</sup> In so doing creating a 'win-win' situation for savers as individuals are drawn in to opening savings accounts by the possibility of winning large amounts of money, if they do not win, they still get to keep the savings account.<sup>244</sup>

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<sup>237</sup> as above.

<sup>238</sup> Tufano & Schneider (n 224 above) 35.

<sup>239</sup> as above.

<sup>240</sup> as above.

<sup>241</sup> as above.

<sup>242</sup> Tufano & Schneider (n 224 above) 40.

<sup>243</sup> as above.

<sup>244</sup> Tufano & Schneider (n 224 above) gave an example the making saving exciting model was implemented in South Africa by First National Bank (FNB), called the First National Banks Million a Month account in 2005. People were encouraged to open banks accounts with the promise of earning interest rates of 0.25% as well as a one price entry for every R100 saved. Price drawings were made every month with prices ranging from R1

## 5.2. M-PESA as a proposed savings model

The rise of mobile phone technology coupled with the ever declining cost of communication has led to a serendipitous fusion between mobile technology and the financial service sector called M-PESA. In Kenya, cell phone users discovered that they could effectively transfer money across wide distances using mobile technology.<sup>245</sup> They took advantage of their ability to send airtime vouchers via SMS by securing the services of middle men who acting as brokers, bought the airtime vouchers in exchange for cash, goods or services.<sup>246</sup> This has led to a transfer of purchasing power from the initial sender to the recipient.<sup>247</sup> In 2007, a leading Kenyan cell phone network provider, Safaricom, formalised the procedure through the launch of M-PESA. M-PESA is a SMS based money transfer system that allows individuals to deposit money into an account stored in their cell phones, to send balances using SMS technology to other users (including sellers of goods and services) and to redeem deposits in exchange for regular money.

Willian Jack and Taveet Suri conducted a number of surveys examining the economic impact of M-PESA.<sup>248</sup> What was apparent from the new technology as noted by the authors was the fact that the M-PESA accounts worked very similarly to bank accounts, however, Safaricom, being a mobile technology firm had reservations about getting mixed up with bank regulations and so stressed that M-PESA was not conceived to act as a bank account.<sup>249</sup> Despite this and given that cell phone coverage is so widely spread across both urban and rural parts of the country, and the lack of penetration of regular banking services, hope was spurred that M-PESA accounts could be substituted for bank accounts and thus better able to penetrate the unbanked populations.

### 5.2.1. How M-PESA works

As earlier noted, the way M-PESA accounts work is quite similar to ordinary bank accounts except that no interest-on-deposits are paid. The mother company Safaricom accepts

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million to R1000. The economics of the program is also very attractive for the bank because since its inception, it opened some 750000 accounts and has collected about R1.2 billion.

<sup>245</sup>W Jack & T Suri 'Mobile money: The economics of M-PES' (2011) *National Bureau of Economic Research NBER, Working Paper Series*.

<sup>246</sup>as above.

<sup>247</sup>as above.

<sup>248</sup>Jack & Suri (n 245).

<sup>249</sup>Jack & Suri (n 245) 5.

deposits of cash from M-PESA registered customers with a Safaricom cell phone SIM card.<sup>250</sup> Registration requirements unlike that of bank accounts which require numerous documentations are much fewer, with the only requirement being an official form of identification. After the registration process is complete, in order for one to start transacting, a cash deposit is made to Safaricom in exchange for a commodity known as e-float or e-money which is measured in the same units as normal money. This e-float is held in an account under the user's name. The account is managed by Safaricom, where the quantity of e-float own by a customer at a given time is recorded. There is no charge to depositing funds, but a sliding tariff is levied on withdrawals.<sup>251</sup> The tariffs include withdrawal fees and are differentiated according to receipt by registered and non-registered users. The e-floats can either be transferred from own customers account to another by SMS or it could be sold back to Safaricom in exchange for money.<sup>252</sup> The use of the e-float has grown from its original expected application of primarily reflecting unrequited remittances to now being used to pay directly for goods and services. To demonstrate the variety of uses of M-PESA, Jack and Suri noted that services such as electricity bills and taxi-cab fares could easily be paid. The sender of e-float is charged a flat fee equivalent to 40 US cents, and the recipient only pays after withdrawing funds.

Network availability will of course play a big part in this particular transfer service. The authors note that network coverage in Kenya has expanded consistently for the past decade.<sup>253</sup> It is reported that there were about 2000 Safaricom towers across the country mostly around areas of high population density. To facilitate purchases and sale of floats, M-PESA maintains and operates an extensive network of over 23000 agents across Kenya.<sup>254</sup> Registered M-PESA users can make cash deposits and withdrawals with the agents who in turn receive a commission on both purchases and withdrawals.<sup>255</sup>

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<sup>250</sup> as above.

<sup>251</sup> The complete tariff schedule is available at:

[http://www.safaricom.co.ke/fileadmin/template/main/downloads/Mpesa\\_forms/14th%20Tariff%20Poster%20new.pdf](http://www.safaricom.co.ke/fileadmin/template/main/downloads/Mpesa_forms/14th%20Tariff%20Poster%20new.pdf) (accessed 20 October 2014). Fees are charged to the user's account, from which e-float is deducted. Additional cash fees are officially not permitted, but there is evidence that they are sometimes charged on an informal basis by agents.

<sup>252</sup> There are agents working as intermediaries to perform the necessary sales and purchasing requirements on behalf of Safaricom.

<sup>253</sup> Jack & Suri (n 245 above).

<sup>254</sup> as above.

<sup>255</sup> as above.

### **5.2.2. Economic impacts of M-PESA on households**

Jack and Suri noted a number of potential economic benefits of M-PESA on households with the first two being of most importance to this mini-dissertation.<sup>256</sup> M-PESA facilitated trade and made it easier for people to pay for and receive payment for goods and service. Services such as electricity bills, taxi fares are easily paid with the push of a few buttons without the accompanied hustle of carrying large amounts of cash or queuing. M-PESA provided safe storage mechanisms through which household could increase their savings, although they earned no interest on amount deposited. M-PESA facilitated inter-personal transactions. The authors argue that this improved on savings allocations between households and businesses and thus expanded the person to person credit market. By making transfers across large distances trivially cheap, M-PESA improves the investment in and allocation of human capital as well as physical capital. M-PESA could affect the ability of individuals to share risk. Risk sharing among informal networks is important, for instance during times of economical or health shock, the speed at which an informal family secures enough funding to overcome the effects of the shock may determine whether for example the children in the household go to school or not. M-PESA was noted to empower certain members of the household who traditionally had less bargaining power, particularly women. Within the poorer groups, remittances and transfers received and sent via M-PESA are less visible than those transmitted by other means, such as delivery by friends and relatives. The authors found that because individuals were not obliged to withdraw or send balances immediately, they were able to accumulate savings in the M-PESA accounts over time. Thus M-PESA is not only seen as means of sending money, but also a savings instruments. Another finding of the study indicated that M-PESA users who owned bank accounts were more likely to save on M-PESA than those who did not own bank accounts.

### **5.3. M-PESA as a saving mechanism for car guards**

Car guards in general do not have savings accounts, so their incomes to a large extent is unable to work for them long term or beyond their immediate needs. Hypothetically, if car guarding is formalised, a proposal could be submitted to any of the big banks to work in

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<sup>256</sup>as above.



collaboration with one of the cell phone network providers to supply an M-PESA like service through which the car guards can receive and save their monies.

As noted from the work of Jack and Suri, one of the positive economic impacts of M-PESA is the fact that it provides a secure mechanism through which individuals could save.<sup>257</sup> However also as mentioned, the only difference between M-PESA accounts and bank accounts is that M-PESA accounts pay no interest on deposit. Gail Vaz-Oxlade argues that savings accounts should not be viewed as merely avenues to save but rather, savings accounts should be seen as an investment which produces a return in the form of interest with a high level of liquidity so one can get their money whenever they want and at very low risk.<sup>258</sup> Thus a savings account must at the very least pay interest on deposits. Therefore this M-PESA like service proposition will require support from a bank that already has in order for it to be a success.

This model will require participation from the government and the private sector. The role of the government will be to legitimize the status of car guarding as a profession by passing legislation the essentially formalizes the profession. The private sector will come in handy with regards to providing banking and telecommunication services. Another role of the private sector will be to provide incentives to encourage the savers.

To begin with, individual car guards will be assigned permits by the government as part of the formalisation process. On the permits, they will be assigned reference or identification numbers. Furthermore each car guard will have to own a cell phone registered with a network provider that agrees with the initiative. Furthermore, upon registering, each car guard will also automatically be assigned savings account with a bank that agrees to the initiative.

To make this model a profitable venture, a minimum payment will have to be legislated by government along with the formalisation of car guarding, for example a minimum of R5 could be charged per vehicle guarded. Whenever a customer wishes to pay for a service rendered, they will simply have to SMS a pre-specified code number representing the car guard payment service, the individual car guard's reference code as well as the amount

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<sup>257</sup>Jack & Suri (n 245 above).

<sup>258</sup>G Vaz-Oxdale 'What is saving?' available at: <http://www.moneysense.ca/save/what-is-saving> (accessed on 20 October 2014).

being sent greater than or equal to R5.<sup>259</sup> Payments will be deposited directly to the car guard's account where a proportion of the payment (say, about 50 percent) will be automatically transferred to a savings account.<sup>260</sup> The remainder will be used by the guard for daily expenditure and can be accessed from an ATM.<sup>261</sup>

This saving mechanism incorporates characteristics from the savings models put forth by Tufano and Schneider. To begin with, this model has a coercive component in it and so making it hard for car guards not to save. This is accomplished at registration, because when individual's first sign up for their cell phones and subsequent bank accounts, the accounts are automatically configured to divert a percentage of their income to interest bearing savings accounts (50 percent) unless the car guards expressly wish otherwise. Second, this model makes it hard for individuals not to save. This is accomplished by reducing the temptation to spend on temptation goods by taking money out of the hands of the car guards. This model also makes it very easy for car guards to save; as argued in chapter three, regulatory barriers such as document requirements put low income individuals off saving. However, with this model, the only registration requirement will be an ID document. Furthermore, a percentage of income is automatically transferred to a savings account without the car guards having to displace themselves to banks or a financial service provider. Another way this model makes saving easy is the fact that the other percentage of income can easily be accessed at ATMs which are available almost everywhere.

The government or the private sector including the banks or a combination of both could come aboard this initiative to, as Tufano and Schneider put it, "bribe" the car guards to save by pledging to match or double their savings over time. This will have the advantage of motivating the car guards to hold on to the savings accounts. The National Lottery South Africa (NLSA) could also come onboard during the early stages of the initiative with the intention of encouraging take up by pledging cash prizes in a weekly or monthly draw. For

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<sup>259</sup>To make this process easier, a cell phone application could be developed that will enable clients to pay simply by the click of a button. The only requirement will be for them to insert the guards reference number as well as amount transferred.

<sup>260</sup>Tufano & Schneider (n 224 above), making it hard for individuals not to save.

<sup>261</sup>50 percent of R5 is R2.50. If say a car guard guards 20 vehicles a day, they will have made R100 of which R50 will be transferred into a savings account and the remaining R50 could be used for daily operating expenditures. It could be possible to make more or less than R100 a day and so an additional option could be included in the service to either increase or decrease the amount saved.

instance, registered car guards stand a chance of winning a weekly or monthly cash prize if their reference numbers come up in a draw.

In dealing with the rather complicated issue of the older generation of car guards, the banks could team up with University students, particularly those in the field of finance, provide them with a basic training on financial advisory so they may then act as consultants for the car guards seeking financial advice.

#### **5.4. Conclusion**

Tufano and Schneider highlighted a number of saving models geared towards encouraging saving. The coercive model looks at overcoming an individual's inertia to saving by making the act obligatory to the masses. Its only drawback is that it does not give one an "opt-out" option. The second model by the authors, the model geared towards making it easy to save, is similar to the first only that it gives an "opt-out" option. This model makes saving the default option. The next model makes it easier for people to save by either meeting them at their point of need or easing access to savings options. The next model is one that makes saving a group activity, therefore taking advantage of the influence society has on individuals actions. The next model aims to make saving exciting by introducing a reward system.

The M-PESA model proposed is a hybrid containing elements of all the saving models by Tufano and Schneider. Participants of the model upon registering will automatically have a percentage of their incomes diverted to savings accounts (making it hard not to save). The model also makes it easy to save by reducing the normal documentation requirements in opening banks accounts that normally put off low income individuals to only requiring an ID document to register. In line with making saving fun model, this model will enlist the aid of private sector companies to match deposits over time. This can be done either quarterly, semi-annually or at the end of the year, depending on how much funds are pledged. The National Lottery could also be approached to provide support by donating funds which could be used to set up a weekly cash prize draw for registered car guards. This will go far in encouraging take up among car guards.

The above saving proposal ties well with Browning's synopsis of development being achieved *by* the individual rather than *for* the individual. Sibonile Khoza argues that human development is the process of expanding the range of choices by broadening human function and capabilities.<sup>262</sup> As reiterated throughout this mini-dissertation, car guards already have an income supply, however uncertain, however, limitations in terms of lack of legal recognition limits their ability to take advantage of available resources such as banking facilities for their own good. Therefore the M-PESA model proposed accomplishes the following:

- It calls for the government to make legislation that legalizes the car guarding profession, thereby creating a satisfactory environment that enables car guards to exercise choices of saving mechanism with the ultimate goal of enjoying a long, healthy and creative life with dignity.
- It provides a mechanism that takes into consideration the barriers to saving faced by car guards as earlier mentioned in chapter three to provide an optimal avenue through which car guards can cater for their future by saving.

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<sup>262</sup>Khoza (n 143 above) 2.

## 6. CHAPTER 6: CONCLUSION AND RECOMMENDATIONS

In this chapter, I examine briefly how each chapter tackles the research questions as indicated in chapter one. Finally I give recommendations for future research as well as what stake holders (especially the government) can do to alleviate poverty among car guards in South Africa.

### 6.1. Conclusion

This undertaking aimed to demonstrate the importance of saving in the livelihood of car guards. In doing so a number of questions were asked. The first question sought to find out the importance of saving in the livelihood of car guards. This question was tackled in chapter two of this mini-dissertation. The importance of saving is tackled in light of the potential catastrophic effects of the onset of the ever present threat of health and economic shock not only on the car guards themselves, but also their dependents. Wagstaff and Lindelow as well as Ronald Mendoza showed that health and economic shock often triggered coping mechanisms from low income households which are detrimental in the long run. Examples of such coping strategies include selling of assets and livestock, lending of money from credit institutions to smoothen consumption. Such actions, the authors argue, dig households into debt traps which considering their irregular cash flows are not necessarily good practices. Other coping strategies include ignoring educational and health needs of children in order to cut costs. Such actions result in children growing up lacking good education, malnourished and in poor health resulting in stunted physical, cognitive and psychological development. These problems are in turn transmitted from generation to generation, inevitably trapping families in the cycle of poverty.

The second question sought to investigate the extent to which car guards in Pretoria do indeed save. Results from my interviews revealed that a substantial number of car guards did not save at all and essentially lived hand to mouth. Taking into account the effects of economic and health shock, coupled with the fact that car guards on average support four other dependants with their incomes, it is therefore very important that car guards have access to existing cash pools to draw from in the form of savings accounts during turbulent times.

The third question looked to examine the factors that hindered saving among low income individuals. This question was explored in chapter three. Karlan et al categorised barriers to saving into systemic and non-systemic barriers. Systemic barriers represent those hindrances that arise as a result of direct interaction with banks, and non-systemic barriers being those barriers that are self-imposed. From the interviews I conducted, I discovered that to a large extent the biggest hurdle to saving among car guards in Pretoria are in part social constraints. As Beverly and Sherraden argue, socialization with respect to social learning of norms within reference group, as well as socio-economic characteristics of the neighbourhood in which one live, will have effects on saving behaviour.<sup>263</sup> I realized that the older generations of car guards are completely ignorant of saving mechanism. It is therefore likely that the younger generation pick up from them. At the same time, other factors such as the lack of information and a lack of self-control with regards to temptation goods also play a major role in depleting their incomes and so making saving a very difficult task. It should also be noted that systemic barriers also played a role however small in deterring saving in terms of high banks charges and numerous documentation requirements.

The fourth question questioned the role that human rights law and the government could play in the savings discussion. This question was explored in chapter four. On the level of human rights law, I explored and exposed vagueness in the Africa Charter on what exactly constitutes a satisfactory environment conducive for achieving one's development. I argue that since there was no specification of what exactly constituted a satisfactory environment, a savings environment should be deemed a satisfactory environment in the current context. Central to the basic goal of self-development as advocated by Browning and De Soto is that people should be allowed to actively participate in their own development and also to benefit from such participation. However, for car guards to take advantage of such an environment, legal recognition through legislation is required to formalise their profession. This is put forth by De Soto who argues that it is only when the informal sector is formalised that low income individuals can take full advantage of their capital, be it capital in the form of asset or entrepreneurial prowess, to better their lives and in so doing realise their development.

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<sup>263</sup>Beverly and Sherraden (n 115 above).

In chapter five, I drew inspiration from already existing financial innovation to come up with a saving model that incorporates the barriers to saving as discussed in chapter three. The M-PESA inspired saving model conceived combines a number of saving strategies, for instance: it is coercive in nature in that it will force the car guards to automatically save as soon as they sign up, furthermore, the model removes the element of temptation spending by allowing for transmitting money electronically. Another advantage is the ease of access to the service as there is limited documentation requirement. The model makes saving exciting by enlisting private sector and government help to provide incentives for participants either by matching account deposits over time or giving cash rewards to participants.

## **6.2. Recommendation for future research**

An area for further exploration that came up during the study questions some of De Soto's arguments. De Soto argues that developed nations got to where they are economically by incorporating the informal sector into the formal sector. However, authors like Barbara L Solow argue that developed nations achieved economic superiority through exploiting developing nations specifically those in Africa.<sup>264</sup> She argues that exploitation of slave labour is one of the most important factors contributing to the rapid development of developed nations. I tend to agree with De Soto's argument on the effects of formalization, furthermore there is suitable backing from studies by authors like Vergas-Falla. However, the question now arises; is formalization alone sufficient to grow developed nations economies to be similar to that of developed nations? The scope of this mini-dissertation does not allow for this question to be answered.

## **6.3. Recommendations to the South African government**

So far this mini-dissertation has shown that car guards in Pretoria live in poverty and at the mercy of the potential catastrophic effects of health and economic shock. It has also shown that the coping strategies implemented by low income individuals - of which car guards are part of - have very destructive long term consequences both health wise and can lead to the

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<sup>264</sup> BL Solow 'Capitalism and slavery in the exceedingly long run' (1987) 17 *Journal of Interdisciplinary History* 711-737.

further perpetuating of the poverty cycle. The only way out of this is by having a pool of cash to draw from for those future unforeseen eventualities and for self-development. This mini-dissertation argues that access to a savings account constitutes a satisfactory environment under the right to development. However, it was also discovered that in order for car guards to have access to savings account, government intervention is in order, therefore the government of South Africa is enjoined to do the following:

1. The South African Parliament should pass legislation that will essentially formalise the car guarding profession. This can be accomplished by granting special permits to every individual car guard serving to identify them and their profession.
2. In light of the above mentioned permits, the government could provide full backing for the M-PESA saving model discussed in chapter five. The government could aid in soliciting the necessary telecommunication and banking institutions to participate in the plan. Furthermore, it could also solicit the aid of the National Lottery as well as private sector companies to provide the necessary financial support possibly in exchange for tax breaks. In supporting the M-PESA saving model, legislature on a minimum payable amount per vehicle per hour should be passed, taking into consideration factors such as vehicle theft hotspots, rugby or soccer matches and the like.<sup>265</sup>
3. In light of the government's support of the M-PESA model, legislation should be passed granting car guards valid permits to freely access and participate in the saving model.

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<sup>265</sup> Rugby and soccer matches draw numerous vehicles around stadiums providing prime opportunities for car guards to make money.



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*International Covenant on Civil and Political Rights.* Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. Entry into force 23 March 1976, in accordance with Article 49.

*International Covenant on Social, Economic and Cultural Rights.* Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. Entry into force 3 January 1976, in accordance with Article 27.

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## APPENDIX A

### Interview Questions

1. Name and nationality (if willing)
2. Average daily income, average monthly income
3. Do car owners willingly pay for their services?
  - a. Which race of car owners pays the most?
4. On saving
  - a. Do they own bank accounts?
  - b. If not why not?
  - c. Do they wish to open one?
  - d. Do they see any importance in owning one?
  - e. What are the factors that make opening and keeping a bank account difficult?
  - f. Do they have any suggestions on how to make owning a bank account easier for them?
5. Expenditures
  - a. How much do transportation, food and other miscellaneous expenses affect their income?
  - b. How do they spend their leisure time? What do they buy, alcohol, drugs (Nyaope)??
6. Personal life
  - a. Are they married or do they have spouses? (depending on age)
  - b. Do they have any dependents?
  - c. If yes, do they attend school?
  - d. How are the fees and other expenses taken care of?
7. Life experiences
  - a. How did they end up where they are? What did they do before finding themselves where they are.
  - b. Are they enjoying their jobs? Do they have any plans of changing jobs?

- c. How do they see South Africa in general, where do they see themselves and the country in say 5 years time (just to see how up to date they are on current affairs, do they care or are they just passive?)