

POLITICS, POWER, AND THE RIGHT TO FOOD:

A National Inquiry into the Food Systems of South Africa

2025

Concept Note





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1. Introduction

- 1.1 South Africa remains a land of contradictions.
- 1.2 It is estimated that over 20 percent of South African households experience inadequate access to food. One in four children is stunted due to chronic malnutrition. In the Eastern Cape alone, between January and July 2025, 70 children under five years of age died of malnutrition related complications. This tragedy unfolds in a nation that produces more than enough to feed all its people, where grain and fruit destined for distant markets leave our shores in abundance.
- 1.3 This moral and political crisis cannot be separated from **South Africa's** history. The colonial and apartheid logic destroyed self-sufficient indigenous food systems, confiscating fertile lands and replacing communal cultivation with commercial monocultures and cash crops. The politics of hunger, historically and now, are rooted in the politics of land: who owns it, who tills it, and who benefits from its yield.
- 1.4 The contradiction between abundance and hunger demands an inquiry into the politics of food in South Africa: how it is grown, distributed, priced, and controlled; and how the state, private actors, and communities share responsibility for the right of every person to food.
- 1.5 Against this backdrop, the South African Human Rights Commission will convene a National Public Inquiry into the Constitutional Right to Food. This inquiry seeks to confront the structural causes of hunger, examine the role of law, policy, corporate power, and communities, in shaping the food systems. The inquiry will attempt to articulate a vision where food is restored to its rightful meaning: as sustenance, as dignity, and as justice.

2. The Right to Food: Constitutional Framework

- 2.1 The South African Constitution explicitly guarantees the right to food. Section 27(1)(b) **affirms that 'everyone has the right to have access to sufficient food and water,' while section 28 (1)(c) guarantees that 'every child has the right to basic nutrition, shelter, basic health care services and social services.'** These provisions make the right to food legally enforceable, with children's rights to basic nutrition being an immediate obligation rather than one subject to progressive realisation. As Chirwa notes, this obligation requires the State to provide nutritionally adequate diets for children irrespective of available resources, underscoring the constitutional priority of child-centred interventions in food policy and delivery.¹
- 2.2 Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) **obliges states "to recognise the right of everyone to adequate food and requires active interventions on the part of states to counteract hunger."** General Comment No. 12 of the ICESCR states that "the right to adequate food is realised when every man, woman and child, alone or in community with others, has physical and economic access at all times to **adequate food or means for its procurement.**"
- 2.3 The Constitutional Court of South Africa has consistently affirmed the justiciability of socio-economic rights. In *Government of the Republic of South Africa v Grootboom*, the Court held that the State must take reasonable legislative and other measures, within its available resources, to progressively realise such rights.²
- 2.4 Similarly, in *Minister of Health v Treatment Action Campaign*, the court emphasised that socio-economic rights are enforceable and require practical implementation to meet constitutional standards.³
- 2.5 Despite this jurisprudence, child stunting in South Africa has remained stagnant at around **one in four children since the 1990s, a situation described as the 'nominalisation of hunger', in which deprivation has become tolerated and rendered invisible.**⁴ This reality illustrates a significant gap between the constitutional promise and the lived experience of South Africans.

¹ Chirwa, D. (2009). Children's Right to Food in South Africa. ESR Review.

² *Government of the Republic of South Africa v Grootboom* 2001 (1) SA 46 (CC).

³ *Minister of Health v Treatment Action Campaign (TAC)* 2002 (5) SA 721 (CC).

⁴ Devereux, S & Heywood, M (2024). World Food Day 2024: It's time to 'abnormalise' hunger. Daily Maverick.

3. The Right to Food: Governance Framework

- 3.1 **South Africa's governance structure places shared responsibilities on national, provincial, and local spheres of government.** The national government is tasked with policy making, budgeting, and legislative frameworks; the provincial government with implementation of agricultural support and nutrition strategies, and the local government with responding to community-level food insecurity, including through indigent support and urban agriculture. Yet, institutional fragmentation, poor coordination, and weak accountability mechanisms undermine the effectiveness of these frameworks. As Moyo argues, malnutrition in South Africa must be understood as a political outcome of structural inequality, poverty, and corporate concentration in food systems, rather than simply a technical or health issue.⁵
- 3.2 The private sector also has important responsibilities. Section 8(2) of the Constitution makes it clear that the Bill of Rights binds both natural and juristic persons, implying that businesses must respect human rights in their operations. This requires refraining from exploitative labour practices, preventing artificial price inflation, and ensuring food safety. The Legal Resources Centre has highlighted how procurement failures in the NSNP and the absence of robust food laws undermine equitable access to food.⁶ Market concentration among a handful of large retailers also directly affects affordability, making nutritious food inaccessible to poor households.
- 3.3 Importantly, municipalities have a decisive role to play in food security. The Centre of Excellence's working paper shows that local governments influence food access through spatial planning, land use management, trading regulations, market oversight, provision of potable water and electricity, waste management, and advertising control.⁷ For instance, restrictive zoning laws can marginalize informal food traders, while rezoning agricultural land for development reduces local food production. Conversely, municipalities can strengthen access by easing burdens on street traders, protecting agricultural land, ensuring reliable water and sanitation services, and regulating unhealthy food advertising near schools.⁸
- 3.4 The Blue Moonlight case and related jurisprudence confirm that municipalities can be held accountable for socio-economic rights where their functions intersect with constitutional

⁵ Moyo, B (2020). Fulfilling the Right to Food in South Africa: Justice, Security, Sovereignty. World Nutrition.

⁶ Legal Resources Centre (2021). Developing the right to food in South Africa. LRC/FFSA Report.

⁷ De Visser J. (2019) Multilevel government, municipalities and Food Security. Centre of Excellence in Food Security Working Paper 5.

⁸ Ibid

obligations. ⁹This principle extends to food security, meaning local governments are not peripheral actors but duty-bearers in realising the right to food.

4. Problem Statement

- 4.1 Despite constitutional guarantees, millions of South Africans remain hungry daily. The 2025 General Household Survey found that about 14 million people went to bed hungry in 2024, representing approximately 22.2% of households. The Northern Cape reported the highest levels of household food insecurity (34.3%), followed by the Eastern Cape (31.3%) and Mpumalanga (30.4%)¹⁰. These statistics demonstrate that food insecurity is both widespread and unevenly distributed, disproportionately affecting rural and marginalised communities.
- 4.2 Child malnutrition persists as a national crisis. Stunting rates remain unchanged at approximately one in four children since the democratic transition.¹¹ Scholars argue that **South Africa has 'normalised hunger' despite being nationally food secure and maintaining one of the largest social protection systems in Africa.**¹² This normalisation represents a **collective failure of governance and accountability.** Stats SA's data further indicates that female-headed households and African-headed households are most at risk of food insecurity, and that large households and those dependent on social grants face particular vulnerability.¹³
- 4.3 Compounding the crisis of hunger is a growing food safety emergency. Between March 2018 and August 2020, 338 foodborne outbreaks were reported, with only 38% investigated, and very few comprehensively resolved. In 2024 alone, nearly 900 outbreaks were recorded¹⁴. The use of toxic pesticides such as Terbufos and aldicarb has been directly linked to child deaths in Soweto and other parts of the country, disproportionately affecting the poor and residents of informal settlements¹⁵. These dual crises of **malnutrition and unsafe food highlight systemic weaknesses in South Africa's food** and governance systems, including weak inspection regimes, insufficient enforcement capacity, and a lack of accountability across multiple sectors.

⁹ De Visser J. (2019) Multilevel government, municipalities and Food Security. Centre of Excellence in Food Security Working Paper 5.

¹⁰ Statistics South Africa (2025). *General Household Survey 2024*. Pretoria: Stats SA.

¹¹ Devereux, S. & Heywood, M. (2024). *World Food Day 2024: It's Time to 'Abnormalise' Hunger*. Daily Maverick.

¹² Ibid.

¹³ Statistics South Africa (2023). *General Household Survey 2019–2023: Food Security Trends*. Pretoria: Stats SA.

¹⁴ South African Medical Research Journal (2024). *Pesticide Poisoning and Child Mortality in South Africa*.

¹⁵ Ibid.

5. The Role and Mandate of the SAHRC

- 5.1 The South African Human Rights Commission (SAHRC/Commission) is an independent state institution established in terms of section 181 of the Constitution of the Republic of South Africa (Constitution) to support and strengthen constitutional democracy. In terms of section 184(1) of the Constitution, the Commission is mandated to promote respect for human rights and a culture of human rights; promote the protection, development and attainment of human rights; and monitor and assess the observance of human rights in the Republic.
- 5.2 The South African Human Rights Commission (SAHRC) has consistently prioritised the advancement of the constitutional right to food, as set out in Section 27 of the Constitution. Through inquiries, research, and monitoring, the Commission has sought to highlight the link between food security, human dignity, and equality, and to hold the state accountable for the progressive realisation of this right.
- 5.3 A recent key milestone in this work was the Provincial Inquiry into Child Malnutrition and the Right to Food, conducted by the Eastern Cape Provincial Office in 2022. The inquiry responded to rising levels of child malnutrition and preventable deaths linked to severe acute malnutrition in the province. Evidence was received from government departments, civil society, and other local and international partners. The resulting report, published in 2023, documented over a thousand cases of severe acute malnutrition and more than a hundred child deaths between April 2021 and April 2022. The inquiry identified systemic failures in service delivery, coordination, and accountability mechanisms within the provincial and local spheres of government.
- 5.4 The Commission has also engaged with the broader policy dimensions of the right to food. In 2016, the Commission **published an opinion piece titled “The Right to Food is Also a Human Right” and a Research Brief on the Right to Access Nutritious Food (2016–2017)**, which examined gaps in government programmes and policy coherence in achieving food security. These studies underscored the persistence of hunger and malnutrition despite **South Africa’s agricultural capacity and food export surplus.**
- 5.5 In annual trends reports, the Commission has consistently identified violations of socio-economic rights, including access to food, water, and social assistance, as among the most reported complaints.
- 5.6 More recently, on World Food Day, 16 October 2025, the SAHRC, together with the Union Against Hunger, convened a virtual webinar **titled “The Right to Food and Food Sovereignty in South Africa,”** which brought together over 120 participants, including Commissioners, Members of Parliament, senior government officials, civil society leaders, academics, smallholder farmers, community activists, and healthcare professionals.

- 5.7 The primary purpose of this webinar was to conduct an in-depth examination of the escalating hunger crisis in South Africa. It sought to move beyond a narrow discussion of "food security", which focuses primarily on availability and access, and pivot towards the more transformative concept of "food sovereignty," which emphasizes people's right to define their own food systems, control productive resources like land and seeds, and produce food in ecologically sound and culturally appropriate ways.
- 5.8 The conclusions and themes arising from the webinar inform the key areas of focus for any further inquiries.

6. Intention to hold an Inquiry

- 6.1 In terms of Section 13 of the South African Human Rights Commission Act No. 40 of 2014, the SAHRC possesses the powers to hold a public inquiry into the realization of the right to food in South Africa.

7. Thematic Scope of Inquiry:

Drawing on the key conclusions from the 2025 Webinar on the Right to Food, the following key themes will guide the National Inquiry into the Right to Food:

- 7.1 *Theme 1: A Crisis of Historic Justice, Not Scarcity*
The historic and present structural dynamics and economic factors that perpetuate hunger and systemic exclusions, despite national food sufficiency.
- 7.2 *Theme 2: Corporate Capture of the Food System*
The concentration of power in the food value chain and its impact on access, affordability, and nutritional quality.
- 7.3 *Theme 2: The Centrality of Land and Agrarian Reform*
The link between land access, tenure security, and food insecurity, especially for women, smallholder, and communal farmers.
- 7.4 *Theme 4: The Indivisibility of Rights*
The intersection between the right to food and related constitutional rights, i.e: dignity, health, water, and environment.
- 7.5 *Theme 5: Indigenous Knowledge and Agroecology*

The role of indigenous knowledge systems, traditional seed practices, and agroecology in achieving food security and resilience.

7.6 Theme 6: Systemic Failure and Fragmented Governance

Institutional coordination, policy coherence, and legislative adequacy in realising the right to food.

7.7 Theme 7: The Power of Civic Mobilization

The role of civic participation, public accountability, and social movements in advancing the right to food.

8. Methodology

8.1 Please refer to the Terms of Reference.

9. Expected Outcomes

9.1 A final report with findings and recommendations.

10. Budget Implications

A budget has been set aside for this inquiry.