



**EASTERN CAPE PROVINCIAL OFFICE:
SAHRC PROVINCIAL INQUIRY INTO CHILD MALNUTRITION
AND THE RIGHT TO FOOD
EC/2122/0409
August 2022**



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Executive summary

The inquiry into child malnutrition and the right to food conducted by the Eastern Cape Provincial Office of the South African Human Rights Commission (the Commission) is a matter of utmost urgency and significance.

The issue transcends the domain of public health to touch upon the fundamental human rights that are guaranteed under the Constitution of the Republic of South Africa. Child malnutrition is not merely a concern for the well-being of the affected children; it is a stark violation of their rights to food and nutrition, dignity, life, equality, social assistance, health and education.

Such a situation exposes a range of systemic failures and challenges the effectiveness of the state machinery in safeguarding the welfare of its youngest residents. The consequences of child malnutrition are long-lasting, affecting not just the individuals but the community and the nation at large. It poses severe challenges to the state's commitments towards eradicating poverty, inequality, and other forms of social injustice.

The Commission received a variety of submissions from different stakeholders, including non-governmental organisations, healthcare professionals, and community leaders. The submissions painted a grim picture of the situation, revealing alarming rates of malnutrition-related illnesses and even fatalities. Testimonies from parents and guardians highlighted the daily struggles they face in providing adequate nutrition to their children. Some submissions also pointed out the lack of adequate healthcare facilities and the challenges in accessing existing ones, especially in rural areas.

The inquiry found that a substantial percentage of children in the Eastern Cape are suffering from various forms of malnutrition. This not only impacts their physical and cognitive development but also perpetuates a vicious cycle of poverty and compromised future prospects.

The report furthermore identifies a significant lack of coordination among various government departments and agencies. Despite having multiple programmes and initiatives, the absence of a unified strategy has resulted in a fragmented and less effective approach to tackling the issue of child malnutrition.

The inquiry also revealed that there is a considerable lack of awareness among parents, guardians, and communities about the nutritional needs of children. This lack of information further exacerbates the malnutrition problem.

The Commission has outlined specific, targeted recommendations for various departments, organisations, and government bodies to address the malnutrition crisis comprehensively.

1) Department of Social Development (DSD)

- Increase the Child Support Grant above the food poverty line.
- Prioritise children under school-going age for the Child Support Grant increase.
- Partner with the Department of Home Affairs for a registration campaign targeting unregistered children.

2) Department of Basic Education (DBE)

- Extend the National School Nutrition Program to Early Childhood Development centres or
- Increase the ECD subsidy to an amount that enables ECD centres to feed children nutritious food.
- Consider providing meals during weekends and school holidays.
- Promote breastfeeding through supplementary programmes.

3) Department of Health

- Establish nutrition-focused early childhood development clinics.
- Develop a program for early identification and treatment of malnourished children.
- Make data available to NGOs for targeted interventions.

4) Department of Rural Development and Agrarian Reform

- Support small-scale farmers, particularly women.
- Implement community gardens and urban agriculture projects for food security.

5) Civil Society Organisations and NGOs

- Facilitate data sharing for targeted interventions.
- Advocate for relaxed donor laws for easier food donations.

6) Local Municipalities and COGHTA

- Implement local food security policies and bylaws.
- Expand the reach of municipal nutrition programmes.

7) Provincial Treasury

- Allocate sufficient budgetary resources for malnutrition interventions.

- Conduct human rights baseline assessments for budget allocations.

8) Provincial Legislature

- Strengthen oversight mechanisms for accountability.

9) National Government and Office of the Premier

- Invest in research and data collection.
- Consider declaring a state of disaster and establishing a dedicated command centre for coordinated efforts.

10) Department of Finance

- Increase the Child Support Grant above the food poverty line.
- Prioritise children under school-going age for the Child Support Grant increase.
- Extend the National School Nutrition Program to Early Childhood Development centres

All departments and organisations are required to provide the Commission with a progress report within specified timelines.

Acronyms and Abbreviations

ECPO	Eastern Cape Provincial Office
Constitution	The Constitution of the Republic of South Africa
The Commission	South African Human Rights Commission
SAHRC Act	The South African Human Rights Commission Act 40 of 2013
SASA	South African Schools Act 84 of 1996
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000
Children's Act	Children's Act 38 of 2005
UFH	University of Fort Hare
ECDoE	Eastern Cape Department of Education
MEC	Member of the Executive Council
OTP	Office of the Premier
COGTA	Department of Cooperative Governance and Traditional Affairs

1. Introduction

Addressing Child Malnutrition in the Eastern Cape: A Call to Action

- 1.1. In the heart of South Africa's Eastern Cape province, an urgent and pressing issue demands our collective attention – child malnutrition. This report serves as a focused exploration into the profound challenges surrounding child malnutrition in the Eastern Cape, and the critical importance of addressing this issue cannot be overstated.
- 1.2. The Eastern Cape, with its unique blend of cultures and landscapes, is facing a crisis that threatens the health and future of its children. This report aims to unravel the complex factors contributing to child malnutrition and shed light on the gravity of the situation.
- 1.3. Child malnutrition is not just a health concern; it is a fundamental violation of the rights and well-being of the most vulnerable members of our society. The Eastern Cape's children are its future, and their health and nutrition are inextricably linked to the province's development and progress. Ensuring their well-being is both a constitutional and moral imperative and a crucial step towards building a more equitable and prosperous Eastern Cape.
- 1.4. This Report is a comprehensive examination of the factors contributing to child malnutrition in the Eastern Cape. From access to healthcare and nutritious food to socio-economic disparities and the impact of the COVID-19 pandemic, each section uncovers critical aspects of the issue. Child malnutrition is not just a statistic; it is a pressing reality affecting the lives and futures of Eastern Cape's children. This Report is a clarion call to action and an opportunity to effect meaningful change.

The South African Human Rights Commission

- 1.5. The South African Human Rights Commission (“the SAHRC”) is a state institution established under chapter 9 of the Constitution. It is mandated, in terms of section 184(1) of the Constitution, to promote respect for human rights and a culture of human rights; to promote the protection, development and attainment of human rights; and to monitor and assess the observance of human rights in the Republic.

- 1.6. In terms of section 184(2) of the Constitution, the SAHRC is empowered to investigate and to report on the observance of human rights and to take steps to secure appropriate redress where human rights have been violated.
- 1.7. In terms of section 13(3) (a) of the SAHRC Act, the SAHRC is competent and obliged to “investigate on its own initiative or on receipt of a complaint, any alleged violation of human rights”.
- 1.8. Further to this and in accordance with its mandating legislation, the Commission must liaise and interact with any organisation which actively promotes respect for human rights and other sectors of civil society to further the objects of the Commission and may consider such recommendations, suggestions and requests concerning the promotion of respect for human rights as it may receive from any source.
- 1.9. In this regard, the Commission must also review government policies relating to human rights and may make recommendations, monitor the implementation of, and compliance with, international and regional conventions and treaties, international and regional covenants and international and regional charters relating to the objects of the Commission.
- 1.10. In addition, the SAHRC Act requires that “[a]ll organs of state must afford the Commission such assistance as may be reasonably required for the effective exercising of its powers and performance of its functions.”¹

¹ In order to give effect to the powers and obligations set out in section 13 of the SAHRC Act, the Commission may

“(a) conduct or cause to be conducted any investigation that is necessary for that purpose; through a commissioner, or any member of staff duly authorised by a commissioner, require from any person such particulars and information as may be reasonably necessary in connection with any investigation; require any person by notice in writing under the hand of a commissioner ... in relation to an investigation, to appear before it at a time and place specified in such notice and to produce to it all articles or documents in the possession or custody or under the control of any such person and which may be necessary in connection with that investigation: Provided that such notice must contain the reasons why such person’s presence is needed and why any such article or document should be produced”. As regards reports by the Commission and any findings therein, in terms of the SAHRC Act:

“(3) The Commission may ... in the manner it deems fit, in writing, make known to any person, the head of the organisation or institution, or the executive authority of any national or provincial department, any

The Provincial Inquiry into the Right to Food and Child Malnutrition

- 1.11. During its monitoring activities, the Eastern Cape Provincial Office (ECPO) observed from media reports that several children had died and some had been hospitalised in the Eastern Cape due to Severe Acute Malnutrition (SAM). In the SAHRC's prima facie assessment, studies and statistics indicated that many children in the province were malnourished as a result of living in abject poverty.
- 1.12. Despite this concern, it was reported by the media that the Department of Social Development (DSD) within the province had forfeited R67 million of unspent funds that was ringfenced to be allocated towards "Social Relief of distress grants".²
- 1.13. In view of the systemic widespread prevalence of malnutrition amongst children, coupled with complaints received from members of the public, the ECPO resolved to open an own accord investigation into these allegations.³
- 1.14. Noting the scope of the role-players required to address these alleged challenges, and in order to ascertain their systematic nature, the ECPO hosted a Provincial Inquiry into the Right to Food and Child Malnutrition in August 2022 (the Inquiry).
- 1.15. The aim of the Inquiry was to determine:
 - 1.15.1. Pervasiveness of child malnutrition within the province and whether this scourge violated relevant rights contained in the Bill of Rights;
 - 1.15.2. Measures undertaken by key-stakeholders to address systemic challenges; and

finding, point of view or recommendation in respect of a matter investigated by it.

(4) If the Commission makes any finding or recommendation in respect of a matter investigated by it known to the head of the organisation or institution or the executive authority of any national or provincial department concerned, the head of the organisation or institution or the executive authority of any national or provincial department concerned must within 60 days after becoming aware of such finding or recommendation respond in writing to the Commission, indicating whether his or her organisation, institution or department intends taking any steps to give effect to such finding or recommendation, if any such steps are required." In addition, the findings of an investigation by the Commission must, when it deems it fit but as soon as possible, be made available to any person implicated thereby.

²<https://www.dispatchlive.co.za/news/2022-03-25-eastern-cape-education-forfeits-unspent-r205m/>;
<https://mygqeberha.com/department-of-social-development-loses-r67-million-in-unused-funds/> .

³ EC/2122/0409.

- 1.15.3. Avenues to address challenges and concerns experienced by stakeholders.
- 1.16. The Inquiry was held from 8 to 12 August 2022 at the Commission's East London offices, and all proceedings were livestreamed.⁴
- 1.17. The Panel members appointed to the Inquiry included:
- 1.17.1. Commissioner J Sibanyoni (Area focus Commissioner and Chairperson of Inquiry)
- 1.17.2. Commissioner A Makwetla (Area focus Commissioner)
- 1.17.3. Dr E Carter (Provincial Manager of the Commission in the Eastern Cape)
- 1.18. This document is the Commission's FINAL report ('**the Report**'), which includes an assessment of the Inquiry as well as the Commission's findings and directives.

2. Constitutional Obligations

- 2.1. South Africa's constitution places significant importance on the protection and promotion of human rights, including the right to food. The Bill of Rights, enshrined in Chapter 2 of the Constitution, guarantees a wide range of fundamental rights to all individuals within our jurisdiction.
- 2.2. The Bill of Rights includes several rights that are relevant to the right to food and nutrition of children. These rights encompass:
- 2.2.1. Section 28(1)(c): The right to basic nutrition for every child is explicitly recognised. The state has an obligation to ensure that children have access to sufficient and nutritious food. The right to basic nutrition for children under this section is immediately realisable.⁵
- 2.2.2. Section 28(1)(a): The right of every child to a name and a nationality is protected. Birth registration is crucial as it enables access to social protection programmes and

⁴ A full record of the proceedings can be accessed at the Commission's YouTube channel at <https://www.youtube.com/@SAHRC1>.

⁵ *Equal Education and Others v Minister of Basic Education and Others* (22588/2020) [2020] ZAGPPHC 306; [2020] 4 All SA 102 (GP); 2021 (1) SA 198 (GP) (17 July 2020) at para 43.

services, which may include food assistance.

- 2.2.3. Section 9: The right to equality is guaranteed, prohibiting unfair discrimination. Children from disadvantaged backgrounds should have equal access to nutritious food and not be discriminated against indirectly on the basis of race and socio-economic status. Furthermore, children, who are disproportionately negatively impacted by malnutrition as compared to adults, should be provided with the additional social assistance to ensure equality on the basis of age.
- 2.2.4. Section 10: The right to human dignity is protected. Adequate food and nutrition are fundamental to maintaining human dignity, particularly for children.
- 2.2.5. Section 26: The right to access to housing aims to prevent homelessness. Adequate housing is closely linked to food security, as stable housing enables families to access and prepare nutritious food.
- 2.2.6. Section 27(1)(a): The right to healthcare services includes nutritional support and interventions to address malnutrition. Accessible and quality healthcare services contribute to the nutritional well-being of children.
- 2.2.7. Section 27(1)(b): The right to have access to sufficient food is acknowledged.
- 2.2.8. Section 27 (1)(c): The right to social security, including if they are unable to support themselves and their dependents. The state is obligated to take reasonable legislative and other measures to achieve the progressive realisation of this right for all individuals.
- 2.2.9. Section 29: The right to basic education encompasses access to nutritious meals.
- 2.2.10. Section 11: The right to life includes ensuring access to sufficient and nutritious food, as nutrition is essential for children's physical development, overall health, and right to life.
- 2.3. Additionally, while the Constitution does not explicitly classify the lack of food provision to children as a form of abuse, it can be argued that depriving children of adequate nutrition may constitute neglect or abuse under certain circumstances. Section 28(1)(d) of the Constitution does recognise that every child has the right to be protected from maltreatment, neglect, abuse, or degradation.
- 2.4. Lastly, and in respect of fulfilling and responding to the rights set out above, Section 7(2) requires the state to: “respect, protect, promote and fulfil the rights in the Bill of Rights”.

3. Domestic Legislation and Regulatory Framework

- 3.1. Section 27(2) of the South African Constitution forms the basis for adopting legislative and other measures to ensure access to sufficient food. The government's approach to realising the right to food in South Africa is dualistic, encompassing both short-term interventions such as food parcels and long-term interventions like agrarian reform. This approach aligns with the twin-track approach advocated in the Rome Declaration of 2009, which combines immediate hunger relief with sustainable agricultural and development programmes to address the root causes of food insecurity.
- 3.2. The domestic legal landscape finds important context within international and regional commitments as well. The Sustainable Development Goals (SDGs) were launched in 2016 to replace the Millennium Development Goals (MDGs). Policy makers are required to develop broad and comprehensive solutions to tackle issues such as poverty, hunger, and malnutrition within the context of food and nutrition security. SDG 2 specifically focuses on ensuring access to nutritious food and sustainable agricultural practices. The SDGs have been integrated into African Union Agenda 2063 and South African food policy. However, South Africa's ranking in achieving the SDGs remains relatively low, indicating the need for further improvement in food and nutrition security policies.
- 3.3. Responding to the above, the South African government developed a number of policies and plans to address food and nutrition insecurity. These include the National Policy on Food and Nutrition Policy, the Household Food and Nutrition Security Strategy, and the Festa Tlala Integrated Food Production Initiative. These policies were designed to streamline and facilitate nutrition security interventions.
- 3.4. The National Policy on Food and Nutrition Security (NPFNS) in South Africa, adopted by Cabinet in 2013, aims to ensure the availability, accessibility, and affordability of safe and nutritious food. However, concerns arose due to limited stakeholder consultation, unclear participation roles, and misalignment with employment creation goals. The policy acknowledged the complex nature of food security and outlines

strategies such as increased food production, market interventions, and risk management.

- 3.5. In view thereof, a 2014 evaluation found that South Africa lacked a national integrated plan for food and nutrition security, despite having nearly 60 policies, strategies, plans, and programmes in place. In response, the government developed the National Food and Nutrition Security Plan (NFNS Plan) in 2018. The NFNS Plan is a multi-sectoral plan that aims to harness all efforts relating to the progressive realisation of the right to food.⁶
- 3.6. The NFNS Plan is reported to have taken a multi-sectoral approach by encouraging sector-specific actions to address food and nutrition insecurity.⁷
- 3.7. From the Commission's cursory assessment however, there appears to be a lack of proper reporting on recent advancements in South Africa's domestic legislative framework on the right to food. This could be due to the ongoing efforts to implement the strategic initiatives envisaged in the National Development Plan (NDP) aims for 2030. As such, it is difficult to establish whether there are new commitments or undertakings made by the South African government to progressively realise the right to food.

4. International Obligations

- 4.1. In accordance with Article 18 of the Vienna Convention on the Law of Treaties (1969), South Africa, as a signatory to various human rights treaties, is obliged not to take actions that undermine the objectives and purposes of these international

⁶ In August 2022, the Department of Planning, Monitoring, and Evaluation issued a tender proposal request for an implementation evaluation of the NFNS Plan. It is unclear whether a report on the evaluation's conclusions is available, as it has not been submitted to the DPME website.

⁷ For example, the Department of Agriculture, Land Reform and Rural Development, with the assistance of the Human Sciences Research Council (HSRC), conducted a household-based survey in Limpopo and the Western Cape in 2021 and 2022, respectively. The purpose of the survey was to gather information that the government could use to plan and implement targeted interventions. The Western Cape Provincial Government has also made strides in advancing the regulatory framework on the right to food. In 2016, the provincial government submitted a framework to Cabinet. The City of Cape Town also revised and approved a "Food Gardens Policy in Support of Poverty Alleviation and Reduction" in December 2013.

agreements.

- 4.2. The right to food is internationally and regionally recognised as a fundamental human right, guaranteeing every individual's access to sufficient, safe, and nutritious food to meet their dietary needs and preferences for a healthy and active life.
- 4.3. This right is enshrined in numerous international human rights instruments, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (CRC).
- 4.4. The ICESCR specifically stipulates that State Parties recognise the right to an adequate standard of living, including adequate food, clothing, and housing, and the need for immediate measures to ensure freedom from hunger and malnutrition (Article 11(2)).
- 4.5. The CRC mandates that states take appropriate measures to combat disease, malnutrition, and provide adequate nutritious food to children (Article 24). South Africa's ratification of the CRC obliges it to uphold these provisions and ensure an adequate standard of living for all children (Article 27).
- 4.6. The right to food is considered a crucial human right under international law, as it underpins the enjoyment of other rights, including the right to life, health, and education. It is also a vital element of sustainable development.
- 4.7. Regionally, several African legal instruments acknowledge the right to food:
 - 4.7.1. The African Charter on Human and Peoples' Rights (1981) guarantees the right to food in Article 16, emphasising the right to physical and mental health and the duty of states to provide necessary medical assistance and healthcare.
 - 4.7.2. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003) specifically recognises women's right to nutritious and adequate food in Article 15.
 - 4.7.3. The African Commission on Human and Peoples' Rights (ACHPR) has interpreted the

right to food in various cases, including the *Ogoni Peoples v. Nigeria* (2001) case, where it found that the Nigerian government violated the right to food due to failure to protect the Ogoni people from environmental pollution causing food insecurity.

- 4.8. Furthermore, the African Charter on the Rights and Welfare of the Child (ACRWC) holds a crucial role in recognising the right to food, especially for children, as set out below:
 - 4.8.1. Article 14 of the ACRWC explicitly highlights children's entitlement to sufficient nutrition, housing, and medical care. It calls upon State Parties to address diseases and malnutrition through primary healthcare, utilising suitable technology.
 - 4.8.2. Article 16 of the ACRWC indirectly references the right to food, emphasising the protection of children from abuse and maltreatment. This includes safeguarding against practices leading to food insecurity, such as child labour or programmes restricting children's access to food.
- 4.9. Beyond specific articles, the right to food can be inferred from the overarching principles of the ACRWC. Article 5 obliges States Parties to ensure, to the maximum extent possible, the survival, protection, and development of the child. This implies the right of children to access adequate food, vital for their survival.
- 4.10. Upholding international commitments to combat child malnutrition and uphold the right to food is of paramount importance for State Parties. These obligations, outlined in the CRC and ACRWC, among other relevant international agreements, create a comprehensive framework for addressing this pressing issue. By adhering to these commitments, State Parties affirm the inherent dignity and worth of every child while recognising their right to sufficient nutrition and food security. Prioritising children's right to food and actively working to eliminate malnutrition contributes not only to the overall well-being of their populations but also fosters a more equitable and sustainable future for all.

5. The Inquiry

- 5.1. The Commission received both written and oral evidence during its proceedings and gathered valuable information through written submissions and testimonies given

under oath during in-person hearings. The written evidence provided in some instances detailed accounts and perspectives, while the oral testimonies allowed for direct engagement with individuals and the opportunity to explore their submissions in greater depth. The following summaries present an overview of the information provided, capturing the essence of the written and oral evidence received by the SAHRC.

Civil Society, Tertiary Institutions and Members of the Public

5.2. Accountability Now

- 5.2.1. Advocate Paul Hoffman from Accountability Now was the first speaker at the Inquiry. He argued that the inquiry was necessary because of the high rates of malnutrition and starvation in the region, which were caused by poverty and unemployment. He also noted that the right to basic nutrition is an absolute right for all children in South Africa, meaning that it does not depend on the availability of resources. Hoffman discussed the legal context of the inquiry, noting that the Human Rights Commission is a chapter 9 institution that is mandated to promote human rights and protect their development. He argued that the commission has the authority to investigate human rights violations and to obtain redress from the courts if government does not respond to its findings. Hoffman concluded his presentation by calling for a more coordinated approach to addressing the issue of child malnutrition and starvation. He argued that the government, civil society, and the private sector all have a role to play in ensuring that all children in the Eastern Cape have access to the nutrition they need to grow and develop healthy. Hoffman further indicated to the Panel that a third of the food produced in South Africa is discarded in landfills in edible condition. This is 10 million tons of food every year. This means that there is enough food available to feed everyone in South Africa, but it is not being distributed effectively. He indicated that the business sector in South Africa has the logistics capabilities to distribute food to those who are hungry. This means that the private sector can play a role in addressing the problem of child malnutrition and starvation.
- 5.2.2. Hoffman added that the Commission needed to come up with a plan that enables South Africa to use the resource of food which is in oversupply to address the starvation and hunger of children, not only in the Eastern Cape but indeed throughout

the country. This means that the Commission needs to work with the government, civil society, and the private sector to develop a plan to address the problem of child malnutrition and starvation. Hoffman indicated that the State carried the responsibility to respect and protect the right to basic nutrition of children. This responsibility lies with all levels of government, including municipalities, provinces, and the national government.

5.2.3. Conversely, Hoffman argued that the government has a legal obligation to ensure that all children in South Africa have access to the nutrition they need to grow and develop healthy. In his view the private sector can play a role in the distribution of food to those who are hungry. This means that businesses can donate food or money to organisations that are working to address the problem of child malnutrition and starvation. Backyard gardens can also help to supplement food security where families can grow their own food to help ensure that they have enough to eat. Hoffman was of the view that the public should be educated about the issue of child malnutrition and starvation.

5.2.4. Further to this, Hoffman indicated that the government should invest in research and development to find new ways to address the problem of child malnutrition and starvation. The government should thus fund research into new ways to produce and distribute food, as well as new ways to educate people about nutrition.

5.2.5. Overall, Hoffman's presentation was a call for action. He argued that the problem of child malnutrition and starvation in South Africa is a serious one that requires a coordinated response from all stakeholders. He provided a number of recommendations for how to address this problem, including:

- The state should ensure that all children have access to basic nutrition.
- The private sector should play a role in the distribution of food to those who are hungry.
- Backyard gardens can help to supplement food security.
- The public should be educated about the issue of child malnutrition and starvation.
- The government should invest in research and development to find new ways to address the problem of child malnutrition and starvation.

5.3. **University of Fort Hare**

- 5.3.1. The presentation to the Panel commenced with a definition of food security, which is defined as the physical or economic access of all people at all times to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life.
- 5.3.2. The presentation then discussed the food security situation in South Africa, noting that while the country is generally considered to be food secure, there are still significant challenges, particularly at the household level. The presentation cited a study that found that 9.34 million people in South Africa were facing high levels of acute food insecurity in 2020.
- 5.3.3. UFH continued to discuss the impact of climate change on food security, noting that South Africa is one of the most vulnerable regions to the impacts of climate change. The presentation highlighted the following impacts of climate change on food security:
- Reduced food production due to rising temperatures and changes in rainfall patterns
 - Increased frequency and intensity of extreme weather events, such as heat waves and flooding
 - Sea level rise, which could inundate coastal agricultural areas
- 5.3.4. UFH offered some possible solutions to the challenges of severe and acute malnutrition, including:
- 5.3.4.1. Short-term interventions:
- Providing food and medical care to malnourished children
 - Community-based management, which involves using ready-to-use therapeutic foods (RUTFs) or other nutritional supplements
 - Nutritional supplementation, which involves providing calorie and micronutrient supplements to vulnerable groups such as pregnant women, infants, preschool, and school-going children
 - Gardening, which can help to provide families with nutritious food
- 5.3.4.2. Long-term interventions:
- Nutritional planning and improved healthcare systems
 - Nutrition education, which can focus on topics such as the importance of breastfeeding and early childhood development
 - Gender mainstreaming, which involves implementing income-generating projects that target women
 - Climate-smart agriculture, which is a farming practice that reduces

greenhouse gas emissions, increases productivity, and sustainably meets food security and development goals

5.3.5. In addition to the short-term and long-term interventions mentioned in the presentation, additional important details that were also provided by UFH.

5.3.5.1. First, severely malnourished children cannot be given a normal diet immediately and will usually need special care in hospital.

5.3.5.2. Second, community-based management of severe acute malnutrition (SAM) can be effective, but it is important to provide families with support to help them manage the factors that are affecting their children's nutritional intake.

5.3.5.3. Third, home and community gardens can be a short-term solution to the problem of malnutrition, as they can provide families with nutritious food.

5.3.5.4. Fourth, rainwater harvesting can be an important part of gardening in areas that are affected by climate change.

5.3.5.5. Fifth, the Risk and Vulnerability Science Center at the University of Fort Hare has been involved in training unemployed youths as household food security facilitators and establishing home gardens in areas of the Eastern Cape that are affected by malnutrition.

5.3.5.6. Sixth, climate-smart agriculture is a farming practice that can help to reduce the impact of climate change on food security. Finally, there are a variety of adaptation strategies that can be used in climate-smart agriculture, such as diversifying into abiotic stress tolerant crop types and cultivars and promoting the use of adapted livestock breeds.

5.3.6. Overall, the presentation from UFH provided a comprehensive overview of the challenges of severe and acute malnutrition in South Africa and some of the possible solutions. The presentation highlighted the importance of a multi-stakeholder approach to addressing this issue, and it provided specific examples of successful interventions that have been implemented in the Eastern Cape.

5.3.7. UFH supplemented its submission to the SAHRC and added a presentation from its legal Department. According to this submission, in South Africa, the protection of the right to food is established through various legal frameworks, including the Constitution, the Children's Act, and several international human rights instruments.

This right encompasses four essential aspects: availability, acceptability, accessibility, and sustainability. The state has certain obligations in relation to the right to food, which encompass the duty to respect, protect, promote, and fulfil this right. To guarantee that everyone in South Africa has access to an adequate food supply, the UFH indicated that the state must take reasonable measures. This includes providing social assistance to vulnerable groups and investing in the development of agriculture. It was their further submission that the Commission plays a crucial role in enforcing the right to food by conducting inquiries into alleged violations and advocating for policies that enhance food security.

5.3.8. The UFH in addition submitted that the right to food is a fundamental human right that necessitates protection and promotion by the state. To achieve this, UFH recommends several actions that the state should undertake. These actions include establishing a provincial task force to coordinate efforts in implementing the right to food, raising awareness of the right among government officials, civil society organisations, and the public, advocating for policies that promote food security such as increased investment in agriculture and social assistance programmes, and conducting inquiries into alleged violations of the right to food while taking appropriate action when necessary. By implementing these suggested steps, the UFH's legal Department believes that South Africa can ensure that all its citizens have access to sufficient food, ultimately realising the full potential of the right to food in practice.

5.3.9. Finally, in being asked about who ultimately carries the duty to respond to the right to food the UFH agreed with the Commission that the state is ultimately responsible for ensuring that all children, including those in alternative care, have access to sufficient food. UFH also acknowledged that South Africa does not yet have a constitutional court decision pertaining specifically to the right to food. However, UFH noted that there have been a number of high court judgments that have interpreted the right to food in a way that is consistent with the Constitution. The UFH further commented on the relationship between the child support grant (CSG) and the right to food. UFH agreed that the CSG is a poverty alleviation measure, but UFH argues that it is also important to consider the right to food as a standalone right, as enshrined in Section 28 of the Constitution. UFH suggested that the CSG may not be sufficient to meet the basic food requirements of all children, and that the state may have a further obligation to provide additional assistance to those children who are not able to meet their food needs through the CSG alone.

- 5.3.10. The UFH further agreed that the school nutrition programme is an important tool for alleviating hunger in children, but argues that it is not enough. It was pointed out that the first thousand days of a child's life are crucial for development, and that children who do not attend school are not able to benefit from the school nutrition programme.
- 5.3.11. The UFH suggested that the government should take steps to ensure that all children of school-going age attend school. UFH also argued that the government should do more to address the issue of food waste, as 30% of all food produced in South Africa is still usable when it is destroyed in landfill sites.
- 5.3.12. In conclusion, UFH argued that the right to food is a fundamental right that must be protected and promoted by the state. UFH suggests that the state can take a number of steps to ensure that all children have access to sufficient food, including providing social assistance to vulnerable groups, investing in agricultural development, and taking steps to mitigate the effects of climate change.

5.4. **The Red Cross**

- 5.4.1. The submission by the South African Red Cross Society highlighted its role as a Section 21 non-profit company, functioning as a humanitarian aid organisation under the Red Cross and Special Protection Emblem Act. As an auxiliary to the South African government, they focused on delivering humanitarian services with a network of 42 branches and over 4,200 volunteers. Their core objective was to prevent and alleviate human suffering while addressing people's basic needs.
- 5.4.2. Operating in line with their fundamental principles of humanity, impartiality, neutrality, independence, voluntary service, unity, and universality, the Red Cross aimed to be an effective, high-profile, dynamic, and sensitive service organisation. Their mission centred on four core programmes: Health and Care, Disaster Risk Management, International Humanitarian Law, and Organisational Development.
- 5.4.3. Of particular concern to the Red Cross was the issue of food insecurity and malnutrition among children. They emphasised the importance of upholding children's rights to food, healthcare, education, and shelter. The submission highlighted the challenges faced by children in the Eastern Cape Province, where many experienced chronic undernutrition and infections.
- 5.4.4. Distressing circumstances were reported by Red Cross volunteers, including severe food shortages, mismanagement of childcare grants, and dire living conditions without

proper sanitation, clothing, blankets, and mattresses for children. The submission expressed deep concern regarding the prevailing levels of poverty and hunger, expected to worsen due to high unemployment rates, rising food and fuel costs, increased vulnerability to crime, substance abuse, rising HIV rates, teenage pregnancy, and inadequate government pensions and grants.

- 5.4.5. Despite these challenges, the Red Cross responded within its capacity and available funding. They provided essential support such as psychosocial assistance, seeds for food gardens, food parcels, hygiene kits, school uniforms, and sanitary packs to vulnerable households and orphans. However, the submission emphasised the need for sustained support, counselling, education, and assistance to ensure the long-term improvement of beneficiaries' lives.
- 5.4.6. In recognition of the inquiry into the plight of children facing starvation and malnutrition, the Red Cross expressed appreciation and urged civil society to collaborate in fostering self-sustainable communities for enduring sustainability and development. By working together, it was believed that lasting solutions could be found to address the pressing challenges of poverty, hunger, and the overall well-being of children in South Africa.
- 5.4.7. The Red Cross furthermore underscored the issue of food insecurity and malnutrition among children, highlighting basic rights such as access to food, nutrition, healthcare, schooling, and shelter. Their services included childcare grants, school feeding schemes, and assistance for vulnerable children affected by HIV/AIDS. They emphasised the need for collaborative efforts with civil society to develop self-sustainable communities and break the cycle of dependence on government and donors.
- 5.4.8. During the hearing, the Red Cross representative addressed specific points. They explained that the decrease in food gardens was due to climate change and adverse weather conditions leading to droughts in the areas they worked in. Measures were taken to sustain the gardens by providing more seedlings and water tanks for an adequate water supply. Substance abuse within the community was highlighted as a consequence of poverty and limited employment opportunities. Children's lack of official documentation, particularly birth certificates, was noted as a challenge, affecting their eligibility for social grants. The responsibility for oversight and monitoring of children's documentation lies with the government, and cases are referred to the Department of Social Development and Home Affairs. The practice of

parents selling their children's school supplies and uniforms was also mentioned, causing difficulties for children in their education. The impact of climate change and drought on sustainable farming was acknowledged, with the need for rainwater tanks to support farming activities and alleviate hunger in the community. Overall, the Red Cross provided valuable insights and interventions to address food insecurity, malnutrition, substance abuse, and documentation challenges affecting vulnerable children and communities.

5.5. The Children's Institute

- 5.5.1. The Children's Institute at the University of Cape Town submitted a comprehensive report to the South African Human Rights Commission on child poverty and malnutrition. The report delved into food poverty trends and the impact of the COVID-19 pandemic on child hunger, with a specific focus on the Eastern Cape region.
- 5.5.2. The report highlighted the concerning prevalence of food poverty in the Eastern Cape, where nearly one in every five food-poor children in the country resided. It also examined the concept of poverty lines and the calculation of the food poverty line, which is based on the consumption habits of impoverished individuals. The submission included a reference food basket for these poverty lines, encompassing various food items such as grain products, fish, meat, poultry, fruits and vegetables, dairy products, oils and fats, beverages, and miscellaneous items. The report emphasised the stark disparity between wealthier and poorer households regarding their ability to afford nutritious foods.
- 5.5.3. The report discussed the child support grant and its role in reducing child poverty rates. While it initially led to a decrease in child poverty rates, the effects have plateaued as the number of beneficiaries stabilised.
- 5.5.4. The widening gap between the child support grant value and the food poverty line was identified as a critical concern, limiting its effectiveness in reducing poverty. The submission recommended several actions to address child poverty and improve access to basic nutrition. These included increasing the child support grant amount to at least match the food poverty line, prioritising younger children for the increase, ensuring children without birth certificates can receive the grant, and prioritising birth registration of unregistered children.
- 5.5.5. The Children's Institute further referenced their research findings indicating that 27%

of children in South Africa are stunted, signifying that they are below average height for their age.

- 5.5.6. The Children's Institute also found that 8 million children in South Africa live in food poverty, meaning they lack sufficient food to meet their basic nutritional needs. The food poverty line, representing the minimum amount needed to spend on food monthly for basic nutrition, is significantly lower than the child support grant of R480 per month per child.
- 5.5.7. Key Issues Raised in the Submission:
- 5.5.8. The food poverty line in South Africa is R624 per month per person, higher than the child support grant of R480 per month per child.
- 5.5.9. This discrepancy means many children in South Africa cannot afford enough food to meet their nutritional needs.
- 5.5.10. The Children's Institute calls for an increase in social grants and other measures to address food insecurity in South Africa.
- 5.5.11. Additional Points Highlighted:
- 5.5.12. The food poverty line is based on the consumption habits of the poor, which may not represent a nutritious diet.
- 5.5.13. Poorer households tend to cope with food costs by reducing dietary diversity and prioritising filling foods bought in bulk, leading to micronutrient deficiencies.
- 5.5.14. The child support grant's value has not kept pace with inflation, resulting in a widening gap between the grant and the food poverty line.
- 5.5.15. The Children's Institute suggests that a court could find this limitation on the child support grant unjustifiable, particularly in the Eastern Cape, where child food poverty rates are highest.
- 5.5.16. The Children's Institute made the following recommendations:
 - a) Increase the child support grant amount to at least match the food poverty line.
 - b) Prioritise younger children for the grant increase, as they are particularly vulnerable to stunting and have been adversely affected by the COVID-19 pandemic.
 - c) Ensure children without birth certificates can access the child support grant.
 - d) Make birth registration of unregistered children a national priority.
- 5.5.17. The Children's Institute argues that the right to basic nutrition for children is an immediately realisable right, not subject to progressive realisation. They cite a recent court case that confirmed the state's immediate obligation to provide basic nutrition to

children in need. While the child support grant and the National School Nutrition Programme have had a positive impact on children's access to food, the low value of the grant limits millions of children's access to basic nutrition.

- 5.5.18. The Children's Institute contends that the state has an immediate obligation to bridge the gap for the 8 million children living below the food poverty line. International human rights committees have recommended increasing the child support grant to at least match the food poverty line. Failure to do so may be seen as an indirect form of discrimination based on factors such as race, rural location, and household employment status. Children under six, who do not benefit from other state nutrition interventions, are particularly affected, emphasising the need for increased support, particularly in the Eastern Cape.

5.6. **UNICEF**

- 5.6.1. UNICEF submitted a comprehensive report to the South African Human Rights Commission, shedding light on child malnutrition as a significant issue in South Africa, affecting 2.5 million children who experience poor growth due to inadequate access to proper nutrition. The primary forms of malnutrition in the country are stunting (short stature for one's age) and wasting (thinness for one's age). Multiple factors contribute to child malnutrition, including limited access to nutritious food, inadequate feeding practices, poor hygiene and sanitation, and poverty. The repercussions of child malnutrition are severe, encompassing an increased risk of death, chronic diseases, reduced cognitive development, and diminished productivity.
- 5.6.2. Various interventions can be implemented to combat child malnutrition in South Africa, including nutrition-specific approaches such as providing supplements and food assistance, along with nutrition-sensitive measures like improving access to clean water and sanitation. Moreover, fostering an enabling environment for nutrition by strengthening healthcare systems and governance is crucial. While the South African government has initiated policies and programs to address child malnutrition, further efforts are essential to ensure that all children have access to sufficient nutrition for healthy growth and development.
- 5.6.3. UNICEF's Specific Recommendations:
- 5.6.4. Nutrition-Specific Interventions:
- 5.6.5. Address micronutrient deficiency and reduce obesity, especially in adolescent girls.

- 5.6.6. Enhance maternal nutrition through screening and treating anaemia in pregnant women.
- 5.6.7. Provide supplements through the Nutrition Therapeutic Programme for those experiencing food insecurity and undernutrition.
- 5.6.8. Promote multiple micronutrient supplements for women during antenatal care.
- 5.6.9. Encourage exclusive breastfeeding for the first six months.
- 5.6.10. Systematise the mother-baby friendly initiative in all health facilities and communities.
- 5.6.11. Monitor and enforce maternity leave regulations.
- 5.6.12. Conduct growth monitoring and promotion.
- 5.6.13. Regulate fortification of maize meal and wheat flour.
- 5.6.14. Nutrition-Sensitive Interventions:
- 5.6.15. Strengthen the child support grant by improving birth registration rates and expanding its value to include the cost of a nutritious food basket for families.
- 5.6.16. Design Cash Plus programmes that combine cash transfers with nutrition education and counselling.
- 5.6.17. Enhance maternal education and ensure universal maternal and child healthcare.
- 5.6.18. Prioritise access to adequate water, sanitation, and hygiene, particularly in homes, early childhood development centres, and schools.
- 5.6.19. Building an Enabling Environment for Nutrition:
- 5.6.20. Implement evidence-based programmes at all service delivery levels, including health facilities and community-based platforms.
- 5.6.21. Develop a skilled workforce and employ a sufficient number of community health workers.
- 5.6.22. Allocate adequate financial and human resources.
- 5.6.23. Provide essential equipment and infrastructure.
- 5.6.24. Improve the quality of care for health and nutrition programmes.
- 5.6.25. Ensure strong leadership and governance for effective health nutrition programme implementation.
- 5.6.26. UNICEF emphasised that national, provincial, and district governments bear the primary responsibility for upholding children's right to nutrition. However, the private sector also plays a vital role as a provider of food goods and services. Their business practices must respect and support, rather than undermine, young children's right to nutrition.
- 5.6.27. Private Sector's Role:

- 5.6.28. Adhere to the regulatory framework for food fortification.
- 5.6.29. Produce nutritious foods that do not contribute to an obesogenic environment.
- 5.6.30. Support the development and implementation of food fortification programmes.
- 5.6.31. Provide training and resources to food producers and retailers on producing and selling nutritious foods.
- 5.6.32. Collaborate with public health agencies on developing and promoting healthy food marketing campaigns.
- 5.6.33. Support research on the causes and prevention of malnutrition and obesity.
- 5.6.34. UNICEF called for an increase in the child support grant (CSG) in South Africa, asserting that it is insufficient to cover the basic nutritional needs of children. They argued that the long-term consequences of malnutrition, such as stunting, are costlier than the short-term expense of raising the CSG. UNICEF supported the use of cash plus programmes, which combine cash transfers with other interventions like nutrition education and access to healthcare, as effective measures to reduce malnutrition and enhance child development.
- 5.6.35. UNICEF highlighted that global price increases have strained families, making it more challenging for them to afford nutritious food. This is concerning because malnutrition can significantly impact a child's future earnings and economic productivity.
- 5.6.36. Regarding breastfeeding promotion, UNICEF suggested normalising breastfeeding in communities, protecting it from aggressive infant formula marketing, and offering support to breastfeeding mothers in both community and workplace settings. They also advocated for changes to labour laws to provide pregnant women with longer maternity leave.
- 5.6.37. In conclusion, UNICEF stressed the importance of collaboration between the public sector, the private sector, and civil society to make significant progress in addressing malnutrition and obesity in South Africa.

5.7. **CSIR**

- 5.7.1. The submission from the Council for Scientific and Industrial Research (CSIR) delved into the issue of food loss and waste in South Africa, highlighting its global implications and adverse effects. Given that approximately one in seven people worldwide faces undernourishment, food waste poses threats to food security, squanders valuable resources during production and distribution, and has environmental consequences

throughout the supply chain. The study aimed to support South Africa's commitment to Sustainable Development Goal 12.3, which seeks to halve per capita global food waste by 2030.

5.7.2. To achieve this goal, the CSIR conducted a study specific to South Africa's food supply chain and various food types, updating the country's food waste estimate. The study revealed that in 2021, South Africa wasted 10.3 million tonnes of food, equivalent to 13% of the total food supply. The highest levels of waste occurred during post-harvest handling and storage (36.5%) and consumption (20.5%) stages. The presentation identified key factors contributing to food waste and discussed challenges in accurately measuring it. Possible solutions included improved agricultural practices, better infrastructure for storage and transportation, and increased consumer awareness. The CSIR highlighted areas for improvement, such as addressing data limitations, aligning definitions, and gaining comprehensive insights into informal food trade.

5.7.3. The CSIR communicated the following key findings to the Commission:

- a) Approximately 3.8% of produce entering primary production (around 868,890 tons) is lost or wasted in South Africa.
- b) In the post-harvest handling and storage stage, approximately 9% of the food entering that stage is wasted (around 1.9 million tons).
- c) For processing and manufacturing, the wastage is 27% (around 5 million tons).
- d) In retail, wholesaling, and distribution, 3.9% of the food entering that stage goes to waste (approximately 580,000 tons).
- e) At the household or consumer level, 13% of the food that reaches consumers is wasted (accounting for 1.8 million tons).
- f) The highest portion, nearly half (49%), is wasted during processing and manufacturing, followed by 19% at the post-harvest handling and storage stage and 18% at the household and consumer level.
- g) Cereals have the highest wastage at 50%, followed by fruit and vegetables at 19%. Milk and meat also experience significant wastage.
- h) An average of 10.3 million tons of food losses and waste occurs annually in South Africa, representing 34.3% of locally produced food or 45% of the total food available when considering imports and exports.

5.7.4. The study recommended conducting larger studies to collect more comprehensive data and acknowledged that informal food distribution and production systems were

not included due to data limitations. Education and awareness campaigns were deemed crucial in reducing food waste, as they resulted in significant reductions in wastage when market agents were made aware of the issue.

5.7.5. The CSIR made the following recommendations for reducing food waste:

- a) Address poor road conditions affecting transportation.
- b) Promote better meal and shopping planning at the household level.
- c) Raise awareness throughout the supply chain.
- d) Consider the benefits of addressing losses at the processing and packaging stage, potentially benefiting vulnerable communities.
- e) Encourage collaboration among government departments to effectively address food waste, involving departments such as trade and industry and health.

5.7.6. During discussions between the CSIR and the Panel, concerns were raised about the impact of reducing food waste on prices and profitability and whether waste reduction would result in increased access for consumers or higher profits for manufacturers and supermarkets. The CSIR explained that by reducing wastage at each stage of the supply chain, overall food costs could decrease, as retailers already incorporate waste management costs into their prices. However, detailed economic studies are needed to determine the precise impact. The CSIR underscored the importance of monitoring whether reduced wastage and increased awareness genuinely benefit end-users and highlighted the need for watchdogs to observe the situation on the ground.

5.8. **FoodForward SA**

5.8.1. FoodForward South Africa submitted a report that shed light on the dire food poverty and malnutrition situation in the Eastern Cape, one of South Africa's impoverished provinces. Their non-profit organisation has been actively combatting this issue by extending its services to rural communities outside Nelson Mandela Bay. Through collaboration with over 230 registered non-profit organisations (NPOs) in the Eastern Cape, FoodForward SA has successfully provided nutritious food to over 100,000 vulnerable individuals.

5.8.2. Their approach involves the recovery of surplus edible food from the consumer goods supply chain, a practice that significantly reduces greenhouse gas emissions linked to food waste. The submission emphasised the necessity for collaboration among various entities, including the Commission, corporations, and government

departments, to support the expansion of FoodForward SA's efforts in the Eastern Cape. It pointed out that government departments lack the necessary infrastructure, network, fleet, and staff capacity for efficient food distribution, while FoodForward SA possesses these resources, making it better suited for scaling up their impact.

5.8.3. FoodForward SA stated the following with regards to its initiatives:

- a) FoodForward SA highlighted that it requires funding to further expand their initiatives in the Eastern Cape, with a particular focus on combating child malnutrition.
- b) The submission highlighted the organisation's credibility, national infrastructure, extensive network of beneficiary organisations, rigorous due diligence, and monitoring processes.
- c) It also emphasised FoodForward SA's measurable impact, ability to provide donor acknowledgments, and comprehensive reporting.
- d) FoodForward SA's operational model aligns with 12 of the United Nations' Sustainable Development Goals (SDGs).
- e) The organisation expressed a strong interest in engaging further with the Human Rights Commission to address the growing malnutrition problem in the Eastern Cape and South Africa as a whole.

5.8.4. FoodForward SA furthermore runs the following programmes:

- a) **Warehouse Food Banking:** FoodForward SA collaborates with farmers, manufacturers, and retailers to collect surplus food from their warehouses. This food is checked, sorted, and stored in FoodForward SA's warehouses, and then distributed to verified registered non-profit organisations.
- b) **Digital Platform:** FoodForward SA has developed a digital platform that connects beneficiary organisations to retail partner stores. This platform allows them to collect surplus food from retail stores without incurring digital or data costs.
- c) **Second Harvest:** FoodForward SA has an outreach programme with farmers, collecting surplus food that doesn't meet retailer or manufacturer specifications but is still fit for human consumption.
- d) **Mobile Rural Depot Programme:** This initiative delivers food to rural communities, addressing food insecurity in remote areas.
- e) **School Breakfast Programme:** In partnership with the Kellogg's and Pepsico foundations, FoodForward SA provides a school breakfast programme to ensure children have a healthy start to their day.

- f) **Youth Internship Programme:** FoodForward SA offers a youth internship programme, providing young people with valuable work experience in the food distribution industry.
- 5.8.5. In addition to these programmes, FoodForward SA introduced a new initiative to combat malnutrition in the Eastern Cape. This programme involves collaborating with the Department of Health to collect data on children at risk of malnutrition and delivering food parcels directly to their homes.
- 5.8.6. FoodForward SA believes that this programme can effectively address malnutrition in the Eastern Cape and is committed to working with the government and other stakeholders to make a difference in the lives of children in the province.

5.9. **Agri Eastern Cape**

- 5.9.1. Agri Eastern Cape, a non-profit organisation affiliated with Agri SA, with around 3,000 members who are primarily commercial farmers, indicated that while they do not represent all commercial farmers, they do represent about 70% of them. Agri Eastern Cape aims to create an environment conducive to agriculture and agricultural development.
- 5.9.2. It was submitted to the Panel that according to a 2016 ASA report, the Eastern Cape has approximately 4,000 medium to large-scale farmers, 52,000 small-scale farmers, and around 500 subsistence farmers. The agriculture sector in the province has the potential to contribute to economic growth and job creation, as it accounts for the largest number of livestock in the country. However, the current economic conditions were not sustainable, and Agri Eastern Cape believes that strengthening the economy and restoring business confidence was crucial. Despite the challenges, the agriculture sector in the Eastern Cape has shown resilience during the COVID-19 pandemic, with growth of around 13% in 2020, mainly driven by agricultural exports, particularly citrus from the Sunday River Valley. Employment in the sector also increased during this period. Agri Eastern Cape emphasised the need to work together to scale up production, improve agro-processing capabilities, and increase market share both domestically and internationally.
- 5.9.3. Agri Eastern Cape supports the agricultural and agro-processing master plan, a collective social compact aimed at rebuilding and restructuring the economy with a specific focus on agriculture. They believe that the plan's success depends on the

commitment and active participation of all industry stakeholders. Agri Eastern Cape has various programmes and initiatives in collaboration with their commodity affiliates and members to support rural economies, secure food security, and create employment and entrepreneurship opportunities. The submission further addressed the impact of climate change on agriculture. South Africa, being a water-scarce country, is likely to face increased challenges due to climate change, such as droughts and limited water availability for irrigation. Climate change may also affect agricultural yields and crop viability. Agri Eastern Cape highlights the importance of technology, expertise, and biosecurity measures to mitigate environmental impacts and ensure the future of agricultural industries.

- 5.9.4. Other challenges mentioned include biosecurity issues, infrastructure limitations, and the risk of foot and mouth disease. Agri Eastern Cape emphasises the need to control foot and mouth disease to protect the future of industries like wool, mohair, and red meat exports. Additionally, they mention the significance of infrastructure for transporting agricultural produce to markets and the need for improvements in rural road conditions.
- 5.9.5. During the exchange between Agri Eastern Cape and the Panel, various topics were discussed. Firstly, reference was made to the impact of COVID-19 on the economy, with agriculture being relatively spared due to the essential nature of food production. The importance of growing the general economy was emphasised, as it would benefit agriculture and enable increased exports. The need to bring more land into production, particularly in regions with untapped agricultural potential, was highlighted. This would involve partnering with small-scale farmers, transferring skills, and contributing to the province's economy. The increasing demand for water and the necessity to adopt water-friendly irrigation technologies were recognised as major challenges. Regarding child malnutrition, the Panel inquired about Agri Eastern Cape's potential contributions to an emergency plan. While no specific solutions were outlined, it was implied that collaboration and engagement could be explored. Finally, the issue of gender equity in agriculture was raised, with Agri Eastern Cape expressing the importance of supporting and promoting women's involvement in the sector through training and placement opportunities.
- 5.9.6. In conclusion, Agri Eastern Cape acknowledges the challenges facing the agriculture sector but believes they can make a difference through collaboration and support. They express gratitude for the opportunity to present their input to the provincial

inquiry.

5.10. **SACC**

5.10.1. The South African Council of Churches (SACC) in the Eastern Cape (EC) submitted a comprehensive response to the Commission, highlighting the critical issues of food and child malnutrition in their region. To tackle these pressing concerns, the SACC EC has established multiple subcommittees, each with a specific focus and role:

- a) **Church Land Committee:** This committee collaborates with the Department of Rural Development and Agrarian Reform (DRDAR) to implement sustainable food security projects on church land. They have conducted an audit of church land and identified priority projects for implementation.
- b) **Property and Fundraising Committee:** This committee is tasked with managing church properties and raising funds to support their initiatives.
- c) **Social Relief of Distress (SRD) Committee:** The SRD Committee provides food vouchers and operates soup kitchens for those in need. They also work closely with the government to establish food banks.
- d) **Education and Training Committee:** This committee focuses on educational and training initiatives related to food security and child welfare.
- e) **Gender-Based Violence (GBV) Committee:** The GBV Committee is dedicated to raising awareness of gender-based violence, offering support to victims, and engaging with men to address the root causes and promote healthy relationships.
- f) **Ethics and Clean Governance Committee:** This committee emphasises ethical conduct and clean governance in their efforts to combat food poverty and child malnutrition.
- g) **Media and Communications Committee:** Responsible for communicating the SACC's initiatives and messages effectively to the public and stakeholders.

5.10.2. The SACC EC presented several key recommendations to the Commission to address these pressing issues, including:

- a) Promoting intersectoral collaboration to tackle child malnutrition and food poverty.
- b) Ensuring child-friendly services, essential care packages, and a child-centred workforce for food security, safety, and healthcare systems.
- c) Adopting a whole-of-society approach to address these challenges comprehensively.

- d) Integrating child and adolescent services into policies and protective measures against harmful business practices.
 - e) Committing to leaving no one behind in efforts to combat food poverty and child malnutrition.
 - f) Developing leadership and coordination mechanisms for child and adolescent welfare systems.
- 5.10.3. The submission underscored the challenges of corruption, child malnutrition, gender-based violence, and poverty, particularly in the context of the SACC's efforts and partnership with the government. Insufficient resources and funding hindered their ability to implement vital programmes such as soup kitchens and food vouchers, which are essential for alleviating poverty and supporting vulnerable communities. The SACC also emphasised the importance of integrating child and adolescent services into policies, protecting children from harmful practices, and providing psychosocial support during crises like the COVID-19 pandemic.
- 5.10.4. The SACC expressed concerns about children's exposure to liquor and drugs, the adverse impact of substance abuse on families, and the urgent need to address gender-based violence through collaboration with various stakeholders. While acknowledging limitations in funding and resources, the SACC urged a collective effort involving different departments and stakeholders to prioritise the well-being and protection of children.
- 5.10.5. Upon prompting by the Panel, the SACC suggested that a provincial command council, similar to the one established during the COVID-19 pandemic, be reinstated to address the scourge of child malnutrition and child deaths due to food shortages. They emphasised that this is a multifaceted issue requiring collaboration among numerous stakeholders.
- 5.10.6. The SACC also indicated that they are already working on some of the issues raised, such as promoting breastfeeding and encouraging communities to grow their own food. Additionally, they expressed a willingness to collaborate with the private sector to find ways to reduce food waste and enhance food security.

5.11. **Mr Lwasi Mangaliso**

- 5.11.1. Mr Mangaliso is a student aid worker at a local school within the Eastern Cape. In Mr Mangaliso's submission, he addressed the reality of poverty and its impact on access

to food. He highlighted several key issues discussed by scholars providing submissions to the Commission. One issue for him was the government's focus on planting trees that bear thorns instead of fruit-bearing trees, which affects malnutrition. He also mentioned the challenges of subsistence farming in urban areas due to industrialisation and soil quality problems caused by toxic waste.

5.11.2. The lack of inflation-adjusted social grants and the minimum wage's effect on purchasing power were other concerns raised.

5.11.3. Mr Mangaliso emphasised the importance of choice and access to nutritious food, as well as the violation of the right to sufficient food and adequate nutrition, which he believes is perpetuated by government policies and data integrity issues.

5.12. **Sivenathi CYCC**

5.12.1. A submission was made by representatives from Sivenathi, a special care centre that caters to 35 mentally and physically impaired children. The centre operates 24/7 with the help of various stakeholders but faces several challenges. They highlight that the funding received from the Department of Social Development is insufficient to meet the special nutritional needs of the children. The environment in which they operate is also not conducive to people with disabilities, including a water crisis in the area. The caregivers at the centre feel underpaid, receiving a stipend of R2,200. Additionally, the funding approved by the Department is inadequate, as 10 out of 35 enrolled children are not covered. The centre has applied to the Department of Education for assistance but has not received approval for their application. They emphasised the urgent need for additional funds, proper accommodation, and approval for specialised education support. Further information from the Centre as sourced from questioning by the Panel indicated that The centre receives R600,000 rand per year from the Department of Social Development. Of this amount, R50,000 is available each month to pay the salaries of 16 caregivers and to buy groceries for the children. This leaves about R15,000 per month to feed 35 children. It Was indicated that the children received three meals a day, which costs about R4.28 per child per meal.

5.12.2. The centre has never run out of food but has had to compromise on nappies. The centre uses towel nappies instead of disposable nappies, which can cause rashes on the children's bodies. The centre also does not have access to a reliable water supply, which makes it difficult to wash the nappies. This meant that the centre was not able

to fully meet the nutritional needs of the children, especially those with severe disabilities. In the past, the centre had run out of food and has had to rely on donations from the community to feed the children.

5.13. Chief Joseph Krayling

- 5.13.1. The submission indicated that the Khoi and San community in the Eastern Cape has been suffering from hunger and malnutrition, especially during the COVID-19 pandemic. The presenter believed that the government has not done enough to help the Koi and San community, and that more needs to be done to address the issue of hunger and malnutrition in the area.
- 5.13.2. The community was also affected by the lack of government support for projects such as backyard vegetable gardens, which could help to provide food for the community. The submission indicated that the community felt marginalised and like second-class citizens, and they were calling on the government to do more to help them.

5.14. Mr Joe Japhta

- 5.14.1. Mr Japhta, the CEO of a malnutrition programme company, discovered 18 infant deaths due to starvation in the Lusikisiki municipality of the Eastern Cape in 2018. He offered his assistance to the Department of Social Development (DSD) and submitted an application to Mission Five Million for Fight to Blend supplements. Although the DSD agreed to work with Mr Japhta, they never provided written confirmation or funding. Frustrated, he withdrew from the project but later met with DSD's Chief Director, who promised to secure funding. Mr Japhta reinstated his application, which was approved, but the DSD never provided written approval for him to manage the project. Concerned about the DSD's lack of cooperation, Mr Japhta believes the DSD's actions have hindered his ability to help the malnourished children of the Eastern Cape.
- 5.14.2. Mr Japhta holds the DSD responsible for their failure to report all child deaths and lack of oversight. He also holds the Commission, the Commission for Gender Equality, and the Office of the Public Protector accountable for not monitoring media reports and not bringing attention to the situation earlier. Child deaths and severe acute malnutrition have been ongoing issues in the Eastern Cape, and despite efforts to

address the crisis, the government has failed to honour commitments, leading the submitter into financial distress.

- 5.14.3. Seeking redress through their attorneys, they aim to hold the Department accountable and seek compensation. Mr Japhta recommended punitive action, declaring child deaths a genocide and severe acute malnutrition a national emergency, instituting reparations and compensation, conducting a full commission of inquiry, implementing remedial measures and early warning systems, appointing human rights monitors, and seeking compensation for work undertaken.

Government Stakeholders

5.15. Statistics South Africa

- 5.15.1. Statistics South Africa (Stats SA) contributed valuable insights to the inquiry by employing the Multiple Overlapping Deprivation Analysis (MODA) methodology to examine child poverty in South Africa comprehensively. Their report aimed to present a multidimensional view of child poverty, identify its key determinants, and shed light on the socio-economic and geographic aspects of impoverished children.
- 5.15.2. The data utilised in this report stemmed from the extensive Living Conditions Survey (LCS) conducted in 2014/15, involving over 25,000 households. This survey collected detailed information encompassing income, expenditure, education, housing, social welfare, health, and living conditions.
- 5.15.3. The MODA methodology, developed by UNICEF, was applied in this analysis. It focused on assessing child poverty with children aged 0-17 as the unit of analysis. This approach adopted a life-cycle perspective, acknowledged the multifaceted nature of child poverty, and identified the socio-economic and geographic characteristics of the most vulnerable children.
- 5.15.4. The report's findings revealed that a substantial 62.1% of children in South Africa experienced multidimensional poverty, confronting deprivations in areas such as housing, nutrition, and education. Poverty, race, and geographical location emerged as the principal drivers of child poverty, with children from economically disadvantaged households, Black African children, and those residing in rural areas facing a higher likelihood of multidimensional poverty.
- 5.15.5. It is evident from this submission that child poverty constitutes a significant concern in

South Africa. Addressing its root causes, including poverty, racial disparities, and geographic location, necessitates comprehensive policies and interventions. Recommendations put forth in the report encompass expanding social grants to impoverished households, enhancing access to quality education and healthcare, investing in rural development, and promoting racial equity.

- 5.15.6. Stats SA's oral submission further elucidated the issue of multidimensional child poverty in South Africa. By applying the MODA framework, it scrutinised various dimensions of poverty and deprivation affecting children aged 0 to 17, including health, sanitation, housing, energy, nutrition, protection, education, information, and child development.
- 5.15.7. The analysis illuminated that a significant percentage of South African children faced multidimensional poverty, with around 62.1% experiencing deprivation in three or more dimensions. The intensity of poverty, gauged by the average number of deprivations, stood at 57.4% among South African children.
- 5.15.8. The submission underscored the varying contributions of different dimensions to child poverty across age groups. Housing was a primary factor for children aged 0 to 4, while education played a pivotal role for those aged 5 to 12 and 13 to 17. Nutrition, though essential, exerted a relatively smaller influence on child poverty in South Africa.
- 5.15.9. In addition, the analysis illuminated disparities among population groups and geographic regions. Black African children faced a higher likelihood of multidimensional poverty compared to other demographic groups. Provinces such as Limpopo and Eastern Cape exhibited higher concentrations of multidimensionally poor children. Living circumstances also played a role, with children from households where both parents were deceased or only the mother was alive experiencing higher poverty rates, while households with both parents alive exhibited the lowest poverty rates.
- 5.15.10. Stats SA's submission stressed the value of MODA analysis in comprehending the complex nature of deprivations children face. Graphical representations depicted the percentages of children deprived in specific dimensions alone or in combination with others, offering insights into the depth and intricacy of child poverty in South Africa.

5.16. **Office of the Premier**

- 5.16.1. The Office of the Premier (OTP) in the Eastern Cape submitted a comprehensive overview of government initiatives aimed at advancing the socio-economic rights of children, with a particular focus on addressing food insecurity and malnutrition in the Eastern Cape Province. Their submission underscored the critical challenges linked to malnutrition in the province, which included pervasive issues such as poverty, inequality, and unemployment.
- 5.16.2. Additionally, the OTP highlighted the complexities surrounding malnutrition, including food insecurity, limited access to clean drinking water, healthcare deficiencies, weak early detection planning and resource mobilisation, the shift away from agriculture in rural areas, the influence of climate change, and the impact of teenage pregnancy.
- 5.16.3. To combat these challenges effectively, the OTP presented a series of recommendations. These suggestions encompassed investing in early childhood development programmes, enhancing access to nutritious food and nutrition education, addressing the root causes of poverty and inequality, bolstering the healthcare system, and raising awareness about malnutrition. Furthermore, the submission emphasised the necessity for a coordinated approach involving all levels of government, the private sector, and civil society to effectively tackle malnutrition in the province.
- 5.16.4. The OTP elaborated on their role as the coordinating body within the government system, aiming to support the Premier in fulfilling their responsibilities. They acknowledged the need for improved integration in planning and budgeting processes to overcome challenges arising from departmental priorities. The OTP stressed the significance of partnerships with organisations like the Commission to address these gaps and amplify their impact.
- 5.16.5. Referring to the Provincial Medium-Term Strategic Framework as their guiding instrument, the OTP recognised the importance of consistent data on malnutrition across different regions of the province. They emphasised the role of local communities as partners, access to nutritious food, and understanding the long-term impact of malnutrition.
- 5.16.6. Moreover, the OTP delineated the hospitals within the province where cases of malnutrition were presented. They underscored the importance of these hospitals in influencing the response plan. The OTP mentioned that the Provincial Development Plan included a chapter on children's rights and addressed malnutrition.
- 5.16.7. The OTP acknowledged the necessity of involving civil society, highlighting the varying

capacities and maturity levels within different sectors. They expressed their desire to collaborate more closely with civil society, especially those connected to the private sector and supermarkets.

- 5.16.8. In conclusion, the OTP outlined five key points, including oversight through the social transformation cabinet committee, accelerating local solutions in hotspot areas, using service delivery monitoring systems for early warning surveillance, considering a national food bank policy, and leveraging lessons from COVID-19 to collaborate effectively and gain traction within communities.
- 5.16.9. During discussions with the Panel, the OTP acknowledged the shared responsibility in serving the same community, with the Commission acting as a watchdog for human rights. The Panel raised concerns about returned funds in the Eastern Cape and the high rate of child stunting in the province, emphasising the need for a coordinated effort to tackle food wastage and ensure food reaches those in need.
- 5.16.10. In response to the Panel's comments, the OTP stressed the importance of collective action and leveraging resources and expertise from various stakeholders to address poverty and hunger effectively. They expressed support for the idea of a command council or similar approach to coordinate efforts and ensure a more significant impact.
- 5.16.11. The Panel urged the OTP to prioritise and set policies to address the urgent issue of child malnutrition and hunger. They emphasised the need for decisive government action and highlighted the importance of engaging stakeholders, particularly those related to water and sanitation, in finding solutions to food security and poverty. The Panel proposed a balanced approach between providing water tanks and promoting food gardens and expressed a desire for the Eastern Cape to set an example for the rest of the country in addressing these critical issues.

5.17. Department of Cooperative Governance and Traditional Affairs (COGTA)

- 5.17.1. COGTA's submission to the Commission delivered key updates on various fronts. It spotlighted the Community Work Programme (CWP), which expanded job access from 16 to 34 of the poorest wards, creating and maintaining 3,352 job opportunities in activities like cleaning, maintenance, repairs, and gardening. Updates also covered municipal infrastructure services, emphasising the importance of social facilitation during projects to alleviate poverty. The presentation provided specifics on job creation and progress in various Eastern Cape districts and municipalities, offering an

overview of the asset register, job creation, community work, and infrastructure projects.

- 5.17.2. The presentation concluded by stressing COGTA's ongoing intergovernmental work as per the IGR Framework Act of 2005. This included convening the Provincial Technical Intergovernmental Political MuniMEC Forum Sessions, which receive reports on service delivery areas like Municipal Financial Performance. COGTA remained committed to collaborating with municipalities and state organs for integrated service delivery. The Department's active participation in the Poverty Reduction Working Group aimed to fully implement the Provincial Integrated Anti-Poverty Strategy, showcasing their dedication to collaboration and addressing challenges.
- 5.17.3. COGTA's oral submission addressed municipal spending and project execution issues, acknowledging under-spending in many municipalities. Timely procurement plans were deemed essential for accountability, but concerns were raised about financial losses and inefficiency. Despite COGTA's efforts, they encountered resistance from municipalities.
- 5.17.4. Demographic considerations and grant allocations to municipalities were also discussed. Financial stability issues in municipalities like Amatole and Chris Hani were identified, along with their resistance to intervention.
- 5.17.5. To tackle these issues, COGTA emphasised aligning planned and actual employment figures and conducting training as scheduled. The Department actively monitored expenditure trends and supported struggling municipalities. They explored partnerships with organisations like the Development Bank of South Africa and the National Business Initiative. Facilitating the rollover application process aimed to help municipalities access and utilise infrastructure grants. Stakeholder meetings addressed development plans, crime-related issues, gender-based violence, and access to government services in rural areas. COGTA collaborated with traditional leaders to promote development.
- 5.17.6. During discussions with the Panel, COGTA stressed enhancing coordinated and integrated service delivery across government levels and having bulk infrastructure to attract investors. The Panel expressed concerns about municipalities under-spending, impacting unemployment rates and investor confidence. COGTA explained their technical structure reporting to a political structure for accountability. They mentioned participation in the poverty reduction working group and the provincial integrated anti-

poverty strategy.

- 5.17.7. The Panel acknowledged COGTA's challenges, including limited funding, emphasising the constitutional responsibility to provide services. They expressed concerns about grants lost due to under-spending and suggested redistributing funds to other municipalities in the province. They also noted the gap between planned targets and actual outputs.
- 5.17.8. COGTA urged municipalities to understand the impact of losing funds to the national treasury. They discussed challenges related to under-spending, including capacity issues and corruption. The Panel expressed concerns about under-spending's impact on poverty alleviation, especially in terms of malnutrition and water access. COGTA emphasised engaging with municipalities' accounting officers and finding alternative solutions.
- 5.17.9. The exchange highlighted frustration with municipal under-spending and the need for effective resource allocation for poverty alleviation and infrastructure development. COGTA committed to finding solutions, engaging with municipalities, and exploring alternative approaches for improved service delivery.

5.18. **Eastern Cape Provincial Treasury**

- 5.18.1. The Eastern Cape Provincial Treasury provided a detailed breakdown of the Department of Social Development's (DSD) expenditure from 2019/20 to the first quarter of 2022/23 for the SAHRC's inquiry into child malnutrition. This submission included budget allocations, expenditures, and variances categorised by programme and economic classification. Notably, it highlighted the DSD's budget fluctuations, rising from R3.043 billion in 2019/20 to R3.316 billion in 2021/22 but decreasing to R2.788 billion in 2022/23 due to the cessation of Covid-19 Social Relief funding.
- 5.18.2. The submission specifically focused on the budget allocation and spending related to child nutrition, presenting allocations and spending for various programmes, including food parcels for social relief, COVID-19 social relief, Early Childhood and Development Centres (ECD), and Child and Youth Care Centres. It also addressed additional funds allocated for COVID-19 social relief in 2020/21 and detailed the Department's efforts to combat underspending. The submission concluded by emphasising the need for stakeholder collaboration to ensure sufficient food access for all Eastern Cape children, promoting healthy growth and development.

- 5.18.3. Regarding the National School Nutrition Programme (NSNP), the submission revealed a budget of R4.102 billion over the past three fiscal years, with R4.076 billion expended. The majority (96.3%) supported school feeding in quintile 1-3 schools and special schools. The NSNP's 2022/23 budget was R1.494 billion, with a significant portion allocated to school feeding. Additionally, the submission highlighted the Eastern Cape Department of Education's decentralised procurement model for the NSNP.
- 5.18.4. The Provincial Treasury further focused on budget allocations to relevant departments:
- 5.18.4.1. **Social Development:** In 2019-2020, the provincial government allocated R3 billion to the Department of Social Development. However, the Department only spent R2.3 billion, resulting in underspending of R78.5 million .
- 5.18.4.2. **Education:** In 2019-2020, the provincial government allocated R27.2 billion to the Department of Education. However, the Department only spent R24.6 billion, resulting in underspending of R2.6 billion.
- 5.18.4.3. **Conditional Grants:** In 2019-2020, the provincial government allocated R10 billion to conditional grants. However, the Department only spent R9.4 billion, resulting in underspending of R600 million.
- 5.18.5. The Provincial Treasury highlighted the loss of R54 billion to the Equitable Share allocation since 2012, leading to budget cuts across departments, including social development, education, and conditional grants. The provincial government had to provide additional funding for social development during the COVID-19 pandemic.
- 5.18.6. Concerning the Department of Social Development (DSD), underspending was attributed to factors like late payments, non-payment for projects, conditional grant conditions, new fund dispersal approaches, governance issues, overspending on goods and services, delayed procurement processes, and unsuccessful tenders. Underspending also occurred in programmes like ECD centres and child and youth care centres, especially related to COVID-19 relief funds.
- 5.18.7. The Provincial Treasury recognised the importance of assessing programme effectiveness and efficiency, emphasising proper identification of children in need. It also discussed the school nutrition programme's funding and its consistent allocation despite challenges, such as pandemic disruptions. There was a need to ensure effective fund utilisation by schools.

- 5.18.8. Treasury acknowledged the need for monitoring and evaluation, and their oversight role in departmental spending. They elaborated on fund withholding in cases of underutilisation, emphasising quality service impact on beneficiaries. The discussion also covered the return of funds to the provincial revenue fund, which could be reallocated to address various needs.
- 5.18.9. Regarding rollover funds, criteria and regulations were explained, with an emphasis on efficient planning and procurement processes. The Panel raised concerns about underspending and the need to improve systems and controls rather than just increasing spending. Effective planning, implementation, and food security value chain were emphasised.
- 5.18.10. The Panel also stressed the urgency of improving processes to ensure food reaches children promptly. Treasury agreed, emphasising the importance of impactful spending on children's nutritional status.

5.19. **The Eastern Cape Department of Social Development**

- 5.19.1. The Provincial Department of Social Development acknowledges the government's progress in addressing poverty and supporting vulnerable individuals, households, and communities since 1994. This includes efforts directed at children and pregnant women. However, persistent poverty and deprivation, especially in certain hotspot areas within the province, have led to rising cases of infant mortality and child malnutrition.
- 5.19.2. The Department of Health reported an increase in infant mortality linked to child malnutrition⁸, prompting an urgent response from various stakeholders, including the Provincial Government, Private Sector, Civil Society Organisations, and communities. The Department of Social Development initiated an intervention programme targeting 800 women with children under 5 diagnosed with Severe Acute Malnutrition (SAM).
- 5.19.3. Programmatic interventions were designed, including a detailed situation analysis of factors related to child poverty and infant mortality in affected municipalities, mobilising stakeholders, and capacitating local communities. The programme had multiple pillars: research, community and household profiling, food security and nutrition,

⁸ 4th triennial report of the Committee on Morbidity and Mortality in Children Under 5 Years (COMMIC): 2017 – 2020 (accessible at <https://www.health.gov.za/wp-content/uploads/2022/03/4th-CoMMiC-Triennial-Report-20.12.07.pdf>).

adolescent sexual reproductive health, income generation, entrepreneurship, skills training, capacity building, and monitoring.

- 5.19.4. Several stakeholders were involved in the programme, including the Department of Social Development, Department of Health, Department of Rural Development and Agrarian Reform (DRDAR), Department of Education, Department of Home Affairs, relevant district municipalities, institutions of higher learning (Walter Sisulu University - Research Unit), South African Social Security Agency (SASSA), National Development Agency (NDA), international organisations like Mission Five Million (M5M) and Hope Worldwide, the House of Traditional Leaders, and civil society organisations, including Child Welfare and Abasuki Cooperative. Additionally, the Health & Welfare SETA, Agricultural Research Council (ARC), Old Mutual, and the United Nations Population Fund (UNFPA) were involved in the programme.
- 5.19.5. The Department's programme focused on providing access to food for the poor and vulnerable groups. The Emergency Response Plan included interventions such as food supplementation, ongoing medical care, monitoring, and support from the Department of Health. The Community Health Worker initiative was strengthened for surveillance purposes. Access to grants, particularly the Child Support Grant (CSG), was monitored. Infants and babies received food parcels through the Social Relief of Distress (SRD) programme. Regular meals were provided for babies and their mothers through Community Nutrition Development Centres (CNDs). Mothers and caregivers received support, guidance, parenting skills, and feeding skills as part of the Indlezana Programme. Income and technical skills training were provided through the Expanded Public Works Programme (EPWP) initiative. Proper identification and registration documents were facilitated by the Department of Home Affairs. Vegetable gardening starter packs were distributed by the Department of Rural Development and Agrarian Reform (DRDAR).
- 5.19.6. In terms of economic empowerment, 40 women participating in the Integrated Model for Community Development and Sustainability Programme (IMCDSP) received a monthly amount of R3000 for 12 months. Various districts benefited from the EPWP Allocation. Stakeholder consultations and household profiling were conducted in collaboration with the National Development Agency (NDA) to identify families affected by malnutrition. Community awareness sessions were held in different districts, and Hope Worldwide donated Future Life Breakfast Packs for affected children.

- 5.19.7. The Department has further implemented a household profiling tool to identify households affected by child malnutrition. The South African Social Security Agency (SASSA) provided food parcels to targeted beneficiaries for six consecutive months. Change Agents (affected mothers) underwent induction workshops under the EPWP. Funding from the Health and Welfare Sector Education and Training Authority (HWSETA) supported technical skills training for 200 affected women/mothers in sewing projects.
- 5.19.8. The provision of food parcels to beneficiaries was recorded in different districts over the past three years. The budget allocation for food parcels was also specified for each district.
- 5.19.9. In addition, the Household Food and Nutrition Security Programme focused on providing programmes and services to improve food security. Food For All initiatives, including feeding programmes, were implemented, such as food parcels, soup kitchens, drop-in centres, social cooperatives, income-generating projects, and community food security. Household food gardens were monitored, and people continued to access food through departmental food security programmes. Community Nutrition Development Centres (CNDCs) were funded, and inspections and donations took place in various locations. COVID-19 guidelines were followed to ensure the effective operation of CNDCs. Vaccination injections were provided to CNDC beneficiaries. The NPO Act and the National Policy on Integrated Food and Nutrition Security were followed to ensure better access to food for all. Feeding programmes were conducted, and awareness campaigns were carried out in different districts, including official openings, distributions, and educational activities.
- 5.19.10. The Department has further implemented various programmes and initiatives to address access to food for the poor and vulnerable groups. These included food supplementation, medical care, grants, food parcels for infants and babies, support for mothers and caregivers, income and skills development for mothers, and provision of identification and registration documents. The Department also partnered with organisations and conducted stakeholder consultations to address child malnutrition.
- 5.19.11. In terms of the Household Food and Nutrition Security Programme, the Department monitored household food gardens, supported Community Nutrition Development Centres (CNDCs), and provided food through feeding programmes. They also conducted training sessions, workshops, and awareness campaigns on nutrition, health promotion, and youth development. Cooperative governance and digital

literacy training were also provided.

- 5.19.12. The budget allocation for each district varied, with the total budget amounting to R14,439,000. However, there were instances of unspent funds due to incomplete procurement processes and challenges in reaching targeted beneficiaries.
- 5.19.13. Programmes and services were in place to support child-headed households and children living on the streets. These included temporary safe care, foster care placement, child and youth care centres, and drop-in centres. The RISIHA programme aimed to protect orphaned and vulnerable children, particularly those affected by HIV/AIDS, and strengthen families and communities as the first line of response.
- 5.19.14. There were instances of unspent funds in the past three years, including a significant amount of R67 million in food aid for the 2021/22 financial year. These unspent funds were due to incomplete procurement processes, delays in distribution, and challenges with service providers.
- 5.19.15. Overall, the Department worked to address food insecurity and child vulnerability through various programmes and initiatives, but there were challenges and gaps that needed to be addressed to ensure effective implementation and utilisation of resources.

5.20. **SASSA**

- 5.20.1. The submission from the South African Social Security Agency (SASSA) encompassed several sections, including strategic focus, vision and mission, impact and outcomes, SASSA's business and value add, SASSA's services and targeted clientele, SASSA's provincial economic investments, and intervention plans.
- 5.20.2. SASSA's strategic focus revolved around their aspiration to be a leading provider of social security services and deliver social security and related services. Their mission was to alleviate poverty, promote individual social well-being, and serve as a safety net for the most vulnerable.
- 5.20.3. The submission outlined the intended impact and outcomes of SASSA during the Medium-Term Strategic Framework (MTSF) period from 2020 to 2025. These objectives included improving the quality of life for vulnerable individuals and those living in impoverished conditions, reducing poverty levels, facilitating access to development opportunities for social grant beneficiaries to attain self-sufficiency, enhancing the quality of services provided, and ensuring customer convenience.

- 5.20.4. SASSA's core business focuses on providing social assistance to eligible South Africans who were unable to support themselves and their dependents, with the primary aim of alleviating poverty. Their value addition lay in their contribution to poverty alleviation, individual social well-being, and their designation as the delegated agency responsible for administering social assistance.
- 5.20.5. The range of services offered by SASSA encompasses social grants, new entrants, and COVID-19 special relief grants. Social grants were provided to vulnerable individuals aged 60 years and above, war veterans from World War 2 or the Korean War who were over 60 years old, individuals with certified disabilities between the ages of 18 and 59 years, care-dependent children under 18 years old, vulnerable children under 18 years old, and children placed in foster care under 18 years old (renewable until 21 years for school-going children).
- 5.20.6. New entrants, consisting of unemployed individuals who were unable to support themselves and their dependents, were eligible for the COVID-19 special relief grant of R350 but not for food parcels or the malnutrition programme.
- 5.20.7. The submission concluded by affirming SASSA's commitment to providing social assistance to those in need and their dedication to poverty alleviation. SASSA expressed their ongoing efforts to improve services and ensure that the most vulnerable individuals in South Africa were effectively reached.

5.21. The Eastern Cape Department of Basic Education

- 5.21.1. The submission from the Department of Education in the Eastern Cape focused on the National School Nutrition Programme (NSNP) and addressed questions related to the programme's challenges, budget, and other school programmes related to school nutrition.
- 5.21.2. The purpose of the Programme was to address barriers to learning associated with hunger and malnutrition. It aimed to provide nutritious meals to learners in public schools in quintiles 1-3, including Grade R and targeted special schools. The programme also aimed to promote healthy lifestyles through nutrition education, deworming, hygiene programmes, and support food security initiatives such as school-based food gardens.
- 5.21.3. The programme operated within the framework of the Division of Revenue Act and the Conditional Grant Framework. It was funded through the conditional grant framework

(CGF), and its budget for the past three years had been as follows:

2020/21: R4.5 billion

2021/22: R4.7 billion

2022/23: R5 billion

- 5.21.4. In addition to the NSNP, there were several other school programmes related to school nutrition. These included the School Feeding Programme (SFP), which provided hot meals to learners in quintiles 1-3 in rural areas. There was also the School Nutrition Action Plan (SNAP), which provided support to schools in developing and implementing nutrition policies and practices. Additionally, the School Health Programme (SHP) offered health services to learners in schools, including nutrition education.
- 5.21.5. The NSNP faced a number of challenges. One challenge was inadequate funding, as the programme's budget was not sufficient to provide all learners with a nutritious meal every day. Another challenge was poor food quality in some cases, where the food provided by the NSNP was not of good quality or not served on time. Furthermore, the programme lacked a strong monitoring and evaluation system, making it difficult to track progress and identify areas in need of improvement.
- 5.21.6. Despite these challenges, the NSNP made several positive contributions to the education sector. It had been shown to increase school attendance, particularly among learners from poor households. Learners who participated in the NSNP also demonstrated improved academic performance. Moreover, the programme had a positive impact on reducing stunting and malnutrition among learners.
- 5.21.7. The NSNP was viewed as an important programme with the potential to improve the lives of millions of learners in South Africa. However, addressing the challenges it faced was crucial to ensuring its success.

5.22. The Eastern Cape Department of Health

- 5.22.1. In its submission, the Department identified four key contributing factors to malnutrition in the province: household food security, late registration of birth certificates, late identification of malnutrition, and lack of access to healthcare.
- 5.22.2. The Department reported that their teams were actively connecting with communities

to identify at-risk households and malnourished children. They highlighted the concerning issue of late hospital presentations, which resulted in high mortality rates. It was emphasised that educating mothers about warning signs of malnutrition was crucial to improve early identification and intervention. Teenage pregnancy was prevalent, and it posed risks for both young mothers and their infants due to their bodies' lack of development for pregnancy. The submission also noted that teenage mothers were often reluctant to breastfeed, potentially due to body consciousness or attending school. This had a negative impact on caregiving practices and breastfeeding rates in the province, which were below 50%. Additionally, it was observed that HIV-positive mothers and grandparents, who often cared for the children, faced challenges in breastfeeding. The Department highlighted their multi-sectoral approach and collaboration with other departments, such as Social Development, Home Affairs, Education, and Small Business, to address the social determinants of health. They mentioned specific programmes launched in municipalities with high rates of child malnutrition and teenage pregnancies, which showed promising results in reducing the case fatality rate. Partnerships with agricultural research organisations were also mentioned as an effort to support households in cultivating nutritious food, particularly orange flesh sweet potatoes. Furthermore, the Department emphasised training their teams to identify malnourished children and their collaboration with the Department of Social Development.

- 5.22.3. The Department indicated that it was also focusing on establishing growth monitoring sites in communities to provide regular measurements and monitoring of children's progress. Nutritional supplements were provided to identified children, and clinics continue to monitor their progress until they reach appropriate upper arm circumference and weight for their age group. Another area of intervention was an attempt at reducing teenage pregnancies, with the establishment of youth zones at clinics to provide friendly services and reproductive healthcare. Partnerships with organisations like the United Nations Population Fund and TB HIV Care are helping address behavioural change among teenagers. Programmes are implemented in schools to reduce teenage pregnancies, and initiatives like the Mother-Baby Friendly Initiative promote and support breastfeeding. The Department is conducting self-assessments to monitor programme implementation and compliance with the initiative. It was also reported that trainers were educating staff and mothers on

breastfeeding. The primary health care approach was emphasised, focusing on health promotion, preventing malnutrition, and managing cases appropriately. It is acknowledged that plumpness does not necessarily indicate good nutrition, leading to the need for improved awareness and identification of malnutrition.

- 5.22.4. During the Panel exchange, the challenges faced by the Department, particularly regarding financial constraints and personnel shortages was discussed. The Department mentioned that the annual recruitment plan for the past three years has not been funded, leading to a chronic staff shortage. The Department expressed concern about the inability to employ people full-time and the demoralisation of existing staff, including community health workers. The lack of funding also affected their ability to provide services and cover the entire population.
- 5.22.5. The Panel further enquired about the effects of stunting, with the Department highlighting the long-term effects and the need for immediate intervention. The Panel acknowledged the presence of policies, programmes, and research partnerships but expressed concern about the implementation and scaling up of efforts. The Panel emphasised the importance of partnerships with NGOs and other stakeholders, including the council of churches, to address the issues effectively. The Panel further tested the Department's views on forming a task team or command council to bring all relevant stakeholders together and find interim solutions. The need to promote breastfeeding, normalise it, and address the marketing of infant formula was also touched on. The Panel however stressed the urgency of the situation and the importance of coordination among government departments and stakeholders to achieve impactful results.
- 5.22.6. In response, the Department recognised that addressing the issue of malnutrition requires a collaborative and comprehensive approach. The Department acknowledged that this issue cannot be left solely for social development or health sectors to tackle, but it was a societal issue that requires the involvement of all stakeholders, including government partners outside of the government itself.
- 5.22.7. The Department emphasised the role of parents in addressing malnutrition, highlighting the importance of ensuring that children are born to mothers who are healthy and able to breastfeed. They also stressed the need for parents to take responsibility for the well-being of their children, even involving grandparents in the care of the younger generations. The Department then suggested that addressing malnutrition should be a top priority on the agenda and called for strategic planning

and coordination among various departments and stakeholders. They highlighted the importance of efficient resource allocation and the need for all interventions to be impactful and result in an ownership of responsibility. Furthermore, the Department mentioned the role of churches in addressing moral degeneration and issues such as alcohol and substance abuse, which can also affect unborn babies and young mothers.

- 5.22.8. In terms of specific interventions, the Department proposed immediate actions such as increasing the child support grant to lift households out of poverty and ensuring that households at risk are accessing available programmes. They also suggest utilising digitalisation and data-driven approaches to target interventions more effectively, citing the example of heat mapping to identify at-risk households and coordinating efforts accordingly.
- 5.22.9. For the medium and long-term, the Department mentioned the importance of implementing electronic patient record systems that can support the management and treatment of malnutrition. They highlighted the potential of utilising data to prompt and guide healthcare professionals in delivering appropriate care.
- 5.22.10. Overall, the Department advocated for a multi-faceted approach that combines strategic planning, resource optimisation, data-driven interventions, and collaboration among various stakeholders to address the issue of malnutrition comprehensively.

5.23. The Eastern Cape Department of Rural Development and Agrarian Reform (DRDAR)

- 5.23.1. The DRDAR acknowledged that achieving food security was a huge task that will take time. The DRDAR has however developed policies and plans to address food security, including the National Policy on Food and Nutrition and the Provincial Development Plan. The DRDAR's focus was on rural development and innovative and high-value agriculture, as these are key contributors to food security.
- 5.23.2. The DRDAR stated that the Eastern Cape is a livestock province, with only 7.1% of the land suitable for crop production. The DRDAR, however, believed that agriculture had the potential to employ unskilled and semi-skilled workers and that any investment in the sector will expand the economy and create jobs. It was emphasised that the Eastern Cape's major exports are wool, mohair and citrus, and the province has the potential to substitute imports of soybeans, oil cake, cattle, tea, animal feed, and poultry.

- 5.23.3. The submission by the DRDAR further highlighted the underutilisation of land in the province, particularly in the agricultural sector. Despite having a large potential for growth, the province was currently the lowest contributor to the agricultural economy. The sector is seen to be dominated by a few big players, while small farmers and communal landholders struggle to produce effectively. The province excelled in citrus, dairy and some fruits, but fell short in grain production. There was a need for investment to tap into the province's agricultural potential and create employment opportunities. The biggest irrigation schemes in the country were seen not to be operating at their full potential. Income growth in the farming sector was also not benefitting underprivileged areas significantly.
- 5.23.4. The province was further addressing the challenge of low investment in the agricultural sector, which primarily affects black farmers who lack access to funding. In this regard, the government aimed to involve the private sector in supporting black smallholder, communal, and commercial farmers throughout the value chain to promote a growing, equitable, and inclusive sector that generates jobs and ensures food security. The province currently had extension officers providing support and inputs to farmers across its six districts. Efforts were being made to increase the sector's capacity through programmes that train and place unemployed graduates on commercial farms, enrol students in agricultural colleges and build a new generation of farmers to replace the aging workforce. The province's food security programme was further focusing on the high share of small farmers, particularly women, predominantly on communal land, with low productivity levels. There was a push to utilise available natural resources and expand irrigation potential to increase production throughout the year. Areas most affected by poverty and food insecurity, identified through collaboration with the Department of Social Development, were being prioritised for support.
- 5.23.5. Key further elements raised by the Department included the following:
- 5.23.5.1. The Household Food Production programme supports households that are registered as indigent.
 - 5.23.5.2. The Household Rainwater for High Value Crops programme is being implemented in the coastal districts of Amatole and Alfred Nzo.
 - 5.23.5.3. The Presidential Employment Stimulus Initiative has provided vouchers to the value of R165 million in the Eastern Cape.
 - 5.23.5.4. The Department is providing technical support to farmers in all 10 districts of

the Eastern Cape.

5.23.5.5. The Department is focusing on supporting vegetable production in the following districts: Amatole, Alfred Nzo, Chris Hani, Joe Gqabi, OR Tambo, and Sarah Baartman.

- 5.23.6. The DRDAR acknowledged that there is still a lot of land that could be covered by these programmes, but that the investment required is high. The DRDAR believes that the biggest issue facing food security in the Eastern Cape is the lack of investment in agriculture development, particularly in the former homelands. The DRDAR also believes that land ownership and land tenure patterns need to be improved so that people can use land as an investment to get access to food. The DRDAR believes that universal access to food and guaranteed food security will require increased production in all regions of the Eastern Cape.
- 5.23.7. The DRDAR indicated that it was working on initiatives to address these challenges, including the ANTHRA programme, the livestock improvement programme, and the development of red hubs.
- 5.23.8. The DRDAR acknowledged that there is room for improvement in infrastructure development and access to operating capital in the agricultural sector. It recognises that having land alone is not sufficient without the necessary funds to operate effectively. By addressing these challenges, the DRDAR aims to enhance productivity, competitiveness, and food availability. It also emphasises the importance of supporting farmers in accessing markets for their produce. The DRDAR's initiatives include partnering with the private sector, focusing on land redistribution to women and youth, and providing post-settlement support. However, it acknowledges that more needs to be done, and the financial sector's conservative approach and limited funding pose additional obstacles.
- 5.23.9. In general, the DRDAR believed that food security was achievable in the Eastern Cape, but that it will require a long-term commitment to policies and programmes that address land ownership, security of tenure, and agricultural development.

5.24. **Consumer Protector**

- 5.24.1. The Consumer Protector's presentation highlighted consumer rights mentioned in the Consumer Protection Act, including the right to equality, privacy, choice, information disclosure, fair marketing, fair dealing, fair terms and conditions, and the right to fair

value, good quality, and safety. The Consumer Protector proactively collaborated with various stakeholders, including law enforcement agencies, environmental health services, municipalities, the National Credit Regulator, and the National Regulator for Compulsory Specifications. Their collaborative efforts aimed to improve services, protect consumers, and ensure compliance with consumer protection laws. The presentation also mentioned the World Consumer Rights Celebration held by the Department in 2019-2020.

5.24.2. Regarding spaza shops (informal convenience stores), the Consumer Protector emphasised their significance in the informal economy and as a lifeline for disadvantaged communities. Ensuring compliance with consumer protection laws, especially in spaza shops located in poor and rural communities, was an essential part of their mandate. Compliance blitzes and raids were conducted to educate and create awareness, not only for compliance but also for consumer safety. The presentation noted that the office had not received any complaints directly related to the inquiry on the right to food and child malnutrition. However, they acknowledged the importance of food safety concerns in spaza shops and collaborated with stakeholders such as the South African Police Services and environmental health services to address arising issues. The presentation briefly mentioned compliance initiatives and projects undertaken by the Office of the Consumer Protector, such as confiscating expired health products, addressing substandard building materials with the National Regulator for Compulsory Specifications and SAPS, seizing unsafe and expired goods, issuing fines for non-compliance, and raising awareness about regulations. Hygiene issues in business areas, where spaza shops were used as both living spaces and food-selling areas, were also highlighted.

5.24.3. The Consumer Protector emphasised its strong education and awareness system, where complaints should be lodged with service providers before reaching them. Collaboration with other stakeholders was crucial for addressing expired goods, tampering with dates, and unhygienic business areas. The office is working towards expanding its mandate and training officials as peace officers. Further discussions on facilitating food donations and addressing contextual issues around food wastage and child nutrition were encouraged. The submission concluded by referencing a cornerstone judgment resulting from collaborative raids conducted by the National Credit Regulator, the Office of the Consumer Protector, and the South African Police Services in the Sarah Baartman region.

6. Factual analysis

Background

- 6.1. As reported by the Food and Agriculture Organisation (FAO), global hunger has risen by 150 million people since 2019, reaching a total of 828 million individuals in 2021.⁹ This increase has been particularly severe in Africa, where 278 million people experienced heightened food insecurity in 2022.¹⁰ Persistence and exacerbation of world hunger have led to doubts about whether the global goal of achieving Zero Hunger by 2030 can be realised.
- 6.2. Data from the 2021 General Household Survey (GHS) conducted by Statistics South Africa paints a grim picture. Among nearly 17.9 million households in the country, approximately 80 percent reported having adequate access to food, while 15 percent faced inadequate access, and 6 percent endured severe food inadequacy.¹¹
- 6.3. Of even greater concern is the fact that over half a million households with children aged five or younger experienced hunger in 2021, with profoundly detrimental effects on children's physical and cognitive development.
- 6.4. In July 2023 Health Minister Dr. Joe Phaahla reported a 26% increase in severe acute malnutrition (SAM) among children under five in the past five years in South Africa. SAM is diagnosed when children weigh less than 60% of their recommended weight. However, experts believe the reported figures underestimate the true extent of SAM, as many malnourished children admitted to healthcare facilities are diagnosed with other conditions and not recorded as SAM cases.¹²
- 6.5. The CI's 2021/22 Child Gauge¹³ further gives invaluable context to the concerns which

⁹ See <https://www.un.org/africarenewal/magazine/july-2022/global-hunger-numbers-rose-many-828-million-2021> (accessed on 8/9/23).

¹⁰ See <https://www.fao.org/3/cc0639en/online/sofi-2022/food-security-nutrition-indicators.html> (accessed on 8/9/23).

¹¹ See <https://www.statssa.gov.za/?p=16235> (accessed on 8/9/23).

¹² See <https://www.medicalbrief.co.za/surging-malnutrition-data-under-reported-say-experts/> (accessed on 8/9/23)

¹³ See the Children's Institute Child Gauge 2020 available at https://ci.uct.ac.za/sites/default/files/content_migration/health_uct_ac_za/533/files/Policy%2520Brief_2020_screen%2520version.pdf.

brought the Commission to host this Inquiry.

- 6.6. The facts are laid bare, and reflect a dire situation in which the children of our country find themselves in. Malnutrition in its various and precarious frameworks is described as a slow violence:

“A violence that occurs gradually and out of sight, a violence of delayed destruction that is dispersed across time and space, an attritional violence that is typically not viewed as violence at all ... with its calamitous repercussions playing out across a range of temporal scales”¹⁴

- 6.7. According to the Child Gauge report and corroborated during the Inquiry by prominent stakeholders like Statsa, UNICEF, and the CI, the factual foundation regarding child hunger in South Africa is deeply concerning.

- 6.8. As per the submissions, and quite clearly echoed by the Minister of Health, South Africa is grappling with a severe burden of malnutrition, which is particularly alarming for a middle-income nation. The challenges have been exacerbated by the COVID-19 pandemic.

- 6.9. South Africa appears to also further face a dual challenge of undernutrition and overnutrition. Data from the 2016 South African Demographic and Health Survey reveals that 25% of young children are stunted, indicating insufficient nutrient intake for healthy growth, and 12.5% of young children are overweight or obese due to consuming nutrient-poor, high-energy foods rich in sugar and fat.¹⁵

- 6.10. Stunting rates have remained persistently high for two decades, while child obesity rates are double the global average. Obesity is on the rise across different age groups, affecting 27% of adolescent girls and 62% of women.

The case of the Eastern Cape

¹⁴ Nixon R. Slow violence, gender, and the environmentalism of the poor. *Postcolonial Studies: An anthology*. 515. 2015.

¹⁵ See <https://dhsprogram.com/pubs/pdf/FR337/FR337.pdf> (accessed on 8/9/23).

- 6.11. From an analysis of the Statsa's General Household Survey of 2021, Hall¹⁶ reports that there were 2,569,000 children in the Eastern Cape as at the time of the Inquiry.
- 6.12. During the Inquiry, the DoH provided the Commission with information regarding Severe Acute Malnutrition specifically in the Eastern Cape:

PROVINCIAL MALNUTRITION TRACKER: ADMISSIONS AND DEATHS
April 2021 and March 2022.

Source: District Health Information System, EC Health

	DISTRICT	Q1 2021/22		Q2 2021/22		Q3 2021/22		Q4 2021/22		HOTSPOTS
		D	A	D	A	D	A	D	A	
Eastern Cape Province	ALFRED NZO	2	28	4	31	6	31	9	37	St Patricks -Mt Ayliff, Taylor Bequest Matatiele (Cedarville)
malnutrition tracker shows that 1087 children suffered from malnutrition, of this total 116 succumbed to death between April 2021 and March 2022	AMATHOLE	6	21	3	24	4	20	6	19	Madwaleni Butterworth
	BCM	5	4	0	14	3	5	0	8	Frere, Grey, CMH
	CHRIS HANI	3	26	2	20	3	24	3	62	Frontier
	JOE GQABI	3	36	3	15	1	31	2	57	Lady Frere
	NBM	3	59	4	34	6	35	3	32	Dorah Nginza
	OR TAMBO	8	65	6	50	4	45	4	42	St Banarbads
	SARAH BAARTMAN	3	23	2	17	3	30	2	26	Humansdorp, Sundays Valley

- 6.13. As per their submission, for the period between April 2021 and March 2022, 1087 children presented with Severe Acute Malnutrition in the Eastern Cape, and 116 children died because of this condition.
- 6.14. Reflecting on the Minister of Health's submission on SAM, it was proffered that the incidence of SAM rose from 1.9 to 2.4 per 1,000 children under five from 2018/19 to 2022/23, with the Eastern Cape experiencing the most significant increase. The rising SAM cases are believed to be exacerbated by COVID-19 and food price hikes.
- 6.15. From the above it is clear that malnutrition and hunger are not only adversely affecting children in the growth and development, but they are losing their lives as a result of being hungry.

Interconnected issues

- 6.16. From submission received at the Inquiry, it became apparent that issues relating to child malnutrition are interconnected. Both undernutrition and overnutrition seems to coexist

¹⁶ K Hall, Analysis of Statistics South Africa (2022) General Household Survey 2021. Pretoria, Cape Town: Statistics South Africa.

within sometimes the same household or even the same individual.

6.17. Further to this, and also echoed in the submission from the DoH, undernourished mothers are more likely to give birth to low-birth-weight babies and stunted children.

6.18. According to Unicef,¹⁷ stunted children are at risk of becoming overweight adolescents, increasing their susceptibility to diet-related non-communicable diseases (NCDs) such as diabetes and heart disease. South Africa has alarmingly high rates of adult diabetics in Africa and the highest number of deaths attributable to the disease.

6.19. Malnutrition further poses an immediate and long-term threat to children's health, survival, and development. It weakens children's immune systems, contributes to under-five mortality, hinders physical growth and cognitive development, impedes educational and employment prospects, and perpetuates a cycle of poverty and ill-health across generations. This "slow violence" of malnutrition is often overlooked until it exacts a heavy toll in lives.¹⁸

¹⁷ See <https://www.unicef.org/southafrica/stories/what-you-need-know-about-malnutrition-feeding-children> (accessed on 8/9/23).

¹⁸ According to Saunders, malnutrition has profound and widespread effects on various organ systems within the human body. One of the most visible signs of malnutrition is weight loss, which occurs due to the depletion of fat and muscle mass, including organ mass. Interestingly, muscle function begins to decline even before substantial changes in muscle mass become evident. It can occur after a short period of starvation and can result in the body drawing on functional reserves in tissues like muscle, adipose tissue, and bone. Over time, these changes in body composition have direct consequences for tissue function, leading to a loss of functional capacity and a stable, albeit brittle, metabolic state. In cases of insults such as infection or trauma, rapid decompensation can occur. It's crucial to note that unbalanced or sudden excessive increases in energy intake can also put malnourished patients at risk of decompensation and refeeding syndrome. Another organ system significantly affected by malnutrition is the cardio-respiratory system. Malnutrition can lead to a reduction in cardiac muscle mass, resulting in decreased cardiac output. This reduction in cardiac output can impact renal function by reducing renal perfusion and glomerular filtration rate. Additionally, micronutrient and electrolyte deficiencies, such as thiamine deficiency, can affect cardiac function, especially during the refeeding process. Malnutrition also affects diaphragmatic and respiratory muscle function, reducing cough pressure and the ability to clear secretions, thus delaying recovery from respiratory tract infections. The gastrointestinal system is also vulnerable to the effects of malnutrition. Adequate nutrition is essential for maintaining gastrointestinal function. Chronic malnutrition can lead to changes in pancreatic exocrine function, intestinal blood flow, villous architecture, and intestinal permeability. Notably, the colon loses its ability to reabsorb water and electrolytes, leading to abnormal ion and fluid secretion in both the small and large bowel. This disruption in gastrointestinal function can result in diarrhoea, which carries a high mortality rate in severely malnourished patients. Malnutrition additionally has far-reaching consequences beyond the physical realm, affecting the immune system and wound healing. Malnourished individuals experience impaired cell-mediated immunity, cytokine function, complement activity, and phagocyte function. These immune system alterations increase the risk of infections. Furthermore, malnourished surgical patients often suffer from delayed wound healing, which can complicate their recovery. In addition to these physical consequences, malnutrition also takes a toll on an

6.20. It is therefore trite that children who consistently experience hunger, in view of the concept of "slow violence" illustrates how childhood food and nutrition insecurity in South Africa and specifically the Eastern Cape poses a silent but persistent threat to human development.¹⁹

Causes

6.21. What are the causes of the prevalence of malnutrition in South Africa and in the province? During the Commission's Inquiry, written and verbal submissions from various entities, including the University of Fort Hare, Stats SA, UNICEF, and the CI, revealed recurring themes and cross-cutting issues regarding the causes of child malnutrition in South Africa.

6.22. A common theme across submissions was the profound impact of poverty on child malnutrition. Poverty-stricken households often lacked the financial means to provide their children with adequate nutrition, healthcare, and sanitation, perpetuating the cycle of malnutrition. Nearly 59% of South Africa's children live below the upper-bound poverty line, which is insufficient to cover their basic nutritional needs, let alone other essentials like clothing and shelter.

6.23. Women in South Africa further bear the primary responsibility for child care, with only 34% of children living with both biological parents. The majority are cared for by their mother (42%) or by female relatives, mostly grandmothers (19,7%), allowing younger women to seek employment. Despite these arrangements, women face high levels of unemployment, with 35,7% of South African women in the labour force currently without

individual's psychosocial well-being. It can lead to apathy, depression, anxiety, and self-neglect, further highlighting the multifaceted impact of malnutrition on human health. See Saunders "Malnutrition and Consequences" 2010 at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4951875/> (accessed on 8/9/23).

¹⁹ Addressing slow violence must commence during the antenatal period, with a specific focus on maternal nutrition and mental health. Exclusive breastfeeding during the first six months of a child's life is pivotal, but the data from 2016 indicates that only 32 percent of children under six months were exclusively breastfed, falling well below the global target of 50 percent. The pandemic's potential impact on exclusive breastfeeding rates is an added concern. The commercial aspect of slow violence is also a cause for concern, particularly the aggressive advertising of unhealthy and fast foods to children and adolescents. This fuels the "double burden" of malnutrition, involving both undernutrition and overnutrition.

work and actively looking for work.²⁰

- 6.24. South Africa's extreme income inequality, represented by a Gini coefficient of 0.63, positions it as the most unequal country globally among those with available indicators.²¹ These inequalities significantly affect child nutrition and food security, as growing up in impoverished households compromises living conditions and access to services, leading to various forms of deprivation and social exclusion. These factors contribute to poverty traps that are challenging to escape.

Programmes

- 6.25. The Commission received information from various government stakeholders in respect of the programmes currently available to address child hunger in the province.
- 6.26. From the information provided in the submissions, several programs and initiatives are available in the Eastern Cape province to address child malnutrition and promote children's socio-economic rights.
- 6.27. These programs include the School Nutrition Programme, which ensures over 1.5 million children have access to meals, and the Child Support Grant, providing financial support to vulnerable children, benefiting more than 1.6 million children in the province. Additionally, the Grade R Access Enhancement initiative improves access to pre-primary education, while School Safety Programs enhance the safety and security of children in schools. Scholar Transport Programs assist children from disadvantaged backgrounds in reaching school, and support is provided to learners with differentiated learning abilities within the school system. The Provincial Anti-Poverty Programme targets the 39 poorest wards in municipalities, including child-focused interventions, while the Integrated Mother & Child Development & Support Programme emphasises children under 5 and encompasses food supplementation, grants, and advocacy. Access to food parcels, parenting support, income, and technical skills training, as well as targeted home gardens, are also part of the comprehensive effort to combat child malnutrition in the

²⁰ See

<https://www.statssa.gov.za/?p=16533#:~:text=The%20official%20unemployment%20rate%20in,and%20actively%20looking%20for%20work>. (accessed on 11/9/23).

²¹ As per Statista.com.

Eastern Cape province.

Child Support Grant

6.28. Launched in 1998, the Child Support Grant (CSG) provides partial financial assistance to children residing in disadvantaged households. This program entails a cash transfer of R480 (as at the time of the Inquiry), disbursed to primary caregivers who meet the income eligibility criteria. It was introduced in 1998 at a value based on the cost of food and clothing for a child. Depending on the household's depth of poverty it serves as a subsidy to help cover various expenses related to raising a child, including nutrition, transportation, and healthcare expenditures. For many families living below the food poverty line, it does not cover the cost of food.

6.29. The Commission was provided with the following expenditure data from SASSA in the Eastern Cape:



Provincial Investment-Grants Payments

Grant Type	Number of Beneficiaries	Number of Children	Economic Investment	Number of Grants
Care Dependency Grant	22,921	23,343	R 46,219,140	23,343
Child Support Grant	1,081,104	1,977,393	R 949,148,640	1,977,393
Disability Grant	173,711		R 343,947,780	173,711
Foster Care Grant	50,519	68,709	R 73,518,630	68,709
Grant-In-Aid	38,305		R 18,386,400	38,305
Old Age Grant	599,348		R 1,189,836,100	599,348
War Veteran's Grant	6		R 12,000	6
Total	1,965,914	2,069,445	R 2,621,068,690	2,880,815

6.30. From this submission it appeared that almost 2 million children in the province were receiving the CSG as at the date of the Inquiry.

6.31. From various other submissions, it was made clear that widespread adoption of the CSG has led to a decrease in the child poverty rate over time. The CSG was recognised by UNICEF, CI and UFH as one of the most effective instruments for addressing child

poverty and malnutrition in South Africa.

- 6.32. However, UNICEF emphasised that the current CSG amount falls short of covering the basic nutritional needs of children. UNICEF urged for an increase in the CSG to ensure it can adequately address children's nutritional requirements, as malnutrition, particularly stunting, has long-term economic consequences that outweigh the short-term cost of increasing the grant.
- 6.33. This position was expressly echoed by the Children's Institute. The disparity between the food poverty line and the value of social grants, particularly the CSG was again highlighted in their submission.
- 6.34. In this regard it is worth noting that the food poverty line, set at R624 per month per person, is higher than the CSG amount of R480 per month per child. This gap means that the caregivers of many children in South Africa cannot afford to feed their children an adequate diet to fulfil their most basic nutritional requirements.
- 6.35. Furthermore, the food poverty line is based on the consumption habits of impoverished households, which may not necessarily entail a nutritious diet. To cope with food costs, these households often prioritise bulk-purchasable filling foods, which can lead to micronutrient deficiencies and obesity, posing long-term health risks to children.
- 6.36. It is also clear from the submissions received that the value of the CSG has not kept pace with inflation, in particular food price inflation, creating a growing disparity between the grant and the food poverty line. This discrepancy is especially notable in the Eastern Cape, where child food poverty rates are the highest in the country.
- 6.37. Further to this, the declining uptake of the CSG, particularly among children aged 0 to 5 and 6 to 11, which was attributed to difficulties in birth registration and access to the grant for children without birth certificates, appears to be exacerbating this situation.
- 6.38. The CSG nevertheless appears to be the most far reaching, as well as the most effective mechanism to address the basic nutrition needs of children, and conversely respond to and prevent potential malnutrition. It also appears that government through SASSA has

fine-tuned the administrative mechanisms through which these grants reach caregivers, and that access to the CSG in the Eastern Cape is relatively well reflected (just under 2 million of the total of 2,5 million children in the province receive the CSG).

6.39. From the above and the Commission's analysis, the current value of the CSG amount is just not enough to meet the need at hand.

6.40. This is however not a new contention. In 2016 in their concluding observations on the second periodic report of South Africa, the Committee on the Rights of the Child stated as follows:²²

Standard of living

55. The Committee welcomes the substantial expansion in social security coverage for children in the State party, which has resulted in an overall decline in child poverty. Nevertheless, the Committee is concerned that:

(a) The poverty rate in the 1-17 years age group is the highest out of all age groups;

(b) Access to social security benefits for children is hampered by administrative barriers, such as the strict requirement for identity documentation, the lack of clarity around eligibility criteria and the assessment of those criteria, the lack of accessible information on social security benefits, inadequate arrangements for children who have childcare responsibilities, and discrimination and stigma against certain groups of children, such as refugee children and teenage mothers;

(c) The amount of the Child Support Grant falls below the actual cost of meeting the needs of a child living in poverty.

6.41. This excerpt illustrates that it is recognised for years even at treaty body level that RSA has made great inroads in respect of the living standard and needs of children, but, that the grant made available to caregivers in the form of the CSG is simply not enough. The UNCRC, ACRWC and ICESCR have all recommended in their CAs that SA government should increase the CSG amount.

School Nutrition Programme

6.42. The Commission's analysis of the National School Nutrition Programme (NSNP) in the Eastern Cape reveals several key findings and concerns:

²² See

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CRC/C/ZAF/CO/2&Lang=En (accessed 9/12/23).

- 6.43. Firstly, the NSNP, initiated in 1994 as the Primary School Nutrition Programme (PSNP) and later expanded and transferred to the Department of Basic Education in 2004, holds a longstanding and respected position as a government initiative aimed at addressing short-term hunger and enhancing children's learning abilities. Its unique feature is its close alignment with the education sector, underlining its significance in promoting both nutrition and education among school children.
- 6.44. Secondly, an examination of the NSNP's budget allocations and the number of learner beneficiaries in recent years indicates a commendable commitment to addressing the nutritional needs of school children in the Eastern Cape. Budgets increased consistently, with allocations of R1.243 billion in 2019/20, R1.279 billion in 2020/21, and R1.402 billion in 2021/22, signalling financial support for the program's objectives. The number of learner beneficiaries remained relatively stable, with around 1,609,565 learners benefiting in 2019/20, 1,658,239 in 2020/21, and 1,657,557 in 2021/22.
- 6.45. However, the Commission's analysis also raises important concerns. While budget allocation and spending performance appear to be in order, the ultimate impact of the NSNP must be assessed beyond these financial metrics. The effectiveness of the program should be evaluated in terms of its ability to improve the nutrition of school children, enhance attendance rates, and boost learning outcomes. These aspects are critical indicators of the program's success in reducing child malnutrition and fostering educational achievement in the Eastern Cape.
- 6.46. Furthermore, the Commission highlights a significant limitation of the NSNP. The program is specifically targeted at school-going learners, which excludes children who are below the school-going age cohort. According to Section 3 of the South African Schools Act of 1996, children between the ages of 7 and 15 are obligated to attend school. Consequently, children outside this age range may not benefit from this effective poverty alleviation and hunger-combatant program.
- 6.47. It's also noteworthy that some studies have raised concerns about the quality and nutritional value of the food provided through the NSNP.²³ The program's success in

²³ See Nhlapo N, Lues RJF, Kativu E, Groenewald WH. Assessing the quality of food served under a

addressing child malnutrition not only relies on its reach but also on the nutritional quality of the meals offered to students. Ensuring that the provided meals are balanced and nutritious is essential to achieving the program's goals.

- 6.48. The Commission therefore underscores the significance of the NSNP in addressing child malnutrition and promoting education in the Eastern Cape. While the program's budgetary support and reach are commendable, the focus should now shift toward assessing its real impact on child nutrition, attendance, and learning outcomes. Additionally, consideration should be given to extending the program's coverage to include children outside the school-going age group and addressing concerns about the nutritional quality of the meals provided.

Early Childhood Development Intervention

- 6.49. In accordance with Chapter six of the Children's Act No 38 of 2005 and the Early Childhood Development (ECD) Strategy, the department provides financial assistance to children as a means to alleviate factors contributing to social problems within the province. Part of this financial assistance is allocated to ensure that children receive proper nutrition.

- 6.50. From submissions received, during the fiscal year 2019/20, the DSD allocated a sum of R125.841 million to support 65,064 children in the Eastern Cape across 2,800 ECD centres with nutrition. In the subsequent fiscal year 2020/21, an amount of R136.835 million was allocated, benefiting 60,439 children across 2,906 centres. In the most recent fiscal year, 2021/22, the department disbursed R138.864 million to assist 73,747 children in 3,045 ECD centres.

- 6.51. The Commission observes that, based on the information provided (with reference to 2021 data from StatsSA General Household Survey published in 2022), the ECD subsidy is reaching an average of only 60,000 to 70,000 children under the age of 6 in the Province. This is notably low considering the total population of 842,000 children under 6, of whom 55% are living below the food poverty line.

South African school feeding scheme: A nutritional analysis. S Afr J Sci. 2015;111(1/2). See also Mafugu at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7883013/> (accessed on 15/9/23).

6.52. Furthermore the ECD subsidy is calculated at only R17 per child and has not been increased for many years. This subsidy has to also cover salaries of the ECD practitioners, all equipment, property maintenance etc and food for the children.

6.53. Additionally, it has come to light that ECD subsidies, which are delivered as conditional grants, can be withheld from ECD centres that fail to meet specific public finance requirements. The Provincial Treasury reported that 73 ECDs did not receive their allocated funds in the fourth quarter because they were unable to demonstrate that 50% of the previous tranche had been expended, as required by the conditional grant conditions.

6.54. This raises serious concerns, as it suggests that not only is the amount provided to these children very little, the children's access to potentially life-saving nutrition may be contingent upon whether the management of their respective ECD centres can comply with Treasury regulations.

Provincial Anti-Poverty Programme

6.55. The Commission's assessment of the facts concerning the Provincial Anti-Poverty Programme in the Eastern Cape reveals several insights and concerns.

6.56. Firstly, the Commission acknowledges the efforts made through the Provincial Anti-Poverty Programme to target child malnutrition in the province's poorest 39 wards. This focused approach recognises the specific needs of these areas and aims to provide poverty alleviation tools, including children's packages. However, the Commission emphasises that, considering there are 691 wards in the Eastern Cape, this initiative, while valuable, addresses only a fraction of the broader issue of child malnutrition.

6.57. The Commission draws attention to the alarming 40% unemployment rate in the Eastern Cape,²⁴ a factor closely associated with increased poverty and reduced access to sufficient food resources. This high unemployment rate underscores the complexity of

²⁴ See <https://www.ecsecc.org.za/newsitem/the-eastern-cape-unemployment-rate-declined-by-21-#:~:text=ECSECC%20has%20published%20its%20Eastern,employed%20people%20increased%20by%203.0%25>. (accessed on 13/9/23).

child malnutrition and its underlying causes as pointed out above, extending beyond mere food availability to encompass socioeconomic factors, in particular lack of income to purchase food.

6.58. Furthermore, the Commission notes that malnutrition often goes unreported, suggesting that the true extent of the problem may be significantly underestimated. This underreporting adds another layer of complexity towards making interventions targeted.

6.59. Therefore, while the Provincial Anti-Poverty Programme's targeted approach is commendable, the vast scale of child malnutrition in the Eastern Cape demands a more comprehensive and immediate response. The Commission again asserts the urgent need to expand the program to cover a more representative portion of the province's population. This expansion should encompass a larger number of wards and address systemic issues such as unemployment and underreporting that contribute to child malnutrition.

Birth Registration

6.60. The birth registration program in South Africa assumes a pivotal role in the nation's efforts to combat child malnutrition, aligning with the core principles set forth in the Social Assistance Act of 2004. This act lays out the rules and procedures for social grants such as the CSG.

6.61. It is evident from the submissions received that there has been a decline in the uptake of the CSG for children aged 0 to 5 years and 6 to 11 years in South Africa during the past year, encompassing 2021 and 2022, with the Eastern Cape experiencing a substantial reduction of 27,000 children benefiting from the CSG. A contributing factor identified is the challenges associated with birth registration and access to the CSG, particularly for children lacking birth certificates.

6.62. Analysis reveals a significant dip in birth registrations in 2020, and while data for 2021 was unavailable at the time of the presentation, there were concerns that the recovery in birth registrations may have been incomplete due to capacity and backlog issues at the Department of Home Affairs.

- 6.63. Birth Registration was therefore identified as a key programme to address malnutrition as under section 13(1) of the Social Assistance Act, caregivers applying for a child grant are typically required to provide both their own identification (ID) and the child's birth certificate. These documents are essential to prove the applicant's status as a South African citizen, permanent resident, or refugee, thereby qualifying them for the grant.
- 6.64. However, the Act also demonstrates foresight by incorporating exceptions to these requirements. When caregivers lack IDs or children lack birth certificates, a proviso to Regulation 13(1) ensures they are not unjustly deprived of their right to vital social grants. In such cases, SASSA is mandated to accept grant applications even in the absence of these crucial documents. Instead, SASSA issues an affidavit, which caregivers can complete and sign, and requests alternative identifying documents such as the child's road to health card, thereby bypassing the need for an ID or birth certificate.
- 6.65. This provision within the Social Assistance Act acknowledges the reality that some caregivers may face barriers in obtaining these documents, such as bureaucratic hurdles or financial constraints. By facilitating access to social grants without imposing insurmountable requirements, the Act underscores the government's commitment to ensuring that vulnerable children receive the support they urgently need to combat malnutrition and enjoy a decent standard of living.
- 6.66. In essence, the Social Assistance Act, through its flexible approach to documentation requirements, underscores the importance of birth registration and social grants in South Africa's efforts to combat child malnutrition. It acknowledges that while these documents are vital, they should not become insurmountable obstacles for those seeking assistance, particularly in cases where malnutrition poses a pressing threat to the well-being of children.
- 6.67. It was apparent from the testimonies however that the proviso to regulation 13(1) was not being popularised, and was hardly known or understood by the public. Caregivers may therefore still be under the impression that they will not be able to access the CSG without a birth certificate, which may in turn affect the access such child may have to assistance towards nutrition, and a decline in CSG uptake.

Underspending

- 6.68. Underspending in critical programs has emerged as a concerning issue with implications for access to basic nutrition and child welfare in the Eastern Cape. In recent years, and as per submissions from the Provincial Treasury there has been a notable pattern of underspending, particularly by the DSD, amounting to nearly 500 million in the past three years. This underspending has raised questions about the allocation and utilisation of funds intended for vital programs addressing child malnutrition and poverty.
- 6.69. Although some reasoning was provided by DSD for this occurrence, the consequence of underspending on these programs has been particularly grave, given the high rates of child poverty and malnutrition in the Eastern Cape.
- 6.70. The underspending issue is further complicated by the return of unspent funds to the provincial revenue fund, rather than their effective utilisation in addressing pressing needs. While Treasury clarified that returned funds could be reallocated to different priorities, concerns were raised about the impact on child welfare, especially concerning malnutrition, as a significant percentage of children in the province suffer from stunting due to malnutrition.
- 6.71. The recurring theme throughout exchanges was the need for efficient planning, procurement processes, and improvements in systems and controls. While underspending is problematic, there is a growing consensus that simply increasing spending is insufficient. The focus should be on ensuring that funds are spent effectively to make a substantial impact on the nutritional status and welfare of vulnerable children in the province. Urgency in addressing child malnutrition and hunger has been highlighted repeatedly, emphasising the need to streamline processes to expedite the delivery of food and assistance to those in need.

The Dichotomy of Food Wastage and Starving Children

- 6.72. The submissions from both the CSIR and FoodFWD SA present a stark reality: South Africa grapples with significant food loss and waste, even as children suffer from hunger

and malnutrition. The CSIR's study estimates that a staggering 10.3 million tonnes of food were wasted in the country in 2021, a troubling 13% of the total food supply. This colossal food wastage poses a dire challenge to food security and the fight against child malnutrition. The impact goes beyond squandering valuable resources; it directly contributes to a lack of accessible and nutritious food for children who need it most.

6.73. Submissions converge on the importance of addressing key contributors to food waste, such as post-harvest handling, storage, and consumption stages. These areas demand immediate attention to minimise waste and perhaps ensure that nutritious food reaches children, particularly in impoverished regions like the Eastern Cape. FoodFWD SA's initiative to combat child malnutrition underscores the urgency of the issue, with children suffering from food poverty in rural communities. The collaboration with numerous non-profit organisations showcases the vital role that NGOs can play in distributing surplus food resources to vulnerable children.

6.74. The Commissions analysis is that the critical message arising from these submissions is clear: South Africa cannot afford to waste such vast quantities of food while children are dying of hunger and malnutrition. Urgent strategies are needed to bridge the gap between food wastage and children in need. These strategies should focus on improved agricultural practices, enhanced infrastructure for food storage and transportation, increased consumer awareness about food waste, and above all, collaboration among stakeholders. By redirecting wasted food towards hungry mouths, South Africa can take significant steps toward combating child malnutrition and ensuring a brighter future for its children.

Food Security and Development Intervention

6.75. The submission from the DRDA and to some extent AgriSA presents a compelling perspective on the potential of food production and small-scale farming in addressing child hunger in the Eastern Cape province. From the viewpoint of the Commission, several conclusions can be drawn through a factual analysis of this submission, all of which have profound implications for the fight against child hunger in the region.

- 6.76. Firstly, the DRDA's acknowledgment of agriculture's potential as a source of employment for unskilled and semi-skilled workers aligns with a critical need in combating child hunger. Increased agricultural activity translates into more job opportunities for local communities, potentially improving household incomes and food security.
- 6.77. Secondly, the recognition of the Eastern Cape's agricultural exports, such as wool, mohair, and citrus, underscores the province's capacity to contribute to its own food security. By optimising local production and minimising the reliance on imports, the province can enhance its ability to feed its population, including vulnerable children.
- 6.78. However, the Commission also notes the harsh reality of the agricultural sector in the province. The domination of a few major players in the sector, coupled with the underutilisation of land, presents a significant challenge. This is especially relevant to child hunger because a more equitable distribution of resources and support for small farmers could lead to increased food production and accessibility for vulnerable populations.
- 6.79. The Commission acknowledges efforts to involve the private sector in supporting smallholder farmers and its emphasis on training the next generation of farmers resonate with the goal of addressing child hunger. By fostering partnerships and capacity-building initiatives, there is a potential to improve food production and reduce food insecurity among children.
- 6.80. The need for support directly to vulnerable groups, particularly women and small farmers on communal land, is pivotal. Child hunger often disproportionately affects these marginalised communities, and targeted efforts to boost productivity within these groups can have a substantial impact.
- 6.81. From stakeholder submissions, the interplay between agriculture and child hunger in the Eastern Cape is clear. The potential of small-scale farming to alleviate child hunger is evident, and a concerted effort to address the challenges highlighted in these submissions could significantly improve the food security landscape for vulnerable children in the province.

7. Analysis and findings

Introduction

- 7.1. The Commission's analysis and findings herein find application across both national and provincial areas of competence and responsibility. At times this will involve an intersection of national and provincial considerations and at others a separation thereof. This context will be borne out in the findings themselves.

The Constitution and International Obligations

- 7.2. The Commission's analysis of the legal framework related to the Inquiry into Child Malnutrition in South Africa involves a comprehensive examination of the constitutional provisions pertaining to children's rights and their right to food and basic nutrition. This analysis combines the key elements from the previous responses to provide a detailed overview of the relevant legal principles and considerations.
- 7.3. The South African Constitution serves as the foundation of this analysis and for protecting the rights of children, particularly in the context of child malnutrition. Section 7(2) requires the state to respect, protect, promote, and fulfil the rights in the Bill of Rights.

The right to food and basic nutrition

- 7.4. South Africa's Constitution distinguishes between Section 27 and Section 28 concerning the right to food, particularly regarding child malnutrition. This distinction is fundamental in understanding the state's obligations.
- 7.5. Section 27(2) recognises the right to of everyone to have access to sufficient food but acknowledges that its realisation is subject to resource availability. The state must take reasonable legislative and other measures to progressively realise this right within its available resources. Importantly, "available resources" include those within the state as well as resources obtainable from the international community through international assistance and cooperation.

- 7.6. Section 28(1)(c) imposes a distinct obligation concerning children's right to basic nutrition. While parents or guardians bear the primary responsibility for providing food to children, the state must step in when parents or guardians are unable to do so – a principle laid out clearly by the Constitutional Court in *Grootboom*²⁵ and recently re-inforced by the High Court in the *NSNP case*²⁶. Children are considered vulnerable due to their inability to provide for themselves, and this vulnerability necessitates additional constitutional safeguards.
- 7.7. Importantly, there are no internal limitations on children's rights in Section 28(1)(c). Unlike some other socio-economic rights in the Constitution, children's rights, including the right to basic nutrition, are not subject to progressive realisation. This does not necessarily exclude the rights in section 28 from possible limitation under section 36 of the Constitution (the limitation clause that allows laws of general application to limit rights under certain circumstances). However, during the Inquiry the state did not raise (nor did the Commission note of its own accord) any cause for government's inability to eradicate child malnutrition other than a lack of resources, which feeds directly back into the immediate realisability of the right under section 28(1)(c). This obviates further consideration under section 36, given that the only law of general application the state may have been able to rely on in this context would have been an internal limitation clause, such as that apparent in section 27, but no such clause exists in section 28. This places a heightened obligation on the state to take all possible measures to immediately ensure that all children in South Africa receive basic nutrition.
- 7.8. Basic nutrition, akin to sufficient food, signifies access to food that supports a healthy standard of living. This includes considerations of access, quality, and quantity. The rights to basic nutrition and the rights to clean drinking water and healthcare are thus essential in combating disease and malnutrition among children.
- 7.9. The state therefore has a constitutional duty to ensure that children have access to these essential services and protections. This includes measures to address child malnutrition

²⁵ Government of the Republic of South Africa and Others v Grootboom and Others (CCT11/00) [2000] ZACC 19 at para ____.

²⁶ Equal Education and Others v Minister of Basic Education and Others [2020] 4 All SA 102 (GP) at para 53

and food insecurity as well. While providing for children's needs under Section 28(1) may raise questions about resource allocation, the state's obligation to secure children's basic rights, including the right to food, remains paramount.

- 7.10. Child malnutrition in addition should not be viewed in isolation but must be understood within the broader constitutional framework of interconnected rights. In this regard the right to food is closely linked to several other constitutional rights.

The right to human dignity

- 7.11. The right to dignity, as articulated in Section 10 of the Constitution, emphasises the importance of ensuring a dignified existence for all individuals. In the context of child malnutrition, children deprived of adequate food experience indignity and a diminished quality of life. Denying children access to proper nutrition can be seen as an affront to their dignity.

The right to life

- 7.12. Similarly, section 11 of the Constitution recognises the right to life, which encompasses not only mere existence but also the right to an existence worth living. In cases of child malnutrition leading to starvation or other severe health consequences such as SAM and stunting, children's right to life is directly impacted. It is essential to ensure that child malnutrition does not result in the loss of life.

Equality

- 7.13. Section 9 of the Constitution further guarantees the right to equality and prohibits unfair discrimination.
- 7.14. Child malnutrition affects marginalised and disadvantaged groups disproportionately, stemming from and perpetuating existing inequalities. It is crucial to address the reality that, according to StatsSA, black children are 12 times more likely, and coloured children seven times more likely than white children to live in households that experience food

insecurity²⁷. These statistics are borne out in studies across the nation showing that malnutrition, together with all the severe symptoms and societal ills it causes, affects black children in numerous measures of magnitude more than white children²⁸. The court in *Social Justice Coalition v Minister of Police*²⁹ has already recognised that a lack of government support that disproportionately negatively affects the rights of one or more racial groups more than others can constitute indirect discrimination on the basis of race. The Commission sees no reason that the disproportionate harm suffered by black and coloured children due to malnutrition as compared to white children is any different from the disproportionate impact that inadequate policing has on primarily black communities as found in the *Social Justice Coalition* case and why the former should not also be considered indirect unfair racial discrimination.

- 7.15. Addressing food security and nutrition for children contributes to reducing socio-economic and racial disparities, aligning with the principles of equality enshrined in the Constitution.
- 7.16. In addition to its constitutional commitments, South Africa is also bound by international human rights instruments and in terms of section 39(1)(b) of the Constitution all courts, tribunals and forums, when interpreting the Bill of Rights, *must* take into account international law. The International Covenant on Economic, Social and Cultural Rights (ICESCR) obligates states to take steps to achieve the full realisation of the right to food progressively. However, these obligations do not absolve the state from immediate action. States must demonstrate their commitment to fulfilling the right to food by laying down a roadmap towards its full realisation and allocating available resources efficiently.
- 7.17. Similarly, the CRC calls upon every state to take appropriate measures combat malnutrition and facilitate the provision of adequate nutritious foods. The CRC and the African Charter on the Rights and Welfare of the Child reinforce this obligation. They require the state to ensure adequate nutrition for children's best attainable standard of health and, in cases of need, provide material assistance and support programs,

²⁷ <http://childrencount.uct.ac.za/indicator.php?domain=4&indicator=32>.

²⁸ Kruger, Gizelle, Pienaar, Anita E., Coetzee, Dané, & Kruger, Salome H.. (2014). Prevalence of stunting, wasting and underweight in grade 1-learners: The NW-CHILD Study. *Health SA Gesondheid (Online)*, 19(1), 1-7. <https://dx.doi.org/10.4102/hsag.v19i1.750>.

²⁹ See *Social Justice Coalition and Others v Minister of Police and Others* [2018] ZAWCHC 181; 2019 (4) SA 82 (WCC).

particularly in nutrition.³⁰

7.18. The Constitutional foundation, read with South Africa's international obligations therefore creates a clear baseline which determines that:

7.18.1. Children have an immediately enforceable right to basic nutrition; and

7.18.2. The State must take steps to immediately realise this right.

Shortcomings in Application of the CSG and NSNP

7.19. As revealed by submissions to the Commission, the South African government has implemented pivotal programs, the Child Support Grant (CSG) and the National School Nutrition Programme (NSNP), to meet its constitutional obligations concerning children's right to basic nutrition. Nevertheless, these programs exhibit significant shortcomings when scrutinised from a legal standpoint, warranting both extensions of scope and value enhancements.

Child Support Grant (CSG):

7.20. The Child Support Grant (CSG) undeniably serves as a vital lifeline for countless families; however, it falls short of comprehensively addressing the nutritional needs of eligible children.

7.21. The paramount concern lies in the grant's value, which does not provide sufficient financial support to ensure that all eligible children receive the nutrition essential for their growth and development.

7.22. This financial inadequacy assumes critical importance in light of the fact that a considerable segment of South Africa's children lives below the food poverty line and in light of the persistent and growing rate of unemployment. Failing to provide adequate financial support to these vulnerable children directly contradicts the state's constitutional duty to secure children's access to proper nutrition.

³⁰ Article 27(3) of the Convention on the Rights of the Child (1989) and Article 20 of the Charter on the Rights and Welfare of the Child (1990).

- 7.23. Therefore, it becomes imperative to consider an increase in the value of the CSG, alternatively the creation of a new grant especially targeted at improving child nutrition. Such an enhancement would align with the state's constitutional obligation to ensure that children receive the nutrition they require, thereby bridging the gap between the current grant value and the minimum threshold necessary for basic nutrition.
- 7.24. By increasing the grant's value, the state would better fulfil its duty to provide essential nutritional support to children, thereby upholding their constitutional rights more effectively.

National School Nutrition Programme (NSNP):

- 7.25. Shifting our focus to the NSNP, this program emerges as a monumental and successful intervention. Nevertheless, it exhibits a critical coverage gap by primarily targeting school-going children, excluding those below school-going age.
- 7.26. In 2019, and in his State of the Nation Address that the function would migrate from the Department of Social Development to the DBE. To this end, the two departments established various governance structures to ensure a seamless transfer of responsibilities. Provisions from both Chapter 5 and Chapter 6 of the Children's Act, 2005 (Act No. 38 of 2005) have been identified for transfer.
- 7.27. The fact that the NSNP does not yet apply to children in pre-schools raises legitimate questions about the program's reasonableness. Younger children, especially those in their formative years, are highly susceptible to Severe Acute Malnutrition (SAM), and the NSNP could increase its impact by also catering to pre-schools and creches.
- 7.28. The NSNP's current omission of this age group hinders a comprehensive approach to child nutrition and compromises the realisation of children's right to basic nutrition.
- 7.29. Furthermore, while Early Childhood Development (ECD) grants do exist, their limited reach falls significantly short of the scale of need, rendering them insufficient as a sole alternative to the NSNP for younger children. Even though not all children under the age of seven attend ECD centres, the NSNP is still missing a large demographic of children in these institutions that would otherwise have access to nutrition if the NSNP was extended to these facilities and the younger children in attendance. This is particularly

relevant given that the Department of Education has taken over responsibility for ECD centres from the DSD...”

- 7.30. Legal considerations therefore necessitate a thorough examination of the feasibility and necessity of scaling up the NSNP to bridge the substantial gap in nutritional support for all vulnerable children, including those in the ECD system. Simultaneously, enhancing the value of the CSG is equally imperative to address the financial shortfall faced by many families (especially when considering that not all children younger than seven are in ECD centres and thus would not be covered by the NSNP even if it were expanded) aligning with the state's constitutional obligations to ensure adequate nutrition for children.
- 7.31. By tackling these issues comprehensively, South Africa may further advance the protection of children's constitutional rights to proper nutrition, dignity, and a healthy life.

Provincial Integrated Mother & Child Development Program

- 7.32. The Integrated Mother & Child Development & Support Program, as led by the DSD, holds immense potential as a vital instrument in combating child poverty and reducing infant mortality rates within the Eastern Cape Province.
- 7.33. This program, initially piloted in the OR Tambo and Alfred Nzo districts, is primarily designed to empower women with children under 5 years of age, offering a comprehensive approach to address the multifaceted challenges of child poverty and malnutrition.
- 7.34. However, the evidence and data presented clearly indicate that while this program exists, it has not been scaled up to adequately address the pressing needs of all children who may be affected by Severe Acute Malnutrition (SAM) and malnutrition in general within the province. This is a profound concern, given the alarming increase in SAM cases and related deaths across the province. The deaths reported in the OR Tambo district, which was a pivotal component of the pilot program, underscore the limitations of the current interventions implemented by the Department.
- 7.35. The pillars of this program encompass research and community profiling, food security

and nutrition, income generation and entrepreneurship, and skills training and capacity building. These are commendable strategies; however, several concerns emerge.

- 7.36. The DSD's practical capacity to effectively implement and manage the program at a scale commensurate with the urgency of the child malnutrition crisis is a critical concern. The program's current structure raises questions about its ability to provide a comprehensive and timely solution for addressing both immediate and long-term consequences of Severe Acute Malnutrition (SAM) and malnutrition in the province. Additionally, the program's focus on 39 wards within 8 districts prompts consideration of whether this limited scope is adequate to combat the widespread and escalating trend of SAM, particularly when Section 28(1)(c) of the Constitution implies a broader application to address child malnutrition.
- 7.37. The issue of unregistered children exacerbating the malnutrition problem, as many social security benefits require a birth certificate, underscores the need for the involvement of the Department of Home Affairs (DHA) in addressing this crucial factor.
- 7.38. Furthermore, the absence of real-time data sharing by the DSD and DoH since the hearings is a noteworthy concern. Exploring the potential for a centralised data gathering and predictive analysis system, similar to a "war room," offers the possibility of more timely and proactive responses to hotspots while also enabling predictions about potential areas of concern.
- 7.39. Regarding budget advocacy, it is essential to ascertain whether the Department has actively engaged in advocating for an increase in the allocated budget to provide an immediate response to the crisis or considered seeking an immediate cash injection from the Medium-Term Budget Policy Statement (MTBPS).
- 7.40. Lastly, the surrendering of funds, specifically the R67 million designated for food aid, raises questions about the planning and execution of policies, despite the availability of allocated resources. This occurrence prompts a closer examination of the financial management and allocation processes within the DSD.
- 7.41. The Commission deems these concerns as compelling, highlighting the need for a more

comprehensive and coordinated response to the child malnutrition crisis in the Eastern Cape Province. While existing programs address certain aspects of the issue, they appear insufficient to address the immediate and widespread challenges presented by SAM and malnutrition. The evidence of the HoD further underscores this assertion, acknowledging the necessity for a more coordinated structure, potentially a "war room" accountable to the Premier, to effectively respond to this crisis.

Responding to a pertinent need

7.42. From the above, it is indisputable that the need for an increase in the Child Support Grant (CSG) is both evident and pressing. This grant's current value is insufficient to meet the basic nutritional requirements of vulnerable children.

7.43. However, the Commission remains acutely aware of the nation's constrained fiscal capacity and the prevailing economic challenges. Given this reality, a phased or staggered approach may be the most prudent and practical way forward. While this may seem to run counter to the principle that a child's right to basic nutrition is immediately realisable, it is step in the right direction

7.44. In this context, Section 12A of the Social Assistance Act (SSA) becomes a pivotal tool for addressing the grant's inadequacy. This legal provision permits the introduction of additional payments, allowing for an incremental and controlled adjustment to the CSG. Such a measured approach not only recognises the limitations imposed by the country's fiscal conditions but also ensures that the grant's increased value is implemented responsibly, safeguarding its long-term sustainability. By leveraging Section 12A, the Commission advocates for a structured CSG enhancement plan that aligns with the nation's economic realities while safeguarding the welfare of its vulnerable children.

7.45. One possible approach, in the short term, is to consider a differentiated increase in the CSG specifically targeted at vulnerable children below school-going age. This approach acknowledges that these children are excluded from the benefits of the NSNP, which primarily targets school-going learners. By using Section 12A of the SSA, the government can announce a top-up to the CSG exclusively for children in this age group.

- 7.46. The justification for such an increase would be based on the argument that these vulnerable children do not receive the School Nutrition Programme (SNP) benefits and face challenges in accessing the Early Childhood Development (ECD) program. This age group is also most at risk of malnutrition and stunting. Moreover, the current CSG amount, which stands at R480, falls short of the estimated poverty food line of R624.
- 7.47. This approach aligns with international human rights standards, including recommendations from the Committee on Economic, Social, and Cultural Rights (CESCR), and the ACERWC which has called for South Africa to align the CSG with the poverty food line. It recognises that the CSG, in its current form, does not meet the adequacy standards outlined by CESCR.
- 7.48. The Commission notes that the CSG is a national competency, and the resources for grants are within the jurisdiction of the National Department of Social Development and National Treasury. However, the Commission is of the considered view that a province such as the Eastern Cape must advocate for such increases within the framework of national policy, highlighting the urgent need to address the nutritional needs of vulnerable children below school-going age.

Potential State of Disaster

- 7.49. In light of the harrowing statistics and the immediate enforceability of Section 28(1)(c), which unreservedly safeguards children's rights to basic nutrition, the Eastern Cape Province faces an unprecedented and dire situation. The data reveals an alarming 27% stunting rate among children in the Eastern Cape, the disproportionately vast majority of whom are black children, painting a stark picture of the urgency of the matter. The Disaster Management Act (Act No. 57 of 2002) offers a compelling legal avenue for the province to consider addressing this crisis.
- 7.50. Section 1 of the Disaster Management Act provides a definition of a disaster. It characterises a disaster as "a "progressive or sudden, widespread, or localised, natural or human-caused occurrence" that results in various significant consequences, including death, injury, disease, damage to property and infrastructure, or the disruption of community life. Crucially, for our analysis, it adds that a disaster must be of a magnitude

that exceeds the affected community's ability to cope with its effects using only their own resources.

7.51. Applying this legal framework to the child malnutrition crisis, the province can argue that the situation aligns with the criteria for a disaster as defined by the Disaster Management Act. The heart-wrenching revelation of 116 children succumbing to Severe Acute Malnutrition (SAM) between April 2021 and April 2022, along with an astonishing 1087 children suffering from malnutrition in the same period, underscores the extent of this crisis. SAM, as established, arises predominantly from inadequate access to food due to a complex interplay of social, economic, and environmental factors. And these are only the reported cases.

7.52. Moreover, responsible factors, such as household food insecurity, poverty, inadequate maternal nutrition, and insufficient breastfeeding and complementary feeding, further emphasise the severity of the situation. These deaths and cases of malnutrition span across six districts and affect two metropolitan areas within the province.

7.53. In the legal context defined by the Disaster Management Act, it becomes apparent that communities afflicted by the factors causing SAM, notably poverty and food insecurity, lack the inherent capacity to cope with these devastating effects through their own resources. Therefore, there is a compelling basis to argue that the child malnutrition crisis qualifies as a disaster, warranting urgent and comprehensive intervention.

7.54. The Disaster Management Act, in Section 23(5)(a), provides for the classification of a disaster as a provincial disaster if it affects more than one metropolitan or district municipality in the same province or if a single metropolitan or district municipality in the province, with or without assistance from local municipalities, cannot effectively manage it. This provision is directly applicable, as the deaths and malnutrition cases span across several areas within the Eastern Cape.

7.55. Crucially, the Disaster Management Act mandates the establishment of a disaster

management framework and centre to deal with the effects of such disasters. Therefore, there exists a strong legal foundation for the province to declare a state of disaster and, in alignment with previous successful practices during the COVID-19 pandemic, establish a coordinated war room or command centre within the Office of the Premier. This structure, as per Section 21 of the Intergovernmental Relations Act, can be instrumental in promoting efficient and effective intergovernmental relations to address the child malnutrition disaster comprehensively.

7.56. By comparison, if thousands of schools in the Eastern Cape suddenly ran out of funding or for any other reason ceased operating at full capacity, thus leading to 27% of children in the province finding themselves without a basic education, this would justify the declaration of a state of emergency, both in the best interests of the children and in consideration of the fact that the right to a basic education is, just like the right to basic nutrition, immediately realisable.

7.57. In acknowledging the legal framework and the immediate enforceability of Section 28(1)(c), the province has a constitutional and moral imperative to act decisively. A declaration of a state of disaster, supported by a coordinated war room, would exemplify the province's unwavering commitment to addressing this crisis urgently and effectively, and would prove invaluable to ensuring that the nutrition rights of children are immediately realised.

Farming towards Food Security

7.58. The Commission wishes to emphasise the pivotal role played by the DRDAR in the Eastern Cape, not only in encouraging and supporting farming but also as a crucial component of the solution to address the issue of hungry children in the province. While South Africa may not be classified as a food-scarce nation, the imperative for harnessing the agricultural potential within the Eastern Cape cannot be understated in the context of addressing child malnutrition.

7.59. This mandate finds its foundation in a complex legal framework that includes the South African Constitution, where embedded within are critical rights pertaining to access to sufficient food and land ownership. These rights are inextricably linked to the issue of child malnutrition, as ensuring food security is a fundamental step toward addressing the

hunger crisis among children.

- 7.60. Furthermore, the National Development Plan (NDP) emphasises the significance of agriculture, rural development, and food security in propelling South Africa's socioeconomic progress. Aligning the DRDAR's initiatives with the NDP's vision provides a clear pathway for the department to contribute significantly to the solution to child malnutrition in the Eastern Cape.
- 7.61. In synergy with the NDP, the Comprehensive Agricultural Support Programme (CASP) extends its reach to emerging farmers and agricultural production, with potential applicability in the Eastern Cape. This program, when strategically directed, can serve as a cornerstone for ensuring that sufficient and nutritious food reaches vulnerable children in the province.
- 7.62. The multifaceted approach of the DRDAR encompasses land reform laws and environmental legislation, ensuring that agricultural practices align with sustainability, equitable land use, and environmental protection. By integrating these aspects with child-focused nutrition programs, the department can create a holistic solution that addresses both immediate and long-term needs.
- 7.63. Within the cooperative governance paradigm, cooperative efforts across different tiers of government emerge as a fundamental tenet for effective implementation of agricultural and rural development initiatives. The DRDAR's collaboration with various governmental programs, nationally and provincially, can be strategically refocused to ensure that food produced reaches those in dire need, particularly hungry children.
- 7.64. The Commission therefore underscores that the DRDAR's mandate to encourage and support farming in the Eastern Cape provides a clear link to a comprehensive solution for addressing the issue of hungry children in the province. By strategically aligning its programs, resources, and initiatives with the broader goals of food security and equitable land use, the DRDAR can play a pivotal role in ensuring that no child in the Eastern Cape goes hungry, thereby contributing significantly to the province's overall development and the broader national goals of child welfare and nutrition.

Food Wastage and Donation

- 7.65. In considering the critical aspects of addressing child malnutrition highlighted by the submissions from the CSIR and FoodForward, it becomes evident that curbing food wastage and establishing effective connections between food manufacturers and NGOs for distributing surplus food to vulnerable households are pivotal. From a legal perspective, several key points emerge.
- 7.66. Firstly, while there might not be a specific legal obligation imposed on manufacturers to prevent food wastage, South Africa's constitutional framework, particularly the right to access sufficient food, implies a broader societal duty. Consequently, food wastage, particularly in the context of child malnutrition, may be regarded as a failure to fulfil this constitutional duty.
- 7.67. Secondly, the responsibility to establish connections between manufacturers and NGOs for food distribution is not explicitly mandated by law, but it is indirectly supported by various legal and policy instruments. For instance, the National Development Plan (NDP) underscores the significance of partnerships between the government, businesses, and civil society in addressing critical challenges such as food security. This policy framework provides a strategic basis for encouraging collaboration between food manufacturers and NGOs.
- 7.68. Furthermore, the Nonprofit Organisations Act offers a regulatory framework for NGOs and their operations, although it does not compel manufacturers to engage in collaborations. However, it sets the stage for NGOs to operate and engage with other entities. Moreover, tax incentives may exist to incentivise manufacturers to donate surplus food to NGOs, thereby reducing food wastage.
- 7.69. Additionally, South Africa's Consumer Protection Act (CPA) outlines provisions related to donations and liabilities, primarily concerning consumer goods. Although this legislation does not specifically address food donations, there is potential for relaxing donor laws during a state of hunger or crisis. Section 61 of the CPA, which deals with liability for damage caused by goods, provides exceptions for certain situations, including

compliance with public regulations. In a crisis like child malnutrition, where immediate food distribution is critical, relaxing certain aspects of the CPA could facilitate the timely donation of surplus food to those in need, aligning with the broader constitutional duty to ensure access to sufficient food.

7.70. Lastly, at the local level, municipalities might leverage developing regulations or bylaws related to food handling and distribution. These local regulations can vary and may influence how food manufacturers and NGOs conduct their operations within specific municipalities.

Findings

7.71. In view of the analysis above, the Commission makes the following findings:

7.69.1 The Right to Dignity

- a) The Commission finds that the state's failure generally to prevent child malnutrition in the Republic and in particular the Eastern Cape constitutes a violation of the right to dignity of all children affected thereby.
- b) In particular, the Commission finds that the inadequate Child Support Grant (CSG) and the exclusion of children in ECD centres from the National School Nutrition Program (NSNP) infringe upon the right to dignity of children nationally.
- c) The CSG, in its current form, fails to provide for the basic needs of children, including proper nutrition, which affects their physical and psychological well-being.
- d) Similarly, the exclusion of certain vulnerable children in the ECD space from the NSNP exacerbates their vulnerability and undermines their dignity.

7.69.2 The Right to Life

- a) The Commission finds that the prevalence of severe acute malnutrition (SAM) and malnutrition-related deaths among children in the Eastern Cape, as evidenced by the data on child mortality due to SAM, indicates a violation of the right to life.
- b) The state's failure to ensure access to adequate food and nutrition directly contributes to preventable loss of life among children in the Eastern Cape, constituting a violation of

their right to life.

7.69.3 The Right to Food

- a) The Commission finds that the right to food in Section 27(1)(b) of the Constitution has been violated across numerous levels of government. The evidence presented demonstrates that many children in the Eastern Cape and South Africa as a whole lack access to sufficient food, leading to malnutrition and hunger.
- b) The state's obligation to take reasonable legislative and other measures, within its available resources, for the progressive realisation of this right has not been met. This violation is evident in the enduring child malnutrition crisis in the province.
- c) Even if the state were to argue and even show, however, that it was taking reasonable measures to ensure the *progressive* realisation of this right, the right to basic nutrition afforded to children by section 28(1)(c), as set out below, is immediately realisable and renders any progressive measures inadequate in the context of this Inquiry.

7.69.4 The Right of the Child to Basic Nutrition

- a) The Commission finds that the right of the child to basic nutrition under Section 28(1)(c) of the Constitution' has been violated.
- b) This violation is especially pronounced in the context of severe acute malnutrition (SAM) and the resultant child deaths in the Eastern Cape. Section 28(1)(c) is immediately realisable, and the state's failure to ensure that children do not go hungry constitutes a violation of this provision.

7.69.5 The Right to Equality on the Basis of Age

- a) The Commission finds that the disparities in access to nutritional support, such as the NSNP, based on school attendance, violate the right to equality.
- b) Children who are below school-going age and who attend ECD centres are excluded from this vital program, resulting in unequal access to nutrition on the prohibited ground of age.

7.69.6 The Right to Equality on the Basis of Race

- a) The Commission finds that the state's failure to adequately address child malnutrition constitutes indirect unfair discrimination on the basis of race, given that child malnutrition affects black and coloured children in severe disproportion to white children.

7.72. These findings underscore systemic issues in the provision of social services, the need for an increased Child Support Grant (CSG), the imperative to extend the National School Nutrition Program (NSNP) to the ECD sector, and the urgency to implement effective strategies to combat child malnutrition in the Eastern Cape and South Africa as a whole. These violations reflect the state's failure to fulfil its constitutional obligations to protect and promote the rights of children, particularly in the context of nutrition and hunger and the fight against racial discrimination.

8. Recommendations

8.1. In light of the deeply concerning state of child malnutrition in the Eastern Cape and South Africa as a whole, and recognising its implications for the fundamental rights to dignity, equality, life, and the rights enshrined in Section 27 and Section 28 of the Constitution, the Commission finds it imperative to make recommendations aimed at addressing this crisis comprehensively. Therefore, and in accordance with the South African Human Rights Commission Act, which empowers the Commission to make recommendations for the promotion of fundamental rights, the Commission recommends the following actions:

8.2. National Department of Social Development (DSD):

- 8.2.1. Collaborate urgently with National Treasury to explore the feasibility of increasing the Child Support Grant above the food poverty line, ensuring that it effectively addresses the nutritional needs of children.
- 8.2.2. Investigate the possibility of implementing a staggered rollout of the CSG increase, starting with children under school-going age (0-5 years) who are most vulnerable to malnutrition.
- 8.2.3. Collaborate with the Department of Home Affairs to explore launching a registration campaign targeting unregistered children, ensuring their eligibility for social assistance programs, including the CSG.

- 8.2.4.** Provide the Commission with a report in which efforts towards responding to the above are outlined, **within three (3) months after receipt thereof**

8.3. National Department of Basic Education (DBE):

- 8.3.1. Collaborate with the National Department of Social Development to explore the possibility of expanding the National School Nutrition Program (NSNP) to Early Childhood Development (ECD) centers. This will ensure that young children below school-going age have access to nutritious meals, promoting their well-being.
- 8.3.2. Provide a comprehensive report to the Commission outlining the Department of Basic Education's (DBE) plans to increase the number of registered and funded Early Childhood Development (ECD) centers. Additionally, detail potential strategies for raising the ECD subsidy to enhance the quality and accessibility of early education
- 8.3.3. Investigate the possibility of expanding the NSNP to include weekends and school holidays, providing consistent access to meals for vulnerable children.
- 8.3.4. Urgently roll out a supplementary programme that encourages teenage mothers to breastfeed their babies.
- 8.3.5. Provide the Commission with a report in which efforts towards responding to the above are outlined, **within three (3) months after receipt hereof.**

8.4. Eastern Cape Department of Education (ECDoE)

- 8.4.1. Ensure Access to Education for Children without Birth Certificates: Take immediate steps to provide funding to schools for children attending without birth certificates, ensuring equal access to quality education for all.
- 8.4.2. Conduct a Comprehensive NSNP Budget Analysis: Furnish the Commission with comprehensive data on the NSNP budget allocation for the past five years and compare it to food inflation rates. Include calculations and explanations for any discrepancies and outline reasons for not increasing the subsidy during this period.
- 8.4.3. Strengthen Support for ECD Centers: Provide a list of actively supported ECD centers per district and detail the forms of support offered to help them meet

required norms and standards for registration.

- 8.4.4. Address Unregistered ECD Centers: Compile a list of unregistered ECD centers in the 39 identified wards and outline intentions to support them with conditional registration, funding, and assistance to meet required norms and standards for operation.

8.5. Eastern Cape Department of Health (DoH):

- 8.5.1. Explore the feasibility of establishing nutrition-focused early childhood development clinics in partnership with the DSD, providing regular check-ups, growth monitoring, and nutritional counselling for children under five, particularly in vulnerable communities.
- 8.5.2. Explore the development of a comprehensive program for the early identification and treatment of malnourished children, including the provision of therapeutic foods and medical care, with a focus on SAM.
- 8.5.3. Immediately make available data to NGOs, upon request, which may allow for targeted interventions and assistance in respect of food aid and supplements, in specific wards and communities.
- 8.5.4. Provide the Commission with a report in which efforts towards responding to the above are outlined, within three (3) months after receipt hereof.

8.6. Eastern Cape Department of Rural Development and Agrarian Reform (DRDAR):

- 8.6.1. Investigate initiatives to further support and empower small-scale farmers, particularly women, through training, access to resources, and linkages to markets. Explore sustainable agriculture practices to enhance food security and encourage the uptake of undistributed vouchers.
- 8.6.2. Collaborate with local authorities to explore and implement food security initiatives, such as community gardens and urban agriculture projects, to increase the availability of fresh produce and improve dietary diversity.
- 8.6.3. Provide the Commission with a report in which efforts towards responding to the above are outlined, within six (6) months after receipt hereof.

8.7. Civil Society Organisations (CSOs) and NGOs in the Eastern Cape:

- 8.7.1. Investigate possibilities for facilitating data sharing with and between NGOs to provide them with essential information on households affected by Severe Acute Malnutrition (SAM), enabling targeted interventions and support.
- 8.7.2. Consider advocacy efforts for policy changes that relax donor laws, enabling easier food donations during times of crisis and ensuring that surplus food is redirected to those in need.

8.8. Eastern Cape Local Municipalities and Eastern Cape COGTA:

- 8.8.1. Explore the development and implementation of local food security policies and bylaws that promote community gardens, farmers' markets, and food cooperatives to enhance access to fresh, nutritious food at the local level.
- 8.8.2. Investigate the possibility of scaling the 39 municipal nutrition programs to cover more districts and wards, expanding their reach and impact.
- 8.8.3. Provide the Commission with a report in which efforts towards responding to the above are outlined, within six (6) months after receipt hereof.

8.9. Eastern Cape Provincial Treasury:

- 8.9.1. Consider exploring options to ensure that the provincial budget allocates sufficient resources to address child malnutrition effectively, including funding for the ECD subsidy, the NSNP, vehicles for social workers, social assistance programs and other nutrition related interventions.
- 8.9.2. Implement human rights baseline assessments before demanding return of funds earmarked to address child malnutrition to the National purse.
- 8.9.3. Provide the Commission with a report in which efforts towards responding to the above are outlined, within six (6) months after receipt hereof.

8.10. Eastern Cape Provincial Legislature:

- 8.10.1. Explore avenues to strengthen oversight mechanisms to hold government departments accountable for addressing child malnutrition and ensuring the

effective use of allocated resources.

8.11. National Government and Office of the Premier, Eastern Cape:

- 8.11.1. Explore opportunities for investment in research and data collection efforts to continuously monitor child malnutrition rates, understand its causes, and evaluate the impact of interventions in the Eastern Cape.
- 8.11.2. Consider the possibility of declaring a state of disaster due to the high prevalence of child malnutrition in the Eastern Cape, enabling coordinated efforts and resource allocation for immediate interventions. The establishment of a dedicated war room or command centre, accountable to the Eastern Cape Premier's office, with decentralised war rooms per district involving all relevant state agencies [DHA, DoH, DBE, SASSA, DSD], to coordinate and streamline efforts in addressing child malnutrition, including data analysis and predictive modelling.
- 8.11.3. Provide the Commission with a report in which efforts towards responding to the above are outlined, three (3) months after receipt hereof.

8.12. National Department of Home Affairs

- 8.12.1. Collaborate with the Department of Social Development to launch a registration campaign targeting unregistered children, ensuring their eligibility for social assistance programs, including the Child Support Grant (CSG).
- 8.12.2. Prioritize the registration of infants under the age of 1 to ensure timely documentation.
- 8.12.3. Prioritize addressing the backlog in late registration of birth applications for all children under 18. Compile a table with the baseline backlog per DHA office and track progress in eliminating the backlog within a set timeframe.
- 8.12.4. Collaborate with the Department of Basic Education (DBE) and South African Social Security Agency (SASSA) to proactively register unregistered children in schools and on the SASSA system.
- 8.12.5. Provide a table with details of the number of unregistered children per school and per SASSA office, along with your progress in registering these children.
- 8.12.6. Report back to the Commission every 6 months on the progress achieved in addressing birth registration issues.

8.13. National Department of Finance

8.13.1. Explore Feasibility of Increasing Child Support Grant Collaborate urgently with the Department of Social Development to explore the feasibility of increasing the Child Support Grant (CSG) above the food poverty line, ensuring it effectively addresses the nutritional needs of children

SIGNED:



COMMISSIONER J B SIBANYONI

CHAIRPERSON OF THE INQUIRY PANEL

DATE: 7 November 2023