



food

ECONOMIC AND SOCIAL RIGHTS

5TH REPORT 2002/3

THE RIGHT TO FOOD

5th Economic and Social Rights Report Series 2002/2003 Financial Year

South African Human Rights Commission

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PREFACE

In this 10th year of our young but thriving democracy, we are all engaged in some way or the other, in critically reflecting on the achievements we have secured over the past years as well as the unfinished work that lies ahead. In the context of the various rights guaranteed by our Constitution, they seek in their totality to ensure that the individual and the society are able to develop to their full potential and indeed that human rights becomes a central feature of our society. In this regard we have made much progress, and in the main, few argue against the notion that civil and political rights are well secured both in law and in practise.

However, the challenge that is situated at the heart of our Constitutional contract is how we advance social and economic rights and in so doing ensure that we advance the interests of the poor and those many who are still to enjoy the full benefits of our democracy. The inclusion of social and economic rights in the Bill of Rights was a clear articulation that democracy was as much about the right to vote, and of free expression and of association as it was about the right to shelter, the right to food, the right to health care, the right to social security, the right to education and the right to a clean and healthy environment.

The Constitution has tasked the Commission with a specific mandate to advance social and economic rights. In particular, section 184(3) requires that: “Each year the Human Rights Commission must require relevant organs of state to provide the Commission with information on the measures that they have taken towards the realisation of the rights in the Bill of Rights, concerning housing, health care, food, water, social security, education and the environment.”

A healthy and robust debate exists around these measures that the Constitution requires the State to take. In addition, the human rights discourse sees considerable contestation around issues such as the nature and scope of the right, the adequacy or otherwise of the measures taken and the meaning of the phrase ‘progressive realisation of rights.’ These are difficult issues and it is not always possible, nor may one say desirable, to always have consensus on them. In some instances the Courts have had to rule on them. We see this Report, however, not only as a contribution to those debates but also as a tool that can assist Government, Parliament and civil society in developing a critical understanding about social and economic rights and their implementation.

The modus operandi of the Commission in discharging its constitutional mandate to monitor and assess the observance of economic and social rights has in the main focussed on requiring organs of state to report to us on measures they have taken. This continues to pose several challenges, namely: to ensure that organs of State submit to the Commission reports that are timeous, accurate and of good quality . We are pleased that good progress has been made on this front over the past year and the process of presenting draft reports to organs of state and civil society for comment has been most valuable to the Commission in finalising this report .

The launch of the 4th Economic and Social Rights report in April 2003 generated considerable interest and much debate and discussion on the Report ensued. We were invited by numerous parliamentary portfolio committees from the National Assembly and National Council of Provinces to present the Report. We certainly found the

engagement with Parliament a very useful and mutually rewarding exercise. It provided the Commission with a unique opportunity to share its thinking and vision around its work with Parliament while it enables us to better understand Parliament's expectation of the Report and its use to them as a tool in their work. There have been numerous valuable recommendations that have emerged from our presentations to Parliament which we are committed to giving effect to from our side.

So as we commence the beginning of the 2nd decade of our democracy the delivery of social and economic rights become crucial to the ongoing success of our nation and the entrenchment of a culture of human rights. It is certainly our hope, and the intention of this Report, to contribute to ensuring that the promise and the vision underpinning our Constitution is shared and enjoyed by all in our country.

Jody Kollapen

Chairperson - South African Human Rights Commission

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INTRODUCTORY SECTION

The aim of the *Introductory Section* is to provide an outline of the common analytical framework used in the reports, briefly discuss the political and economic context of the year under review, and provide an integrated summary of the key findings and recommendations of all eight reports in the series. Details of the report production process are also included at the end of this introduction.

The 5th Economic and Social Rights Report follows a more user friendly format than previous reports. There are now separately bound, less bulky, reports on Land, Water, Environment, Food, Health, Social Security, Education and Housing. Each report has an executive summary to facilitate access to the main findings and recommendations. Issues that connect one right to another are highlighted in the body of each report to emphasise the interrelatedness and interdependence of the rights in the Bill of Rights of the Constitution of the Republic of South Africa Act 108 of 1996 (simply referred to as the Constitution throughout the reports).

A) Analytical Structure and Framework

Each report in this series follows a basic structure:

1. **Introduction:** a discussion of the meaning and content of the right with reference to the Constitution, case law and relevant international human rights instruments.
2. **Progress in the realisation of the right:** a factual description of measures instituted by government during the period under review and their impact, especially on vulnerable groups.
3. **Challenges for the realisation of the right:** a description of key challenges that hamper the realisation of the right, and in some cases, government's response to these challenges.
4. **Critique of measures instituted:** a consideration of some of the shortcomings of the measures instituted by government.
5. **Recommendations:** a set of recommendations that may encourage progressive realisation of the right as expeditiously as possible.¹

Each report consolidates information from various sources including: relevant government protocol responses, government Annual Reports and Strategic Plans, the Intergovernmental Fiscal Review, as well as research funded by government, international donors or other agencies.

¹ Some reports in the series end with a conclusion.

All reports employ the standard of reasonableness as laid down in the *Grootboom*² and *TAC*³ judgements of the Constitutional Court, in conjunction with relevant international human rights instruments.

The constitutional provisions pertaining to socio-economic rights require the State to “take reasonable legislative and other measures within its available resources, to achieve the progressive realisation of [these rights]”.⁴ This requirement, read with the provision on the obligation of the State to “respect⁵, protect⁶, promote⁷ and fulfil⁸ the rights in the Bill of rights” in section 7(2) of the Constitution ensures an effective guarantee of socio-economic rights in South Africa. The judicial enforcement of these rights by the courts and the constitutional mandate of the South African Human Rights Commission to monitor and assess the observance of the rights by the State⁹ and non-State entities also contribute to the effectiveness of the constitutional guarantee of these rights.

The Constitutional Court has played a significant role in ensuring the effective guarantee of socio-economic rights in our country. On the obligation of the State, Judge Yacoob held in the *Grootboom* case:

*The State is obliged to take positive action to meet the needs of those living in extreme conditions of poverty, homelessness or intolerable housing.*¹⁰

On the effective guarantee of basic necessities of life for the poor, Judge Yacoob further said:

This case shows the desperation of hundreds of thousands of people living in deplorable conditions throughout the country. The Constitution obliges the State to act positively to ameliorate these conditions. The obligation is to provide access

2 Government of the Republic of South Africa and Others v Grootboom and Others 2000(11) BCLR 1169 (CC)

3 Minister of Health and Others v Treatment Action Campaign and Others (1) 2002 (10) BCLR 1033 (CC)

4 See sections 26(2), 27(2) and 29(2) of the Constitution.

5 Respect is a negative obligation, which requires the State to refrain from denying or limiting equal access for all persons to the enjoyment of the rights. This also means that the State should abstain from carrying out, sponsoring or tolerating any practice, policy or legal measure which violates the integrity of the individual or which in any way interferes or limits his/her right to pursue the enjoyment of the rights in the Bill of Rights.

6 The obligation to protect places a positive obligation on the State to prevent the violation of any individual's rights by a third party.

7 The obligation to promote places a positive obligation on the State to create a conducive atmosphere in which people can exercise their rights and freedoms by promoting awareness of their rights through public education.

8 The duty to fulfil places a positive obligation on the State to institute active measures that enable each individual to access entitlements to the right and which cannot be secured through exclusively personal efforts. State parties are also obliged to provide a specific right when an individual or group is unable, for reasons beyond their control, to realise the right themselves by the means at their disposal. e.g. people in disaster situations or those in dire need.

9 See sections 184(1) and (3) of the Constitution.

10 Government of the Republic of South Africa and Others v Grootboom and Others 2000(11) BCLR 1169 (CC) [24]

*to housing, health-care, sufficient food and water, and social security to those unable to support themselves and their dependants. The State must also foster conditions to enable citizens to gain access to land on an equitable basis. Those in need have a corresponding right to demand that this be done.*¹¹

On the role of the courts in ensuring that the State fulfils its role in giving effect to these rights and thus ensuring that there is an effective guarantee of these rights, Judge Yacob said:

*I am conscious that it is an extremely difficult task for the State to meet these obligations in the conditions that prevail in our country. This is recognised by the Constitution which expressly provides that the State is not obliged to go beyond available resources or to realise these rights immediately. I stress however, that despite all these qualifications, these are rights, and the Constitution obliges the State to give effect to them. This is an obligation that Courts can, and in appropriate circumstances, must enforce.*¹²

A similar position was taken by the Constitutional Court in another seminal judgment, *Minister of Health and Others v Treatment Action Campaign and Others*, where the Court held:

*The state is obliged to take reasonable measures progressively to eliminate or reduce the large areas of severe deprivation that afflicts our society. The courts will guarantee that the democratic processes are protected so as to ensure accountability, responsiveness and openness, as the Constitution requires in section 1. As the Bill of Rights indicates, their function in respect of socio-economic rights is directed towards ensuring that legislative and other measures taken by the state are reasonable.*¹³

In outlining the role of the courts, the Court also stated:

*The primary duty of courts is to the Constitution and the law...Where state policy is challenged as inconsistent with the Constitution, courts have to consider whether in formulating and implementing such policy the state has given effect to its constitutional obligations. If it should hold in any given case that the state has failed to do so, it is obliged by the Constitution to do so.*¹⁴

While there might be some criticism directed at the Constitutional Court pertaining to the determination of when there are no available resources for the State to fulfil its obligation pertaining to socio-economic rights, the courts, particularly the Constitutional Court, have and will continue to play an important role in ensuring that the provisions in the Bill of Rights are effectively guaranteed for our people.

B) The Political and Economic Context of the Year Under Review

11 Ibid., [93]

12 Ibid., [94]

13 *Minister of Health and Others v Treatment Action Campaign and Others* (1) 2002 (10) BCLR 1033 (CC) [36]

14 Ibid., [99]

The period under review, 1 April 2002 to 31 March 2003, followed the 11 September 2001 attacks and a 24% depreciation of the South African currency (Rand) near the end of 2001. Consumer Price Inflation, especially for goods and services bought predominantly by the poor, increased sharply to the highest level since 1994. Concerns were signalled to the Competition Commission about the impact of import parity pricing in several sectors of the economy, most notably in food production, processing and retailing as well as metals and engineering. Interest rates were raised in an attempt to curb inflation, with a subsequent dampening effect on the rate of economic growth in the latter part of the financial year. According to the Reserve Bank Quarterly Bulletin for March 2003, economic growth stood at a robust 3% in 2002.

As a result of prudent fiscal management, the government introduced a more expansionary Budget in February 2002. Total government expenditure increased from R262,6 billion in 2001/2002 to R291,8 billion in 2002/2003. Overall, the budget directed more resources towards reducing poverty and vulnerability, improving education and training, developing skills amongst the youth, building and enhancing physical infrastructure and basic municipal services, as well as making communities safer places to live, work and play.

It is also important to note that the February 2003 Budget provided for significantly greater expenditure than the previous year. Total expenditure was R331,7 billion for 2003/2004. The additional allocations accommodated substantial policy changes for all three spheres of government and also provided for *higher than anticipated inflation in 2002*.

By the end of the reporting period in March 2003, the Rand had appreciated by 18%. This created concern about the job losses that could arise out of an increase in import competition. Therefore, during the period under review, the goals of progressively realising economic and social rights took place in the context of significant macro-economic volatility, inflation and an expanding government budget.

C) Key Interrelationships Amongst Economic and Social Rights

The Right to Land

The State was responsible for achieving progressive realisation of the right to land during the reporting period. The Commission demonstrates that there was a year on year improvement in land delivery performance by the State, especially through the Land Restitution and Land Redistribution sub-programmes. Improvements in rural tenure reform were less noticeable.

Between 2000 and 2001 there were 12 094 settled Restitution claims, while in February 2002 there were approximately 32 000 settled claims. By March 2003, there were 36 488 settled claims recorded. Although the majority of these claims were in the urban areas, settled rural claims show a substantial increase. The people working on the Land Redistribution for Agricultural Development sub-programme delivered 103 682 ha against a target of 81 555 ha for the year under review. Whereas the Department had targeted to benefit 3 601 people, the programme ended up benefiting 6 170. Concerning tenure reform, the State initially delivered 30 000 ha of land through 201 projects. Beyond that, the State is working towards bringing the Extension of Security of Tenure

Act (ESTA) and Labour Tenants Act (LTA) together in the Consolidated ESTA/Labour Tenants Bill.

Throughout the report, the Commission reflects on the demand, voiced by landless people and others, that the pace of land redress is too slow and inattentive to vulnerable groups. The report recommends accelerating land reform to meet its new targets by relieving budgetary constraints and the associated problems of personnel shortages, lack of quality training and understandable communication; land acquisition; and improvements in monitoring and evaluation.

The Commission would also like to highlight that it was informed by the Department of Land Affairs that it was impossible to represent the racial and gender composition of land purchase transactions and repossessions, according to the size and value of land parcels.

The Right to Education

The right to education is analysed as a continuum of three bands of schooling- General Education and Training, Further Education and Training and Higher Education and Training. The State instituted measures to respect, protect, promote and fulfil the right to General Education and Training, and in the Commission's overall assessment, it succeeded in achieving progressive realisation of this right.

The Department of Education succeeded in ensuring that all targeted Early Childhood Development sites for children between the ages of five and six were operating. However, the Department acknowledges the challenge, which has budgetary implications, that only 13% of all children have access to the programme. In the context of a substantial increase in the rate of student enrolment in primary schools between 1994 and 2001, the National Department focused on further increasing access to General Education and Training through reviewing public school financing and the system of school fee exemptions. The report highlights the shortcoming that some schools and Provincial Departments of Education failed to make parents aware of the school fee exemption.

While progress was made in eliminating instances where learners are forced to receive education in environments that are not conducive to teaching and learning, the report emphasises that more needs to be done to address infrastructure backlogs, especially when it comes to water and sanitation. The Department also made progress in developing a redistribution model for personnel and operating expenditure that would achieve equality of teaching quality and equality of learning outcomes in the schooling system from 2003/2004 onwards. All stakeholders in education, including the SAHRC need to explore and come up with a definition of quality basic education which could be measurable and relatively easy to monitor.

Conditions in farm schools were identified as hinderance to progress in the realisation of the right to General Education and Training. The issue of street-children also has to be given some serious attention by all the relevant stakeholders. Amongst other recommendations to further observance of the right to General Education and Training, the report calls for better-published medium term strategies and improved spending on Adult Basic Education and Training. In the 2001 Census, 4,5 million people aged 20

years and older did not have a formal education and 4 million people had primary schooling only.

Most of the developments in the Further Education and Training band met the Constitutional requirement to respect, protect, promote and fulfil the right. *Dinaledi*, the programme that seeks to improve participation and performance of learners from historically disadvantaged backgrounds in Mathematics, Science and Technology (MST), reportedly surpassed its target of 10% of students enrolling for MST in its first two years of implementation. The development of Recognition of Prior Learning (RPL) is another development that contributes to the realisation of the right to Further Education and Training. RPL recognises non-formal and/or non-academic education. RPL also stands to maximise learning opportunities for those without formal and/or academic qualifications to acquire formal qualifications in Further Education and Training institutions, which must all be registered with the State.

Areas where the State fell short of its obligations to progressively realise the right to Further Education and Training include: insufficient public education on school fee exemptions and insufficient Learner Support Materials and/or their late delivery. The report also highlights that participation rates in education by girl learners were being negatively affected by girls' involvement in income generating activities.

While Higher Education and Training is not explicitly recognised as a right in the Constitution, it obviously depends on the learning outcomes achieved in General and Further Education and Training. Here, there seems to be room for improvement as the average graduation rate for university and technikon students is 15%; less than half the ideal average of 33%.

Key challenges associated with the Higher Education and Training band include assisting potential students with subject selection choices and career guidance at school and university level, as well as lowering the high costs of accessing higher education and applying to different tertiary institutions. The report recommends ensuring that admission requirements to tertiary institutions are transparent and fair, promoting indigenous languages as academic/scientific/legal languages, mobilising funds for bridging courses and improving access for mature and post-graduate students, including part time students.

The Right to Water

Ever since 2001 and the introduction of Regulations Relating to Compulsory National Standards and Measures to Conserve Water, the State instituted a national measure to fulfil the right to water by supplying 6000 litres of free, clean water, per household per month, otherwise known as Free Basic Water.

During the reporting period, approximately 1,6 million people gained access to improved piped water supplies through Department of Water Affairs and Forestry's Community Water Supply and Sanitation Programme. Approximately 65 thousand toilets facilities were constructed during the reporting period under the same programme, but it should be noted that these figures exclude the large number of sanitation facilities that were delivered as part of the State's housing programmes. Less than 530 000 households also benefited from water and sanitation projects through the

Department of Provincial and Local Government's Consolidated Municipal Infrastructure Programme. Although the above indicates that the roll-out of water and sanitation infrastructure is proceeding towards the Department's medium delivery targets, the report raises concerns about the level of dysfunctional infrastructure and projects, especially in rural areas.

At the end of the reporting period in March 2003, access to Free Basic Water by poor people stood at 38% or approximately 12,2 million people. Access to Free Basic Water by non-poor households stood at close to 100% or approximately 14,2 million people. A large number of poor people (19,6 million) were still to receive their Free Basic Water allocation. Where Free Basic Water was not available, the average cost of 6 kilolitres (kl) was approximately R13 per month. The price for 6kl of life-line supply was highest in Limpopo province at approximately R19 per month. Gauteng and KwaZulu-Natal also had comparatively high average charges for life-line supplies where Free Basic Water services were not operational.

In order to remove these glaring inequities in Free Basic Water provision, the report calls for an urgent revision of the pricing system to include a significantly greater level cross-subsidisation from high volume water users to low volume users in the 0-6 kl range. More support and funding is required to assist municipalities with capacity problems in implementing Free Basic Water. During droughts, local governments should ensure that Free Basic Water supplies for domestic users are assured and that a situation cannot develop where agricultural, mining and industrial users are allocated large volumes of water at similar prices to low-volume users.

The report describes some aspects of the devolution of domestic water quality monitoring and testing from Provincial Departments of Health to local municipalities and calls for rapidly providing sufficient funds for water quality monitoring to prevent serious disease outbreaks and illness.

The report recommends that the Department of Water Affairs and Forestry (DWAF) should take a leading role in making sure that farm dwellers, residents near commercial farms and poor households in rural and urban areas access clean water and proper sanitation services. DWAF should also ensure that it develops and implements a plan to address the specific problems of water access experienced by people living with HIV/AIDS.

The report suggests that monitoring bodies should be created at local level to effectively monitor the implementation of policies and laws aimed at fulfilling the right of access to water. The report warns that monitoring will only be effective if monitoring bodies from local, regional and national spheres work together. Where possible and when possible, the Free Basic Water allocation should be increased to cater for higher levels of domestic water consumption. A 50kl water allocation per household per month would bring South Africa's Free Basic Water allocation into the 'low level of health concern' range defined by the World Health Organisation.

The Right to Health Care

The report on the right to health care focuses on key developments in three key health programmes of the State (Health Service Delivery, Strategic Health Programmes and Administration). Although the policy and legislative measures developed in the fiscal year under review can be said to be “reasonable” in their conception, there remain large gaps in implementing them in a manner such that all the provinces, urban and rural peoples, rich and the poor have equal access to the same high quality of care.

The three most important, and universally acknowledged, indicators to measure the health status of a nation are Life Expectancy at Birth, the Maternal Mortality Ratio, and the Infant Mortality Rate. Life expectancy has fallen from 56 years in 1996 to 52,5 in 2002 and is projected to fall to 47 by 2005. The infant mortality rate has increased from 45 in 1998 to 59 in 2002. This means that more children under the age of one died in 2002 as compared to 1998. The under five-mortality rate has risen from 61 in 1998 to 100 in 2002. Similarly, the maternal mortality ratio shows a steady increase since 1998 and is estimated to be 150 per 100 000 live births. The National Department of Health, as well as independent researchers, have concluded that this is due to HIV/AIDS related deaths.

The single most important challenge that government faces is the one posed by the AIDS pandemic and the high incidence of opportunistic diseases such as tuberculosis. It is estimated that about one tenth of the population of the population is infected with the HI virus i.e. close to 5 million people. The number of AIDS orphans is estimated to be one million. In a landmark case instituted by Treatment Action Campaign against the Minister of Health, the Constitutional Court, in 2002 confirmed the finding of the High Court that government’s policy to limit Nevirapine to research and training sites was in “breach of the States obligations under section 27(2) read with 27(1)(a) of the Constitution.” The report recommends that the Comprehensive National Aids Plan should be rolled out effectively in all the provinces so as to meet targets and timelines in order to substantially reduce new infections and to prolong the lives of those already infected.

In spite of the fact that policies and programmes directed at improving the health status of the country have been put in place such as the Integrated Management of Childhood Illnesses, the AIDS pandemic continues to be the single most cause of death in South Africa. This has placed an enormous strain on an already overburdened health system and undermines the efforts made by the State. This is compounded by the fact that the other economic and social rights, which contribute substantially to the health status of a nation, are also not fully enjoyed by the vast majority of poor South Africans due to the huge backlogs inherited from the past. Inadequate housing, poor sanitation, overcrowding, lack of clean drinking water, lack of efficiently run social services, insufficient nutrition and health education exacerbate the diseases of poverty. Moreover, a household that is affected by AIDS contributes to depleting the financial resources available to the family, thereby increasing the level of poverty.

government developed legislative and other measures to comply with its constitutional obligations in terms of section 7(2) of the Constitution. However, despite national policies and programmes, which, in the main comply with international standards and targets, the health care system has not been able to successfully deliver quality health

care on an equitable basis in all the provinces. Provinces do not spend the same amount per capita on health care delivery, and there is a serious lack of managerial capacity in the health system. The biggest challenge facing the efficient running of the health system is training managers to operationalise efficient systems especially for running clinics and hospitals where many problems have been identified. Efficient management systems in conjunction with effective engagement with labour should be operationalised with immediate effect in the public health sector so as to ensure that hospitals and clinics run well.

The report also recommends that there is a need to increase efforts in promoting preventative health measures by the State as well as by non-state actors. Programmes and policies should also be put in place to address the needs of the poor and vulnerable members of society, including a National Health Insurance System. Inequities in the health system such as intra- and inter-provincial health expenditures, access to clinics and hospitals, number of doctors, specialists, and nursing staff need to be addressed so as to give meaning to the constitutional right to universal and equal access to everyone. Finally, Departments of Health are strongly advised to improve their monitoring, evaluating, and reporting systems

The Right to Social Security

The Constitution provides that everyone has a right to social security, including, if they are unable to support themselves and their dependants, appropriate social assistance. The number of social assistance beneficiaries increased dramatically by 966 311 people from April 2002 to the end of March 2003, mostly as a result of increased registration for Child Support Grants for children up to the age of seven. By the end of March 2003, 5,6 million people were beneficiaries of social assistance, which mostly comprised of child support grants (2,5 million people), old age pensions (2 million people), disability grants (897 050 people) and foster care grants (133 309 people). The most rapid increases in uptake of social grants took place in Gauteng, Free State, KwaZulu-Natal, Mpumalanga and Limpopo. Take up rates were considerably lower in the Northern Cape, North-West, Eastern Cape and Western Cape.

Most provincial departments indicated that the allocated budget was not enough and that numbers of grant beneficiaries were constantly increasing, resulting in overspending for social security. However, the delivery of social services has not been efficient in some parts of the country as a result of administrative problems, lack of documentation as barriers to accessing grants, poor conditions at pay points, as well as corruption and maladministration.

As a result of rapid inflation in the cost of basic goods bought by the poor, in 2002/2003, the State moved swiftly to implement above inflation related increases in social grants. The old-age pension was increased by R20 to R640, the child-support grant increased by R10 to R140, the grant in aid increased from R120 to R130, the foster-care grant from R450 to R460, and the care dependency grant from R620 to R640.

The National and Provincial Departments of Social Development spent 90% of the R49 million allocated to the HIV/AIDS (home based/community based care) programme. The Home/Community Based Care programmes, through the collaborative work of

government, non-governmental organisations, including faith-based organisations, and communities have benefited 29 612 children orphaned or vulnerable to HIV/AIDS by the end of March 2003. The programme reached 75 000 children orphaned or vulnerable owing to HIV/AIDS since its inception in 2000.

The State also instituted new measures to further the right to social security, including disability assessment panels, a social relief of distress policy and the implementation of the National Food Emergency Scheme/Programme. Figures of the number of households that were assisted with food parcels in the pilot phase of the National Food Emergency Programme from December 2002 to the end of March 2003 range from 60 089 to 149 779.

The social security system at present does not cater for everyone and not everyone in need of social assistance is afforded such assistance. This is especially so for children in child headed households and children who live in the streets who sometimes engage in exploitative forms of labour. Some parents also fail to provide and take care of their children and put strains on the maintenance and social assistance systems.

The report recommends that the Department of Labour should take the International Labour Organisation's Decent Work for All Strategy forward in South Africa. It is also recommended that the relevant organs of State achieve better regulation of the insurance, health and maintenance systems. Particular attention should be paid to the coverage of old age pensions for workers in non-formal employment. The Department of Social Development is encouraged to continue fostering collaboration with all stakeholders, such as other government departments, Faith Based Organisations and Non-Governmental Organisations. The Basic Income Grant should continue to be considered as a viable option for addressing poverty in the country, especially amongst people of working age. The proposal to extend social assistance to all children in need (up to the age of 18), should also be kept alive.

The Right to Food

The report concludes that many people, and children in particular, had their right to food violated during the reporting period as they lost access to affordable food due to high prices and/or unreasonable plans devised and supervised by government. During the reporting period, 101 152 children were admitted to hospital with severe malnutrition and it was not possible for the Commission to state how many children died of malnutrition. However, it is alarming that case fatality rates for severe malnutrition in two under-resourced hospitals in the Eastern Cape ranged from 21% to 38%.

The report finds the National Department of Health's targets for reducing malnutrition to be unreasonable in their conception because the targets for 2000 and 2005 were virtually identical. The report also finds two elements of the Primary School Nutrition Programme to be unreasonable in their conception.

The first issue concerns the reduced allocation of resources to the programme in 2002/2003 as compared to 2001/2002. In 2001/2002 the total cost of the school food "meal" ranged from approximately 99 cents to R2.10. In 2002/2003, the maximum budgeted resource available per targeted learner per day was less than 67 cents. This is

clearly an unreasonable set of parameters for the programme to be improved to meet the higher standards set by Cabinet.

The second element of the programme that was unreasonable was the reduction in the targeted number of children who should benefit from the programme. In the context of increasing numbers of children enrolled in schools, the Primary School Nutrition Programme did reach 4,5 million children in grades R to 7, however this was 151 615 children less than the year before. The drop in the number of learners who were reached is connected with government reducing its target from 5,4 million learners in 2001/2002 to 4,9 million learners in 2002/2003 as well as rapid increases in the cost of food procured for the programme. A three month gap in the implementation of the programme in the Eastern Cape also reduced access to the programme.

Non-State actors appear to have fallen short in their observance of their positive obligations to fulfil the right to food. As one example, the Yiyo Lena sifted maize relief programme introduced by a group of companies is alleged to have sold relief maize packs at a 20% discount, despite that fact that the companies announced that the programme would entail a 50% discount.

High basic food prices during the reporting period, were partly attributable to inadequate safeguards on the South African Futures Exchange, where maize prices are formed. High prices for maize were passed on to low-income consumers, who could ill afford such dramatic basic food price increases for such a sustained period of time. The potential for market manipulation should have been prevented by the Johannesburg Securities Exchange when allegations of abuse were first signalled in 2002. The report identifies that there are weaknesses in the State's observance of its obligation to protect against fraud, unethical behaviour in trade and contractual relations.

There were some signs of improvement in the State's delivery of production support to emerging farmers and people who grow their own food. For example, the Comprehensive Farmer Support Package was instituted during the reporting period to assist land reform beneficiaries. However, it was implemented in some provinces only.

The LandCare programme, which is one of the major production support programmes from the National Department of Agriculture, was heavily underspent at 65% of the total conditional grant to provinces. There is also a significant gap in production support for rural restitution beneficiaries.

It was found that very few Provincial Department's of Agriculture were operating well funded programmes designed specifically to provide grants or revolving loans to support increased access by small scale and emergent farmers to production and/or marketing related infrastructure. Production support materials and learning support materials that are relevant to resource to poor farmers in water scarce areas were also not readily available.

On the whole, the report determines that the State absorbed the heavy burden of duty to achieve the progressive realisation of the right to food as expeditiously as possible, within its available resources. However, there was a crucial weakness in the measures to protect the right to food from being violated by non-State actors or third parties that need not be repeated in future.

The report suggests that there is a need for greater care in the preparation of strategic and financial planning targets so that they inspire civil society to marshal their resources in support of the progressive realisation of the right. The report recommends: public education to raise awareness of malnutrition, rolling out the Integrated Food Security Strategy at a provincial level, improving food safety, achieving better regulation of the food industry through State procurement, accelerating agrarian reform, and communication policy and legislative developments more effectively. Finally, the report supports the call for government, labour, community and business representatives to negotiate an agreement at the National Economic Development and Labour Council (NEDLAC) to ensure the right to food and quality job creation in the food industry.

The Right of Access to Adequate Housing

In order to fill some gaps in the housing policy framework, the State identified medium density housing, rental housing, social housing and emergency housing as the key policy priorities for 2002/2003. Emergency, medium density, rental and social housing are part and parcel of addressing inequalities in access to transport and the legacy of racial segregation. The Emergency Housing Policy Framework was conceptualised as a result of the *Grootboom* judgment and aims to assist groups of people that are deemed to have urgent housing problems, owing to circumstances beyond their control (e.g. disasters, evictions or threatened evictions, demolitions or imminent displacement or immediate threats to life, health and safety). The report highlights that it was not clear whether the Emergency Housing Policy should also cover people living in informal settlements, because they are living in intolerable circumstances. Social Housing projects demonstrate that socially, environmentally and sunshine conscious design principles can make a difference to the quality of State subsidised housing.

The State reported on measures to protect the right to housing in the form of the Prevention of Illegal Eviction from Occupation of Land Amendment Bill and the commencement of the Home Loan and Mortgage Disclosure Act 63 of 2000. With a view towards curbing discriminatory practices, the Act compels financial institutions to disclose information in their financial statements on home loan patterns according to categories of persons and geographic areas (both of which may be prescribed). The Community Reinvestment Bill confirmed the State's intention to increase private sector investment in the lower end of the housing market. The report highlights that the State was also attending to some aspects of the Housing Act 107 of 1997, as amended, in order to ensure that the Act, and its implementation, did not violate an individual's right to property in terms of the Constitution.

In terms of on-going policies and programmes, in 2002/2003, the State reported 203 288 houses completed or under construction, whilst the State approved 519 498 subsidies to households with a joint monthly income less than or equal to R3 500, or R1 500 if the house was built under the apartheid system. By the end of 2002/2003, the State reported that over 1,4 million houses had been delivered since 1994, whilst the number of families without houses (i.e. dwellings in backyards, informal dwellings, backyard dwellings in shared properties and caravans/tents) was reflected as 2 399 825- from the 2001 Census. The State also increased the subsidy amounts for the housing programme to keep pace with inflation and maintain the well-known quality and size of housing. Sixty-three projects were also completed as part of the Human Settlement Redevelopment Programme in order to correct imbalances and dysfunctionalities in

existing settlements that cannot be funded through the housing subsidy scheme (e.g. sports facilities, business hives, labour exchanges, cemeteries, parks and ablution blocks).

There was under expenditure on housing delivery amongst many provincial departments responsible for housing. Reporting on the constraints associated with underspending was not complete, but included the following in some cases: failure to secure suitably located land, delays in tender adjudication, municipalities failing to submit business plans, delays in the National Department approving projects, weaknesses and staff shortages at municipal level, incompetence, corruption, political intervention and nepotism, slow delivery associated with the People's Housing Process and delays at the Deeds Office.

Comparing performance in relation to targets was a problem in that provincial information was reported in the format of the number of units completed *or* under construction. Nevertheless, Gauteng and Limpopo provinces stand out as the only provinces to show a reduction in units, whether complete or under construction, from 2001/02 to 2002/03. The Gauteng Department of Housing reported delivering 59% of the target in the incremental housing programme and 39% of the target in the Social Housing programme. A Customer Support Service in the province acknowledged 83 714 queries and responded to a further 11 774 by letter.

According to the National Department of Housing, in 2002/2003, 6 469 houses did not conform to the Department's construction and safety standards. The National Home Builders Registration Council's (NHBRC) Warranty Scheme was instituted to provide assurance to beneficiaries that houses built and financed through the housing subsidy scheme are of an adequate quality. After trying to resolve disputes about the quality of construction, a housing subsidy beneficiary can forward complaints to the NHBRC. However, the report highlights that public education is required to empower consumers to identify quality problems and make use of the complaint procedures of the NHBRC. The Mpumalanga Department of Housing also reported that building works inspectors from provincial government and local government monitored the work of contractors.

The report makes one urgent recommendation, namely: to establish the dedicated fund for acquiring well-located land for low-cost housing. Other recommendations include reducing policy incoherence and institutional fragmentation, improving monitoring and evaluation, interpreting the Peoples' Housing Process as a route for strengthening culturally adequate housing, creating an informed and supportive environment for whistleblowing, and ensuring effective participation in the delivery of housing. Specific attention is drawn to the plight of farmworkers and vulnerable groups, especially HIV/AIDS orphans and People with Special Needs.

The Right to a Healthy Environment

Section 24 of the Constitution establishes the right to environment in order to ensure the health and well-being of present and future generations. At its core, the right to environment aims to grant this benefit to everyone in South Africa, not just to the few. Although, translating this vision of the benefit of environmental health into reality has become increasingly complicated, ensuring that there are no violations of this right is as urgent as any violation of other rights in the Bill of Rights.

Analysts of data from South Africa's Global Atmosphere Watch station at Cape Point contend that continued emissions of greenhouse gases are cause for concern. Like many countries, South Africa is sensitive to global climate change and there are also occasions, especially in major urban areas, when more localised air pollution becomes a health threat.

By way of illustration, the Johannesburg *State of the Environment Report 2003* indicates that “while in many parts of Johannesburg, air quality is within acceptable standards, approximately 20% of the City, particularly dense settlements and lower income townships, experience severe air pollution, with ambient air pollution levels exceeding acceptable guidelines by approximately 20-30% particularly during winter when temperature inversions prevent emissions from dispersing.” The report goes further to state that “levels of particulate matter in certain townships can exceed the World Health Organisation standards by as much as 250% in winter.”

Progress in the realisation of the right to environment could not be very well monitored and observed by the Commission during the year under review because annual progress reports in terms of section 11 of the National Environmental Management Act 107 of 1998, were inaccessible at the time of writing. These progress reports should contain detailed information on the implementation of measures instituted to ensure the right to environment.

Nevertheless, the Commission did observe the growing influence of the Committee for Environmental Co-ordination through an interpretation of its review, and subsequent consolidation, of Environmental Implementation Plans and Environmental Management Plans submitted by relevant organs of State. These reports contain the planned and *aligned* outputs of national and provincial departments with an impact on, or management function over, aspects of the right to environment. The Commission also recognises that some Environmental Co-ordinating Committees were established at the provincial sphere, also for the purposes of alignment and co-operative governance.

Progress has been made, through the courts and other avenues, towards realising the procedural aspects of the right to environment (access to information, participation in decision-making processes, redress and remedy). The report includes several examples of objections and court applications lodged by Non-Governmental Organisations, with a view towards safeguarding environmental health in low-income areas. Despite these opportunities to access information and participate in decision making, some remedies for old violations could not be realised without concerted action on the part of the State. One example, is the case of workers with mercury poisoning, which first occurred many years ago. In March 2003, Thor Chemicals was served with a R60 million toxic chemical clean-up directive by the State.

On the substantive issue of waste management and pollution control, what was reported by government to the Commission fell short of what was expected in terms of the strategic objectives of the policy and strategy for pollution and waste management. The report highlights that there is still no clear understanding among the different mandate holders for this function of what they are required to do and as a result, implementation was not as effective as it could be. Having said this, there were positive developments during the period under review, including the introduction of waste buy-back centres

which address brown issues and could assist in strengthening the bargaining power of the very low income people who do the hard work of collection.

On the issue of Air Quality, the report acknowledges that progress was made in the Southern Industrial Basin through the focused action of the State and Community Based Organisations (CBOs) in linking asthma in school children to emissions, however there is an urgent need for national legislation to institute mechanisms and standards to effectively protect against pollution that threatens health and well-being, possibly including pollutant release and transfer registers.

Several new control measures were introduced to manage water pollution, including the second draft of the National Water Quality Management Framework Policy and the Waste Discharge Charge System. The Working for Water programme succeeded in protecting and preventing against water loss due to alien invasive plant species, however it was not clear how much of this work focused unfairly on commercial farmlands and not on areas inhabited by vulnerable sections of the population.

Most of the work by the State on inland as well as marine and coastal biodiversity and conservation was reasonable in as far as it related to tourism and the economic development of the country.

The report highlights that the challenges facing South Africa in terms of the right to a healthy environment include: allocating sufficient resources for progressive realisation of the right for the benefit of vulnerable groups; educating and training communities; ensuring that proper implementation systems are in place; ensuring effective co-operative governance; operating proper monitoring and evaluation systems.

The report recommends that while most policies and laws are in place or about to be instituted, there should be a quantum shift in focus towards implementation of measures to further the right to environment for vulnerable groups in a more decentralised way. Provincial government and local government should be resourced to concentrate their energies on implementation, in association with community based organisations that have already developed innovations to further the right, sometimes in the face of extreme resource scarcity.

The State has made valuable contributions to promoting the right to environment through for example, the “Bontle ke Batho” or the clean schools, wards and towns campaign; however, organs of State could do more to ensure that their own internal operations reflect implementation of the right to environment. For example, the Council for Scientific and Industrial Research (CSIR) implemented International Standards Organisation 14001 standards for handling and disposing of its own hazardous waste. This initiative by an organ of State seems to have afforded the CSIR the opportunity to gain some capacity and insight, which could be applied to other relevant contexts in the public or private sector within the South Africa.

The report also recommends that monitoring and evaluation systems need to be simplified where possible and improved. Annual progress reports in pursuit of targets and plans laid down in Environmental Implementation Plans and Environmental Management Plans should include a focus on the substantive aspects of the realisation of the right for vulnerable groups. The contents of the reports should also be widely

communicated so as to avoid conflict and encourage effective participation. The Committee for Environmental Co-ordination could also be complemented by the National Environmental Advisory Forum (NEAF) envisaged in the National Environmental Management Act 107 of 1998. This provision to encourage participation should be effected without delay.

D) Protocols and the Report Production Process

The production process for this report began with the SAHRC sending questionnaires, which are called protocols, to various organs of State for their comment in May 2003. The Commission then took some time to revise the protocols, which were resent to all relevant organs of State for comment and suggestions in June 2003. The response from relevant organs of State was not satisfactory; with the Department of Housing (Gauteng Province), the Department of Land Affairs and the Department of Water Affairs and Forestry being the only organs of State to respond. However, the Commission acknowledges that further work is required, in the next reporting cycle, to ensure that the protocols are improved for all spheres of government and parastatals.

The final protocols were sent to various organs of state (national and provincial government, parastatals, metropolitan and local councils) in July 2003, as mandated by section 184(3) of the Constitution. In future, the Commission will pay more attention to smaller municipalities by focusing field research on the implementation of programmes and projects at a local level.

The first deadline for the release of this Report was in December 2003. However, the Commission had major problems in getting timeous responses from organs of State and as a result, the Commission took a decision to subpoena several departments and postpone the release of the Report until sufficient information had been received (see summarised list overleaf).

SPHERE	INSTITUTION	DATE RESPONSE RECEIVED
2 - Provinces	GAU Social Services and Population Development	August 21, 2003
1 - National	NATIONAL Labour	August 29, 2003
2 - Provinces	EC Health	August 29, 2003
2 - Provinces	WC Agriculture	August 29, 2003
2 - Provinces	LIMPOPO Agriculture and Environmental Affairs	August 31, 2003
2 - Provinces	FS Health	September 1, 2003
2 - Provinces	NW Health	September 1, 2003
2 - Provinces	WC Social Services	September 1, 2003
2 - Provinces	EC Education and Training	September 5, 2003
2 - Provinces	GAU Health	September 5, 2003
2 - Provinces	KZN Agriculture and Environmental Affairs	September 9, 2003
4 -Parastatals	PARASTATAL Rand Water	September 9, 2003
2 - Provinces	KZN Traditional and Local Government	September 10, 2003
2 - Provinces	MP Local Govt and Traffic	September 10, 2003
2 - Provinces	NW Education	September 10, 2003
1 - National	NATIONAL Land Affairs	September 12, 2003
2 - Provinces	FS Social Welfare	September 12, 2003
2 - Provinces	GAU Housing	September 12, 2003
2 - Provinces	NC Health	September 12, 2003
2 - Provinces	NC Social Services and Population Development	September 12, 2003
1 - National	NATIONAL Agriculture	September 15, 2003
1 - National	NATIONAL Water Affairs and Forestry	September 15, 2003
2 - Provinces	EC Agriculture and Land Affairs	September 15, 2003
2 - Provinces	FS Education	September 15, 2003
2 - Provinces	GAU Education	September 15, 2003
2 - Provinces	MP Housing and Land Administration	September 15, 2003
2 - Provinces	WC Education	September 15, 2003
2 - Provinces	WC Environmental Affairs and Development Planning	September 15, 2003
2 - Provinces	WC Health	September 15, 2003
2 - Provinces	WC Housing	September 15, 2003
2 - Provinces	NC Agriculture Conservation and Environment	September 15, 2003
2 - Provinces	KZN Health	September 16, 2003
1 - National	NATIONAL Education	September 18, 2003
2 - Provinces	MP Health	September 18, 2003
2 - Provinces	NW Agriculture, Conservation and Environment	September 23, 2003
2 - Provinces	MP Social Services and Population Development	September 25, 2003
3 -Metropolitan Councils	METRO Greater Tswane Metropolitan Council	October 2, 2003
3 -Metropolitan Councils	METRO Nelson Mandela Metro Council	October 2, 2003
1 - National	NATIONAL Correctional Services	October 3, 2003
1 - National	NATIONAL Social Development	October 3, 2003
2 - Provinces	LIMPOPO Health and Welfare	October 3, 2003
2 - Provinces	EC Social Development	October 3, 2003
1 - National	NATIONAL Health	October 10, 2003
2 - Provinces	GAU Agriculture, Conservation, Environment and Land Affairs	October 10, 2003
4 -Parastatals	PARASTATAL Medicines Controls Council	October 10, 2003
2 - Provinces	FS Local Govt and Housing	October 29, 2003
1 - National	NATIONAL Housing	October 30, 2003
1 - National	NATIONAL Provincial and Local Government	October 30, 2003
1 - National	NATIONAL Environmental Affairs and Tourism	October 31, 2003
4 -Parastatals	PARASTATAL Agriculture Research Council	October 31, 2003
1 - National	NATIONAL Minerals and Energy Affairs	November 3, 2003
2 - Provinces	KZN Education and Culture	November 3, 2003
2 - Provinces	EC Housing, Local Government and Traditional Affairs	November 4, 2003
2 - Provinces	GAU Development Planning and Local Government	November 4, 2003
2 - Provinces	LIMPOPO Education	November 4, 2003
2 - Provinces	MP Agriculture, Conservation and the Environment	November 4, 2003
2 - Provinces	NC Local Govt and Housing	November 4, 2003
2 - Provinces	WC Planning and Local Govt	November 4, 2003
4 -Parastatals	PARASTATAL National Education Financial Aid Scheme	November 4, 2003
2 - Provinces	NW Developmental Local Government and Housing	November 5, 2003
3 -Metropolitan Councils	METRO Eastrand Metropolitan Council	November 5, 2003
4 -Parastatals	PARASTATAL Umngeni Water	November 5, 2003
3 -Metropolitan Councils	METRO Cape Town Metro Council	November 6, 2003
4 -Parastatals	PARASTATAL Medical Research Council	November 6, 2003
2 - Provinces	FS Agriculture	November 7, 2003
2 - Provinces	KZN Welfare and Pensions	November 7, 2003
2 - Provinces	LIMPOPO Local Govt and Housing	November 7, 2003
2 - Provinces	MP Education	November 7, 2003
2 - Provinces	NC Education	November 7, 2003
4 -Parastatals	PARASTATAL National Housing Finance Corporation	November 7, 2003
2 - Provinces	KZN Housing	November 14, 2003
3 -Metropolitan Councils	METRO eThekweni Metropolitan Council	November 17, 2003
4 -Parastatals	PARASTATAL Landbank*	November 17, 2003
4 -Parastatals	PARASTATAL Council for Scientific and Industrial Council*	November 18, 2003
2 - Provinces	FS Environmental, Tourism and Economic Affairs	November 19, 2003
3 -Metropolitan Councils	METRO Greater Johannesburg Metropolitan Council	December 17, 2003
2 - Provinces	NW Social Services**	

-----	First deadline
-----	Extended deadline
-----	Subpoena hearings begin
-----	Subpoena hearings end

* Extension granted as a result of communication problems

** No subpoena served, a letter explains the breakdown in communication

Most organs of State submitted their reports before they were meant to appear at a subpoena hearing. However, the North West Department of Social Services, Arts, Culture and Sport did not provide a response to the Commission as a result of problems with network cabling and the resignation of the personal assistant to the Acting HoD. The Department submits that it was not out of irresponsibility and deliberate disregard of the law that the Commission did not receive a report from the Department.

In order to improve the quality of the information, analysis and recommendations in the reports and to forge closer and better working relationships with government and non-governmental entities, a set of draft reports were released for comment to government and civil society before a National Input Workshop on 27-28 January 2004. Comments made at the workshop, and in writing, have been considered by each report writer.

A set of second draft reports were then made available to the Director General of the relevant national department in February 2003 to correct any remaining problems with factual information. Responses were received from the following departments: Water Affairs and Forestry, Minerals and Energy, Provincial and Local Government, Health, Social Development, Education, Land Affairs, and Housing. The final reports were also reviewed intensively within the Commission before being published.

E) Conclusion

One of the concerns acknowledged by the Commission about the monitoring process so far is that it still relies heavily on reports from government.

Furthermore, even though the Bill of Rights applies vertically and horizontally and binds State entities and non-State entities, the Commission has some capacity problems in extending its mandate to non-State entities, especially big corporations.

In the next reporting cycle, the Commission will place more emphasis on conducting its own primary research in addition to improving on the existing protocols for each right and making better use of annual report information as soon as it becomes available.

ACRONYMS

ARC	Agricultural Research Council
BEE	Black Economic Empowerment
CODEX	A collection of standards and product descriptions for a wide variety of foods was developed as the <i>Codex Alimentarius Austriacus</i> in the Austro-Hungarian Empire between 1897 and 1911. Although lacking legal force, it was used as a reference by the courts to determine standards of identity for specific foods. The present-day <i>Codex Alimentarius</i> draws its name from the Austrian code. The literal meaning of <i>codex</i> is a <i>volume</i> or a <i>roll</i> , but the legal term is particularly applied to a volume of civil law produced by the roman emperor Justinian in AD 529. Amongst Justinian's military pursuits was the re-conquering of Africa and Italy.
CPF-SP	Community Projects Fund Support Programme
EIA	Environmental Impact Assessment
EU	European Union
FAO	Food and Agriculture Organisation
HACCP	Hazard Analysis Critical Control Point
HIV/AIDS	Human Immunodeficiency Virus / Acquired Immune Deficiency Syndrome
IFSNP	Integrated Food Security and Nutrition Programme
IFSS-SA	Integrated Food Security Strategy for South Africa
JSE	JSE Securities Exchange
LRAD	Land Redistribution for Agricultural Development programme
NFES	National Food Emergency Scheme
PEM	Protein Energy Malnutrition
PMTCT	Prevention of Mother to Child Transmission
SAFEX	South African Futures Exchange
SMMEs	Small Medium and Micro Enterprises
SPFS	Special Programme for Food Security

EXECUTIVE SUMMARY - THE RIGHT TO FOOD

Constitutional Obligations

The Bill of Rights in the Constitution enshrines and affirms the democratic values of human dignity, equality and freedom as well as economic and social rights. Section 7(2) of the Constitution requires that the “State must respect, protect, promote and fulfil the rights in the Bill of Rights”.

The Constitution makes specific reference to food in three sections, namely: section 27(1)(b) where it refers to the State’s obligation to take reasonable legislative and other measures, within its available resources, to achieve progressive realisation of everyone’s right to have access to sufficient food and water; section 28(1)(c) where every child has the right to basic nutrition, shelter, basic health care services and social services; and section 35(2)(e) where every detained person and sentenced prisoner has the right to adequate nutrition.

Progress in the realisation of the right to food

Respect

The State observed the constitutional obligation to respect the right to food through respecting the resources owned by an individual and respecting their knowledge, skills and actions to satisfy their own needs.

Protect

The obligation to protect the right to food in terms of section 27(1)(b), 28(1)(c) and 35(2)(e) of the Constitution includes the State's obligation to protect against fraud, unethical behaviour in trade and contractual relations, and the marketing and dumping of hazardous or dangerous food products.

High basic food prices during the reporting period, were partly attributable to inadequate safeguards on the South African Futures Exchange, where maize prices are formed. High prices for maize were passed on to low-income consumers who could ill afford such dramatic basic food price increases for such a sustained period of time. The potential for market manipulation should have been prevented by the Johannesburg Securities Exchange when allegations of abuse were first signalled in 2002. It was not possible to say what information, models, analysis and recommendations the Food Price Monitoring Committee report contains, since it is still not publicly available.

April 2002 – March 2003

A host of measures to ensure that food is safe and of a sufficient quality was introduced during the reporting period. One significant development related to this was the release of a sampling frame for food that is consumed within South Africa in order to scientifically test for excessive levels of harmful toxins in future.

The State instituted minimum wages and working conditions to protect the rights of domestic workers and farm workers. This is seen as a positive development because of the findings and recommendations of the Farming Communities Inquiry and the reasoning that the State is obliged to protect against unethical behaviour in trade and contractual relations.

Promote

The Integrated Food Security Strategy and Integrated Food Security and Nutrition Programme were released during the reported period to promote and fulfil the right to food. They made a valuable contribution to the right to food in the sense that they supported short-term, medium-term and longer-term actions by the State towards progressive realisation of the right to food. It also facilitated some much needed inter-sectoral co-operation between different line functions in order to realise the right to food as expeditiously as possible.

The National Guidelines for Integrated Management of Agricultural Water Use state that many traditional African production techniques should be recognised and supported because of their positive contribution to household food security. In other words small and micro rainwater harvesting, organic soil preparation and cultivation techniques, sharing hardy pest and drought tolerant cultivars and low-cost processing and storage techniques. The Guideline calls for “smart” subsidies and training to promote low external input sustainable agriculture (LEISA). It also calls for the zoning of land for urban agriculture as part of the Integrated Development Planning process at a local level.

Evidence presented in the report suggests that South Africa’s malnutrition problem is not a moderate public health problem, but a more deep seated one that is especially poorly understood by more affluent members of society.

Good nutrition needs to be promoted in an independent and culturally sensitive manner to all age groups. This is especially true for those areas of the country (like rural areas and informal settlements) that are actively supplied with low quality foods or foods with high concentrations of additives/toxins.

Fulfil

The obligation to fulfil childrens’ right to food in terms of section 28(1)(c) of the Constitution was mainly effected through the State’s Primary School Nutrition Programme for children in grade R to 7, the Early Childhood

Development Centre nutrition programme in Gauteng and nutrition programmes for children under 5 at health facilities across the country.

Based on information reported by personnel at health facilities across the country, the extent of growth monitoring of children under 5 improved considerably. More than 101 152 severely malnourished children were identified at health facilities during the year under review and a larger number were recipients of food supplements through the Protein Energy Malnutrition scheme based at health facilities.

Some health professionals went further and assessed the circumstances of households with malnourished children at their homes. These initiatives highlighted the extreme poverty of households, facilitated registration for State grants and in some cases stimulated household food production. There appears to be room for improvement from other professions when it comes to following-up on children with malnutrition after they have been discharged from hospital.

Nutritional supplementation interventions for people living with TB and/or HIV/AIDS were not reported separately from the Protein Energy Malnutrition scheme. It was therefore difficult to assess the size and coverage of this programme. The report recommends that the Integrated Nutrition Programme be expanded into a sustainable programme to half hunger by 2015.

Only the Gauteng Department of Health reported on a feeding scheme for children at Early Childhood Development Centres. The programme reached 66 579 children.

Indicators of the overall performance of the Primary School Nutrition Programme reveal an urgent problem. In the context of increasing numbers of children enrolled in schools, the Primary School Nutrition Programme did reach 4,5 million children in grades R to 7, however this was 151 615 children less than the year before.

The drop in the number of learners who were reached is connected with government reducing its target from 5,4 million learners in 2001/2002 to 4,9 million learners in 2002/2003 as well as rapid increases in the cost of food procured for the programme. A three month gap in the implementation of the programme in the Eastern Cape also reduced access to the programme.

The obligation to fulfil everyone's right to food in terms of section 27(1)(b) of the Constitution was mainly effected through the Department of Social Development's social assistance grants and the National Food Emergency Scheme.

One of the most significant measures to address the impact of high food prices during the reporting period was the increase in the value of existing social

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assistance grants and the extension of the coverage of the child support grant (see Social Security report in this series). During the reporting period, the old-age-pension increased by R20 to R640, the child-support grant increased by R10 to R140, the grant in aid increased from R120 to R130, the foster care grant from R450 to R460, and the care dependency grant from R620 to R640.

On 10 October 2002, Cabinet announced the National Food Emergency Scheme amounting to R230 million whereby the Department of Social Development distributed food parcels to eligible households. Figures on how many people benefitted from the pilot phase of the scheme before April 2003 range from 60 089 to 149 779 households (see Social Security report in this series).

The obligation to fulfil the right to food was also given effect through production support programmes initiated by the National Department of Agriculture and Provincial Departments of Agriculture.

There were some signs of improvement in the delivery of production support to emerging farmers. For example, the Comprehensive Farmer Support Package was instituted during the reporting period to assist land reform beneficiaries. However, it was only implemented in some provinces.

The LandCare programme, which is one of the major production support programmes from the National Department of Agriculture, was heavily underspent at 65% of the total conditional grant to provinces. There is also a significant gap in support for rural restitution beneficiaries.

Enough information was provided by the North West Department of Agriculture to establish that the delivery of agricultural infrastructure (tools, equipment, facilities and land works) lagged behind the delivery of training. This imbalance may limit the effectiveness of production support interventions. Very few Provincial Department's of Agriculture were operating well funded programmes designed specifically to provide grants or revolving loans to support increased access by small scale and emergent farmers to production or marketing related infrastructure. Production support materials and learning support materials that are relevant to resource to poor farmers in water scarce areas were also not readily available, although the Agricultural Research Council has made progress in this regard.

The Agricultural Starter Pack Programme was announced during the reporting period and it is the programme that intends to reach a large number of resource poor farmers with production inputs and agricultural equipment. A substantial sum of money was allocated towards the programme, which was due to commence in April 2003.

Overall Assessment

It is not possible to make a single and simple determination on whether there was progressive realisation of the right to food during the reporting period or not. It is reasonable to argue that many people, and children in particular, had their right to food violated during the reporting period as they lost access to affordable food due to high prices or unreasonable plans devised and supervised by government.

On the whole, the report determines that the State absorbed the heavy burden of duty to achieve the progressive realisation of the right to food as expeditiously as possible, within its available resources. However, there was a crucial weakness in the measures to protect the right to food from being violated by non-State actors or third parties that need not be repeated in future. There is also a need for greater care in the preparation of strategic and financial planning targets so that they inspire civil society to marshal their resources in support of the progressive realisation of the right.

Recommendations

The report recommends: public education to raise awareness of malnutrition, rolling out the Integrated Food Security Strategy at a provincial level, improving food safety, achieving better regulation of the food industry through State procurement, accelerating agrarian reform, and communication policy and legislative developments more effectively. Finally, the report supports the call for government, labour, community and business representatives to negotiate an agreement at the National Economic Development and Labour Council (NEDLAC) to ensure the right to food and quality job creation in the food industry.

1 INTRODUCTION

1.1 CONSTITUTIONAL OBLIGATIONS

The Bill of Rights in the Constitution enshrines and affirms the democratic values of human dignity, equality and freedom as well as economic and social rights. It also requires that the “State must respect, protect, promote and fulfil the rights in the Bill of Rights”. The Constitution makes specific reference to food in three sections, namely: section 27(1)(b) where it refers to the State’s obligation to take reasonable legislative and other measures, within its available resources, to achieve progressive realisation of everyone’s right to have access to sufficient food and water; section 28(1)(c) where every child has the right to basic nutrition, shelter, basic health care services and social services; and section 35(2)(e) where every detained person and sentenced prisoner has the right to adequate nutrition.¹

The obligation to respect the right to food is a negative obligation, which requires the State to refrain from denying anyone their right of access to food or limiting equal access to the right to food.² The equitable allocation of fishing quotas is one practical example of the State’s obligation to respect the right to food (see the Environmental Rights report). In international human rights law forums, much has been made of the proposal to treat the obligation to respect the right to food as a first order obligation, on the assumption that:

human beings, families or wider groups seek to find their own solutions to their needs. States should, at the primary level, respect the resources owned by the individual, her or his freedom to find a job of preference, to make optimal use of her/his own knowledge and the freedom to take the necessary actions and use the necessary resources – alone or in association with others – to satisfy his or her own needs.³

South Africa’s food marketing system was de-regulated from a form of State control into a form of private control from the late 1980s onwards. In many countries, including South Africa, food is characterised as a private good (a commodity) that should be accessed exclusively through markets. In light of the commoditised nature of food, the United Nations Special Rapporteur on the right to food stated that section 8(2) of the Constitution ensures “that the Bill of Rights applies to a natural or a juristic person, which means that a transnational corporation [or domestic business] could be held liable for violation of the right to food.”⁴

The obligation to protect the right to food requires “effective regulation of the food market by the State to ensure that basic foodstuffs are not inflated out of the reach”⁵ of vulnerable groups. The obligation to protect requires the State to actively prevent violations by the private sector.⁶ The State’s obligation may include, amongst other things, protection against fraud, unethical behaviour in trade and contractual relations, and the marketing and dumping of hazardous or dangerous food products.⁷

The State is also obliged to ensure protection against localised violations of the right to food such as farm owners who deny labour tenants and farm workers rightful access to grazing and crop land and water for production; inflate food prices at farm stalls; provide sub-standard food as in-kind payments; or deny food and water for the purposes of strategic evictions.⁸ The State's role of protecting the right to food as a first order of action is sensible, considering that violations by non-State actors can eventually have multiple consequences for the State. This was the case after certain farm worker and labour tenant evictions that demanded the provision of emergency nutrition, shelter and health care at the State's expense.⁹

The State's obligation to promote the right includes the delivery of broad-based public education on the right to food. The State should also run effective monitoring systems that indicate whether policies and legislation are successful in ensuring progressive realisation of the right over time.

The State's obligation to fulfil the right to food places a positive obligation on the State to create an enabling atmosphere in which everyone can exercise his or her right to food. This includes the policies, legislation, institutions and processes aimed at ensuring that food supplies and food distribution are sufficient for everyone. Whenever an individual or a group is unable to enjoy the right to food by the means at their disposal, the State also has an obligation to fulfil the right immediately for those in desperate need.¹⁰ This is especially so when it comes to emergencies and children's rights. Where parental and family care is available, the State need only provide economic and social rights on a "programmatically and co-ordinated basis, subject to available resources".¹¹ However, according to the *Grootboom* and *TAC* judgments, the State is obliged to ensure that children are accorded protection when effective parental or family care is lacking.¹²

Given the historic origins of the widespread malnutrition and hunger problem in South Africa, there are positive obligations on private agencies to fulfil the right to food, despite statements to the contrary as follows:

consider a social-welfare right such as the right of access to sufficient food and water. As a matter of political morality, it is submitted that it would be wholly inappropriate for this right to be interpreted as imposing positive burdens on private agencies. Whatever view we may adopt regarding the existence of moral duties which require the rich to assist the poor, it would be intolerably far-reaching to endorse the proposition that rich persons have a constitutional duty to provide food to the impoverished. This conclusion is bolstered by section 27 (2) of the Constitution, which makes it clear that it is the State that is burdened with a duty to achieve the progressive realisation of the right of access to food and water. On the basis of this kind of reasoning, it may be concluded that social-welfare rights will, in general, not impose positive duties on private agencies.¹³

1.2 RELEVANT CASE LAW

The *Grootboom* judgment, which elaborated on the housing rights of adults and children with “no access to land, no roof over their heads, and who were living in intolerable conditions or crisis situations”, reasoned that the State should “devise, fund, implement and supervise measures to provide relief to those in desperate need” within its available resources.¹⁴ In terms of the judgment, a reasonable programme would be one that resulted in progressive realisation of the right within available resources while being balanced and flexible, as well as making appropriate provision for attention to crises and to short-, medium- and long-term needs. In addition, “a reasonable programme had clearly to allocate responsibilities and tasks to the different spheres of government and ensure that the appropriate financial and human resources were available”.¹⁵

Several interpretations of the right to food in light of the *Grootboom* judgment have placed an emphasis on:

- a) the extent to which a policy should respond to the immediate consumption needs of people in desperate situations as opposed to focusing on longer-term food production objectives; and
- b) the requirement that a policy is only reasonable when it is coherent and co-ordinated. In terms of the right to food, policy co-ordination between the National Departments of Agriculture, Health and Social Development at a national level has been seen as key.¹⁶

In terms of the right to food and other economic and social rights, the *TAC* judgment is significant because the Constitutional Court issued an order to government to act without delay in rolling out Neviripine with a view towards reducing the risk of mother-to-child transmission and saving lives.¹⁷ The *TAC* judgment is also important because it stated that for a “public programme ... to meet the constitutional requirement of reasonableness, its contents must be made known appropriately”.¹⁸ State provision of good nutrition to HIV/AIDS sufferers in the form of formula feed for infants or food supplements has not been the main subject of an application to court thus far. Although breast milk substitutes were discussed in the *TAC* judgment, the issue did not form part of the Constitutional Court order.¹⁹

Whether a right-to-food programme is reasonable in its conception and implementation is being brought into sharper focus by cases against the State and the implementation of its National Food Emergency Scheme in terms of the Social Assistance Act.²⁰ The South African Human Rights Commission (SAHRC) also intervened to ensure the implementation of the National Food Emergency Scheme after it failed temporarily in KwaZulu-Natal.²¹

1.3 INTERNATIONAL INSTRUMENTS

The legal content of the right to food has been defined in successive international instruments. Article 11(1) of the 1976 International Covenant on Economic, Social and Cultural Rights²² provides that “State parties recognise

the right of everyone to an adequate standard of living for himself (sic) and his family (sic), including adequate food, clothing and housing, and to the continuous improvement of living conditions”. Article 11(2) provides that State parties recognise that more immediate and urgent steps may be needed to ensure “the fundamental right to freedom from hunger and malnutrition”.

In 1999 the Committee on Economic, Cultural and Social Rights, in its *General Comment 12*,²³ elaborated on Article 11 as follows:

*the right to adequate food is realised when every man, woman and child, alone or in community with others, has physical and economic access to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense that equates it with a minimum package of calories, proteins and other specific nutrients. The right to adequate food will have to be realised progressively. However, States have a core obligation to take the necessary action to mitigate and alleviate hunger as provided for in paragraph 2 of article 11, even in times of natural and other disasters.*²⁴

More recently, inspired by the *General Comment*, the United Nations Special Rapporteur on the right to food adopted a working definition of the right to food as:

the right to have regular, permanent and unobstructed access, either directly or indirectly by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free from anxiety.

The *General Comment* goes on to state that:

*“Food aid should ... be provided in ways which do not adversely affect local producers and local markets, and should be organized in ways that facilitate the return to food self-reliance of the beneficiaries. Such aid should be based on the needs of the intended beneficiaries. Products included in international food trade or aid programmes must be safe and culturally acceptable to the recipient population.”*²⁵

It is also worth noting that the Food and Agriculture Organisation (FAO) was mandated by the United Nations to develop voluntary guidelines on the right to food.²⁶ The purpose of voluntary guidelines is to provide a practical tool to assist in the implementation of existing legal obligations.²⁷ The Millennium Development Goal on the right to food is to “halve the proportion of people living on less than a dollar a day and those who suffer from hunger” by 2015.²⁸

While South Africa did not make a written submission to the Intergovernmental Working Group that guided the content of the draft voluntary guidelines, the country is represented as co-chair of the Bureau that has responsibility for developing the guidelines before they are submitted to the

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FAO's World Committee on Food Security and then the Economic and Social Council of the UN.²⁹ The South African Human Rights Commission is involved in preparing a case study on the right to food in South Africa as an input to the Intergovernmental Working Group.

This report includes a consideration of the right to food and vulnerable groups. International instruments provide some indication of how the right to food is conceptualised for women, children and older persons.

South Africa has ratified the Convention on the Elimination of All Discrimination Against Women (CEDAW).³⁰ Having noted the concern that in situations of poverty, women have least access to health, food, education, training and opportunities for employment and other needs, the Convention provides for the following in Article 12(2):

State parties shall ensure to women, appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.³¹

South Africa also ratified the UN Convention on the Rights of the Child in June 1995. Article 24 Convention states:

24(2) State parties shall ensure full implementation of this right and, in particular, shall take appropriate measures:

c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

Whilst, Article 27(3) states:

States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.³²

In light of the fact that older persons in South Africa play a major role as supporters of many families, it is also necessary to safeguard the principle that:

Older persons should have access to adequate food, water, shelter, clothing and health care through the provision of income, family and community support and self-help.³³

2 PROGRESS IN THE REALISATION OF THE RIGHT

2.1 NEW POLICIES AND PROGRAMMES

2.1.1 National Government

2.1.1.1 Integrated Food Security Strategy for South Africa

The most significant policy development during the 2002/2003 period was the release of the Department of Agriculture's *Integrated Food Security Strategy for South Africa* (IFSS-SA) in July 2002.³⁴ The IFSS-SA is an extension of the *Discussion Document on Food Security* released in 1997.³⁵ The IFSS-SA represents the most coherent departmental statement on food security policy in South Africa to date.³⁶ Its acceptance by Cabinet as policy was subject to it being "translated into an implementable programme".³⁷ This approach emphasises the requirement of the *Grootboom* judgment that a policy may pass the test of reasonableness if it is reasonable in its conception *and* implementation.

The central principle of the IFSS-SA is that food security should be addressed by ensuring that the target population gains access to productive resources and is empowered to have nutritious and safe food. Where a segment of the population is unable to gain access to productive resources, food security interventions will ensure access to income and job opportunities to enhance purchasing power. Finally, any segment of the target population that is still excluded as a result of disability or extreme destitution will receive relief from the State over whatever time period is appropriate given the "nature of the interventions".

The IFSS-SA paints a positive picture of South Africa's ability to produce and export food, but highlights the scale of household and intra-household food insecurity. The report finds that between 35% and 39% of South Africa's population is vulnerable to food insecurity, but concludes that "compared with international ranges, protein energy malnutrition, as measured by stunting levels, is a moderate public health problem in South Africa".³⁸

The IFSS-SA also complies with the Millennium Development Goal to halve hunger by 2015. The IFSS-SA states that its goal "is to eradicate hunger, malnutrition and food insecurity over 2015."³⁹ The report poses a major challenge for "national policy-makers implementing" the IFSS-SA as "keeping abreast of the most important trends and prioritising them at any given time".

The IFSS-SA sees a wide range of food security challenges ranging from national level to household level. The report highlights five challenges that have implications for vulnerable households, namely:

- inadequate safety nets;
- weak support networks and disaster management systems;
- inadequate and unstable household food production;

- lack of purchasing power; and
- poor nutritional status.

Consistent with the central principles of the policy document outlined earlier, the report identifies priority areas for action in the following order:

- Increase household food production and trading;*
- Improve income generation and job-creation opportunities;*
- Improve nutrition and food safety;*
- Increase safety nets and food emergency management systems;*
- Improve analysis and information management systems;*
- Provide capacity building; and*
- Hold stakeholder dialogue.*

Exactly what measures will be instituted to realise the right and address the problems of vulnerable groups is not clear. Several possible policy interventions are proposed for each programmatic area, but inconsistencies and policy trade-offs have not been resolved. This appears to be because the IFSS-SA is still to be finalised at a national intergovernmental workshop⁴⁰ after “discussions among stakeholders, to ratify the proposed interventions, objectives and targets”.⁴¹

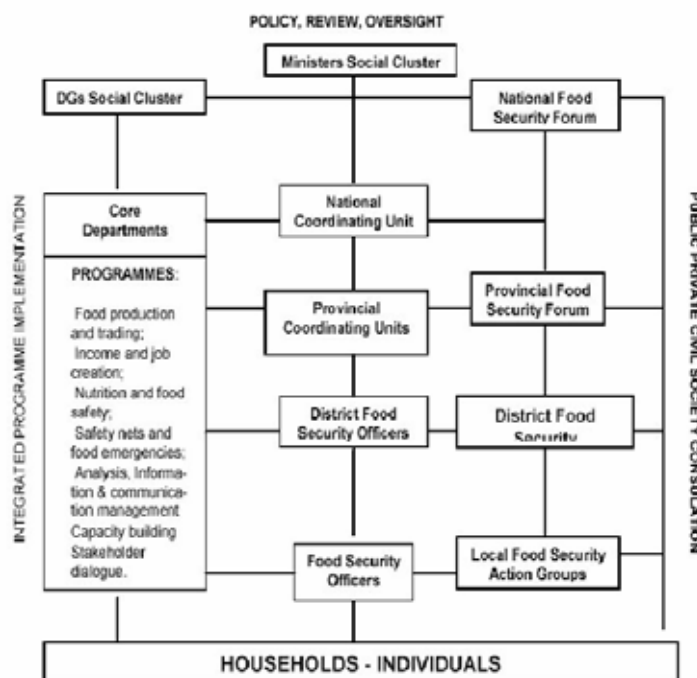


Diagram 1: Institutional Arrangements and Organisational Structures

The report acknowledges that one of the fundamental problems standing in the way of targeting and effective delivery is a lack of institutional capacity, especially in rural areas. A special organisational structure focusing on expanding the capacity under the Minister's Social Cluster is proposed in the IFSS-SA. The IFSS-SA mentions that it links with the *Integrated Sustainable Rural Development Strategy*, but these links are not spelt out clearly in the document.⁴²

2.1.1.2 Integrated Management of Agricultural Water Use

South Africa is a water scarce country, which inherited deep divisions in access to water, including water for the production of food.⁴³ The final version of the *National Guidelines for Integrated Management of Agricultural Water Use* was published on 24 July 2002 with a foreword by the Minister of Agriculture and Land Affairs.⁴⁴ The Guideline was approved by the Agricultural Minister and Members of the Executive Council (MinMEC) on 30 October 2002, and has been accepted for use by the National Department of Agriculture and all provincial departments of agriculture.⁴⁵ The Guideline responds to the fact that 1,3 million hectares (ha) of irrigated land in South Africa is distributed extremely unequally. In many water catchments, there is no water for additional irrigation activity. To remedy this situation, the Guideline document states that the National Department of Agriculture will launch a major national smallholder irrigation initiative under the WaterCare programme, which will be called the "Fruits of our Water" programme.

The Guideline document contains a detailed discussion of different categories of agricultural water use among smallholders in South Africa, including:⁴⁶

- **Low-risk household production for food security:** The Guideline states that many traditional African production techniques should be recognised and supported because of their positive contribution to household food security. In this regard, the report mentions small and micro rainwater harvesting, organic soil preparation and cultivation techniques, sharing hardy pest and drought tolerant cultivars and low-cost processing and storage techniques. The Guideline calls for "smart" subsidies and training to promote low external input sustainable agriculture (LEISA). It also calls for the zoning of land for urban agriculture as part of the Integrated Development Planning process at a local level.
- **Market-based SMME development:** The Guideline proposes that there are significant opportunities for small, medium and micro-enterprise development for farmer-entrepreneurs using water harvesting, moisture-conserving tillage practices, appropriate seed varieties and weed control under rain-fed and supplemental irrigation conditions. The Guideline also states that there are significant local economic development opportunities in previously neglected rural areas through

developing post-harvest value adding (like maize hammer milling), opening up local and external marketing channels and establishing a range of service SMMEs to provide agricultural inputs, mechanisation and market access.

The report warns that women who work the land are often overlooked when business opportunities arise and therefore calls for a special initiative to facilitate women's access to credit, land, water, training and membership of farmer and other organisations. The Guideline argues for defining a minimum economically viable scale of operation for each type of produce to avoid creating dependency on the State.

- **Revitalisation and local integration of smallholder irrigation schemes:** The State inherited a large number of farmer settlement schemes from the apartheid regime that were mostly operated by consultancies and parastatals without farmer or worker input into decision-making. The Guideline describes some of the elements of a revitalisation programme called Irrigation Management Transfer (IMT) that aims to transform ailing irrigation schemes into economically viable entities. The Guideline recommends a number of processes including community vision and institution building, beneficiary identification, achieving tenure security, partial and full debt-writes off, skills development and input supply (with possible transport subsidies for commercial input suppliers).
- **Transformation of commercial parastatal schemes:** Many apartheid-style parastatal irrigation schemes were transferred to provincial departments of agriculture after 1994. Many of these derelict or ailing schemes have now been earmarked for privatisation. In some cases this involves transferring ownership to workers, while in others it involves equity shareholding between investors, workers and landowners or communities.
- **Land reform beneficiaries:** The Guideline raises a number of concerns about the handover of intensive irrigation farms to land reform beneficiaries. The Guideline proposes that technical training and support to land reform beneficiaries should be intensified and delivered in an integrated way by different line function departments. Alternatively, it recommends that beneficiaries should be allowed to choose from a wider range of production systems with different levels of risk.
- **Joint ventures:** The Guideline proposes that the bargaining power of new farmer-entrepreneurs can be bolstered by the State issuing title deeds to land, water-use allocations, and a range of grants and subsidies. According to the Guideline, these measures will, in turn, provide incentives to those with capital and expertise to enter into joint venture arrangements.

The Guideline document proposes a wide range of projects and actions in order to implement the “Fruits of our Water” programme, including:

i) Transforming Provincial Irrigation Action Committees (IACs) or similar existing provincial structures into Co-ordinating Committees for Agricultural Water (CCAWs): The intention is to broaden the focus of existing technical decision-making structures from irrigation to broader agricultural water-use. This, in turn, will require widened participation by relevant roleplayers and disciplines at national, provincial and local level. The Guideline proposes that Co-ordinating Committees for Agricultural Water will need to be empowered by Cabinet to vet and support any new agricultural water-use projects supported by State resources before the Department of Water Affairs or Catchment Management Agency allocates a water licence.

ii) Declaring a consistent government policy for agricultural water-use projects: This involves a proposal that Cabinet should empower the National Department of Agriculture to develop a consistent national policy on agricultural water-use projects in conjunction with other relevant departments. The policy should include criteria for evaluating project proposals; provisions for community vision building processes; a matching grant scheme; an agreed percentage of the budget for training and capacity building; Environmental Impact Assessments (EIAs); standard requirements for grassroots institutions to be deemed eligible for assistance; and financial accountability.

iii) Actively building local government capacity and private sector service provision to smallholder agriculture in ISRDP priority nodes: The Guideline document proposes that Cabinet require District Councils to include an agricultural chapter in their Integrated Development Plans. Three pilot sites are proposed, one each in the Eastern Cape, Limpopo Province, and KwaZulu-Natal. The National Department of Agriculture and provincial departments of agriculture are encouraged to replace government and parastatals with SMMEs that provide services to small-scale farmers.

iv) Making training, credit and markets available to all interested small-scale agricultural water users that produce high quality produce: This involves Cabinet approving a training subsidy to enable all interested small-scale farmers to obtain South African Qualifications Authority (SAQA) accredited qualifications.

v) Supporting initiatives by individual farmers, especially women and youth: This involves a proposal for a communication Guideline to educate the public on how much water they can use without violating the law; appropriate technologies; market information and credit information.

vi) Redistributing land on irrigation schemes in communal areas in a phased manner to ensure sustainable use of a scarce resource: This

involves a proposal to allow voluntary redistribution of Permission-to-Occupy certificates on existing irrigation schemes.

2.1.1.3 Integrated Food Security and Nutrition Programme

According to the National Department of Agriculture's response to the SAHRC's protocol for 2002/2003, the Integrated Food Security and Nutrition Programme (IFSNP) flows from the IFSS-SA and encompasses the following five areas of intervention:

- Social security nets and food emergency measures (2.1.1.4);
- Improving nutrition and food safety (2.1.1.5);
- Food production and trade (2.1.1.6);
- Income generation and job opportunities (2.1.1.7);
- Food security and information management system (2.1.1.8).

The Department of Agriculture is the overall convenor of the IFSNP. To the best of available information, each of these areas of intervention will be discussed below. Some of the five intervention areas above are discussed in the section on legislative developments in section 2.2 further below.

2.1.1.4 Social Security Nets and Food Emergency Measures

On 10 October 2002, Cabinet announced a special relief package amounting to R400 million drawn from its contingency reserve as a response to dramatic food price increases at the end of 2001, which remained at unprecedented high levels throughout 2002/2003. R170 million was allocated to the World Food Programme for its relief efforts in the southern African region and the remaining R230 million was to be used for a scheme to distribute food parcels to eligible households run by the Department of Social Development. A sub-programme of the Integrated Food Security and Nutrition Programme (IFSNP) called the National Food Emergency Scheme (NFES) was instituted and piloted by the Department of Social Development in December 2002. The details and impact of the NFES in 2002/2003 is discussed in the report on the Right to Social Security in this series.

2.1.1.5 Improving Nutrition and Food Safety

The National Department of Health reported on new policy developments concerning nutrition in the following way:

Nutrition is key to health status, and in 2002 the Department completed an intensive review of the Primary School Nutrition Programme and advised Cabinet on it. The report led to a number of recommendations being accepted. These covered the frequency of feeding, standardisation of menus, and the inclusion of grade R pupils in the programme. These

policy recommendations, together with a realisation of the impact of escalating food prices and a more general focus on mechanisms to impact on poverty in the context of HIV/Aids, see strong increases on the baseline allocations in the 2003 Budget.

Since the Primary School Nutrition Programme was an ongoing programme it is discussed later in this report.

2.1.1.6 Food Production and Trading Measures

2.1.1.6.1 Food Price Monitoring Committee

In the second quarter of 2002, a dramatic escalation in food prices had a significant impact on the majority of South Africans, and an especially negative impact on vulnerable households. Following concerns about a lack of competition that may have resulted in opportunistic price increases in the food chain, in January 2003 the National Department of Agriculture established the Food Price Monitoring Committee, under the National Agricultural Marketing Council.⁴⁷ The objectives of the Committee were “to act as a watchdog that will serve to protect the consumer against unfair price rises that have a detrimental effect on food security for the poor”.⁴⁸ The task of the committee was to “investigate and monitor pricing and competitiveness in the food supply chain, as well as recommend specific actions for government to take in the case of identified uncompetitive behaviour within the supply chain”.

The Committee has conducted and commissioned work according to its terms of reference and presented reports to the Minister of Agriculture and Land Affairs in addition to releasing several statements in the press. The Food Price Monitoring Committee did not succeed in bringing down food prices between January 2003 and the end of March 2003.⁴⁹

2.1.1.6.2 The Food Price Relief Programme (Yiyo Lena)

The National Department of Agriculture (NDoA) reported on a public-private partnership involving cut-price sifted maize meal for distribution in deep rural areas and designated urban areas. The partnership involved the sale of 80 000 12,5kg bags of sifted maize meal at a discounted price of R25,99 to two million people for three months (i.e. 3 000 tons in total), from November 2002 to January 2003.⁵⁰ This is approximately 500 grams of maize meal per capita per month. The Yiyo Lena relief programme was a temporary initiative that cost the private sector approximately R2,5 million and targeted poverty stricken areas in the Eastern Cape, KwaZulu-Natal and parts of Limpopo. The programme was designed to be self-targeting in the sense that sifted maize is often purchased by households that cannot afford higher grade special and super maize meal.

The impact of the programme was very limited because it amounted to only 0,34% of all white maize processed for human consumption in an average month. It was also reported in the press that Yiyo Lena brand maize was

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snapped up as soon as it was put on the shelves, leading to an early end to the programme in December 2002.⁵¹

Contrary to most media reports, the initiative did not involve a 50% discount as initially stated by Premier Foods, Metcash, Afgri and Nedbank, but a 20% discount.⁵²

2.1.1.6.3 The Agriculture Starter Pack Programme

The National Department of Agriculture's response to the SAHRC's protocol stated that the Agriculture Starter Pack Programme intended to target 2,23 million people in four bands according to per capita monthly expenditure on food (see Table 1). The Department refers to these households as the most food insecure and vulnerable households in the country. The report states that Cabinet identified the people and areas to be prioritised, i.e. 13 Integrated Sustainable Rural Development nodes and eight urban renewal nodes, plus poverty pocket areas. The implementation of this programme follows-up on the National Food Emergency Scheme, which provided food parcels to households in desperate need from March 2003 onwards. The scale and focus of the National Food Emergency Scheme and the Agricultural Starter Pack Programme were based on targeting calculations and national poverty hotspot maps produced by Statistics South Africa that were perhaps somewhat outdated compared to on-the-ground reality in 2002/2003 (see Table 1).

Table 1: Targeting calculations for the National Food Emergency Scheme and Agriculture Starter Pack Programme 2002/2003

<i>Band</i>	<i>Spending per month per capita</i>	<i>Households</i>	<i>Cumulative</i>
A	< R200	166 684	166 684
B	R200 – R300	962 625	1 129 309
C	R300 – R400	473 784	1 603 093
D	R400 – R500	631 947	2 235 040

Source: National Department of Agriculture, Protocol Response 2003

Notes: Produced by Statistics South Africa based on Statistics South Africa Census 1996 and October Household Survey, 1999. The four bands represent the lowest four income deciles of the South African population. According to the protocol response the figures will be adjusted with the 2001 Population Census. Statistics South Africa also produced a series of national poverty hot-spot maps to assist departments to calculate estimated costs for the National Food Emergency Scheme.

The Agriculture Starter Pack Programme was due to begin from April 2003 with part of the second year allocation of R400 million from the Integrated Food Security and Nutrition Programme.⁵³ According to the 2002/2003 Annual Report, the National Department of Agriculture has also “lined up Tele-Food Campaign projects” to benefit from agriculture starter packs.

2.1.1.6.4 Agricultural Production Programme

The National Department initiated a new programme during the 2002/2003 financial year. The Agricultural Production programme consists of Animal and Aqua Production Systems and Plant Production Systems as sub-programmes. This is of concern because the intended function of the programme is to work with “provinces and the Agricultural Research Council to identify and support strategic research and interventions to increase productivity, and to mitigate the effects of climate change and migratory pests”.⁵⁴ The programme failed to meet several of its targets. For example, the following reports were delayed:

- A policy on organic farming due in March 2003 was changed to a discussion document on best practices on organic farming and rescheduled for release in December 2003; and
- A policy on water-scarce farming due in March 2003 was changed to a discussion document on best practices for dry land crop production and rescheduled for release in 2004.

2.1.1.6.5 Agribusiness Promotion and Industry Relations

A new sub-programme was established within the National Department of Agriculture to develop a framework for Black Economic Empowerment (BEE) in agriculture. This began with conducting an inventory of BEE empowerment initiatives and resulted in policy, standards and support systems being developed. A draft BEE strategy was completed and published on 25 September 2003 and will therefore be discussed in the next report.⁵⁵

2.1.1.6.6 Comprehensive Farmer Support Package

In terms of support for Land Redistribution for Agricultural Development (LRAD) beneficiaries, the Comprehensive Farmer Support Package was developed and instituted during the reporting period and R3,7 million was transferred to the provinces for its first phase. Comprehensive Farmer Support Package funds are used to train land reform beneficiaries. A total of 1 865 land reform beneficiaries were trained by 11 service providers at a total cost of R1 837 859. The programme was implemented by provincial Department of Agriculture, however Gauteng, North West Province and the Northern Cape would begin the programme in the 2003/2004 financial year.⁵⁶

2.1.1.6.7 Drought Management Strategy

The National Department of Agriculture prepared a Drought Management Strategy in line with the Disaster Management Act of 2002 as mandated by the National Disaster Management Committee. The Department is in the process of drawing up strategies and plans in terms of the Act. A total of 1 367 farmers were assisted in 2002 following snow and veld fire disasters. A total of R170 million was transferred to the Land Bank for the purposes of relieving farmers

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affected by the 2001 flood disaster during the 2002/2003 and 2003/2004 financial years. However, the first payment only took place on 31 March 2003.⁵⁷ The Department runs a disaster database and an Agricultural Disaster Committee is operational.

2.1.1.7 Income Generation and Job Creation

In the State of the Nation Address on 8 February 2002, the President confirmed that a Growth and Development Summit would be held to address job creation and poverty alleviation, amongst other things:

In a meeting of the Joint Working Groups of government with "big business, black business, agriculture and labour" last December, it was agreed to convene as early as possible a Growth and Development Summit to address the urgent challenges facing us in the economy and build an enduring partnership in which all of us can lend a hand in building a prosperous South Africa.⁵⁸

One of the most significant measures to address the impact of high food prices and poverty, during the reporting period, was the increase in the value of existing social assistance grants. The coverage of the child-support grant was also extended (see Social Security Report in this series).

2.1.1.8 Food Security and Information Management System

The Department of Agriculture's FIVIMS Geographic Information system was not working. Instead, Statistics South Africa was requested to produce a series of poverty maps to assist in costing the delivery of the programme.

2.1.2 Provincial Government

2.1.2.1 Improving Nutrition and Food Safety

New policies and guidelines instituted by provincial department of health to further the right to basic nutrition are shown in Table 2.

Table 2: New Policies and Guidelines on Basic Nutrition Instituted by Provincial Departments of Health in 2002/2003

<i>Province</i>	<i>New Policies and Guidelines Instituted</i>
KwaZulu-Natal	<ul style="list-style-type: none"> • Integrated Nutrition Programme Strategic Plan 2003/04-2007/08 • Primary School Nutrition Programme Intervention Guidelines (reviewed April 2002) • Guidelines for a plan of action to transfer the School Feeding Scheme to the Department of Education and Culture • Guidelines for Health Facility Based Intervention • Provincial Protocols for supplementation of people living with HIV/AIDS and TB • Breastfeeding policy – promotion of exclusive breastfeeding from birth to six months • National Integration Project (NIP) and NIP sites care for vulnerable children through the provision of basic meals to and from school plus assistance in access to child support grants • Clinic gardens: as part of the Poverty Alleviation Programme and extension of the Protein Energy Malnutrition (PEM) scheme, targeting PEM participants, disadvantaged people, people with disabilities and people nutritionally at risk
Eastern Cape	<ul style="list-style-type: none"> • Broad guidelines for the implementation of the Integrated Nutrition Programme (INP) • Health Facility Based Nutrition Intervention Guidelines • National Breastfeeding Guidelines and recommendations for feeding infants of HIV positive mothers • Growth Monitoring and Promotion Guidelines • Guidelines for the smooth-running of the Primary School Nutrition Programme
Mpumalanga	<ul style="list-style-type: none"> • Good nutrition for the protection of People with Aids • Good nutrition to children and people with chronic and debilitating diseases • Implementation of the Primary School Nutrition Programme • Policy on the implementation of the Code for Breastmilk substitutes • Policy on the fortification of maize meal and bread
North West	<ul style="list-style-type: none"> • The Department reported at length on the Integrated Nutrition Programme (INP) and referred to the vitamin A supplementation programme and Baby Friendly Hospital Initiative as new measures
Gauteng	<ul style="list-style-type: none"> • A Vitamin A supplementation and fortification policy was developed in June 2002, focusing on the most commonly eaten foods, maize meal and white and brown bread flour with eight vitamins without changing the colour, taste or texture of the product.
Northern Cape	<ul style="list-style-type: none"> • Policy guidelines for Nutrition Interventions at health facilities were reviewed
Western Cape	<ul style="list-style-type: none"> • Draft Food Service Policy Guidelines 2002 • Disease specific nutrition guidelines 2003
Limpopo	<ul style="list-style-type: none"> • Breast feeding policy • Policy guidelines on vitamin A supplementation • Policy guidelines on Primary School Nutrition Programme • Regulations governing general hygiene requirements for food premises and the transport of food • Food fortification programme

<i>Province</i>	<i>New Policies and Guidelines Instituted</i>
Free State	<ul style="list-style-type: none"> The malnutrition programme was reviewed in response to the HIV and AIDS epidemic, the malnutrition programme was reviewed to include persons suffering from debilitating diseases such as AIDS and Tuberculosis

Source: Responses to the SAHRC's protocols 2002/2003

Notes: The Commission asks specifically for new policies to be reported, however, the Commission was not able to verify whether each guidelines/policy was new or not

2.1.2.2 Food Production and Trading Measures

The Free State Department of Agriculture reported in its response to the SAHRC's protocol that the Department signed a rider to the agreement with the European Community on the Community Project Fund Support Programme (CPF-SP). The agreement extended the 5 year period of the programme up to 2006. However, programme suffered as a result of a moratorium on expenditure instituted in July 2002, pending the approval of the European Union and the outcome of an independent audit. The rider to the agreement was signed on 25 September 2002. The impact of the renewed programme is reported on later in the report.

All other provincial departments of agriculture reported that there were no new policies instituted during the reporting period.

2.2 NEW LEGISLATIVE DEVELOPMENTS

2.2.1 National Government

As mentioned above, new national legislative developments are presented according to the intervention areas identified in the Integrated Food Security and Nutrition Programme.

2.2.1.1 Improving Nutrition and Food Safety

2.2.1.1.1 Regulations relating to food safety, nutrition and food manufacturing standards

The National Department of Health released an unprecedented number of regulations during the reporting period, most of which concerned food safety, nutrition or food labelling (see Table 3). These regulations were not discussed in the National Department of Health Protocol response or the National Department of Health's Annual Report 2002/2003.

Table 3: Regulations in terms of the Foodstuffs, Cosmetics and Disinfectants Act 54 of 1972 during April 2002 – March 2003

<i>Date of publication</i>	<i>Regulation number</i>	<i>Title</i>	<i>Brief Description</i>
14-Mar-03	358	Regulation relating to maximum levels for metals in foodstuffs: Amendment	Sets out maximum allowable levels of Antimony (Sb), Arsenic (As), Cadmium (Cd), Copper (Cu), Lead (Pb), Mercury (Hg), Tin (Sn) and Zinc (Zn) in foodstuffs.
13-Dec-02	1588	Amendment of regulations governing microbiological standards for foodstuffs and related matters	Sets out newer microbiological standards for Rooibos and Honeybush tea
13-Dec-02	1543	Amendment of regulations governing the maximum limits for veterinary medicine and stock remedy residues that may be present in foodstuffs	Sets out the maximum residue limit for 65 medicines fed to 'food producing animal species'.
13-Dec-02	1542	Regulations governing the maximum limits for pesticide residues that may be present in foodstuffs	Inserts a new regulation 4 stating "The standards for the methods of analysis and sampling of pesticide residues in food shall be as laid down in the latest edition of the Codex Alimentarius Standards, Pesticides Residues in Food: Methods of Analysis and Sampling, obtainable from the Department of Health."
13-Dec-02	1541	Regulations relating to the prohibition of comfrey and comfrey containing foodstuffs and jelly confectionery containing cognac in foodstuffs	As in the title.
4-Oct-02	1225	Regulations Governing The Tolerances For Certain Seeds In Certain Agricultural Products	Places restrictions on the level and type of poisonous seeds in cereal and oilseed agricultural products.
30-Aug-02	1111	Regulations Relating to Milking Sheds and the Transport of Milk	Sets out very lengthy and detailed requirements for milking shed standards.
8-Aug-02	1055	Regulations Relating to Labeling and Advertising of Foodstuffs, R 1055/2002 (incl. Annexures)	Amongst many other requirements, makes provision that "No claim shall be made that a foodstuff, both single ingredient foodstuffs and compound foodstuffs, is "hypoallergenic" or "nonallergenic" unless the foodstuff is modified by chemical or genetic means so as to reduce the quantity of endogenous allergens" ⁵⁹
12-Jul-02	723	Regulations Governing General Hygiene Requirements for Food Premises and The Transport of Food	Sets out very detailed requirements and standards for food premises and the transport of food.
26-Apr-02	493	Regulations relating to food for special medical purposes	Sets out labelling requirements for food used for special dietary use. Advertising of these products to the general public is prohibited.
26-Apr-02	492	Amendment of regulations governing microbiological standards for foodstuffs and related matters	Sets out microbiological standards for Rooibos and Honeybush tea.

<i>Date of publication</i>	<i>Regulation number</i>	<i>Title</i>	<i>Brief Description</i>
26-Apr-02	494	Regulations relating to the application of the hazard analysis and critical control point system (HACCP SYSTEM)	Outlines the detailed requirements for achieving Hazard Analysis Critical Control Point (HACCP) Certification, which is a system for identifying, evaluating and controlling hazards which are significant for food safety. Makes provision for requesting documentary evidence of the country of origin for external HACCP auditing and certification for imported foodstuffs.

Source: National Department of Health www.doh.gov.za/docs/regulations

The National Department of Health reported that regulations relating to the fortification of certain foodstuffs were drafted in terms of the Foodstuffs, Cosmetics and Disinfectants Act 54 of 1972. According to the National Department of Health’s protocol response “the regulations will ensure that all people, especially children, receive the necessary micronutrients for healthy growth”.

The process to develop regulations for the mandatory fortification of maize meal and wheat flour with essential vitamins and minerals commenced during the reporting period. Fortification will be for wheat flour and maize meal (including unsifted maize meal). The mix will include Vitamin A, Thiamine, Riboflavin, Nicotinamide, Pyridoxine, Folic Acid, Iron and Zinc, but not Niacin.⁶⁰

The process to develop regulations for the Marketing of Designated Products (breastmilk substitutes) also commenced during the reporting period. These regulations relate to foodstuffs for infants and young children. The regulations are in compliance with the relevant Codex standards for infants and give effect to the provision of the International Code for Marketing of Breastmilk Substitutes.

2.2.1.2 Food Production and Trading

2.2.1.2.1 Agricultural Risk Insurance Bill

According to the Strategic Plan for the National Department of Agriculture:

*the Bill provides for: a system of agricultural insurance in order to improve the economic stability of agriculture; enhance the income of those farmers and producers most vulnerable to losses of agricultural crops and livestock due to natural disasters; financial assistance in establishing the system; the control of certain activities of agricultural insurers and intermediaries; and other matters thereto.*⁶¹

A draft Agricultural Risk Insurance Bill has been forwarded to the Minister of Agriculture and Land Affairs for tabling before Cabinet. After Cabinet approval, the Bill will be published in the Government Gazette for comments. The Bill was to be forwarded to Parliament by the end of July 2003.⁶²

2.2.1.2.2 Sustainable Utilisation of Agricultural Resources (SUAR) Bill

The Department drafted the Sustainable Utilisation of Agricultural Resources (SUAR) Bill, which combines the Subdivision of Agricultural Land Act and the Conservation of Agricultural Resources Act while adding LandCare and Prime and Unique agricultural land principles. According to the National Department of Agriculture Strategic Plan for 2003 – 2006:

the Bill seeks to repeal the Conservation of Agricultural Resources Act 43 of 1983 and section 41 of the Abolition of Racially Based Land Measures Act 108 of 1991. The Bill provides for the sustainable utilisation of natural agricultural resources, including control over the sub-division and change of use of agricultural land and prime and unique agricultural land, in support of biodiversity and for that purpose to provide for the designation and functions of an executive officer, the establishment of LandCare committees, the prescription of standards and control measures, the establishment of schemes and trusts, control over the spreading of weeds and invader plants, and provision for incidental matters thereto.⁶³

The SUAR Bill is to be published for public comment.⁶⁴ According to the National Department of Agriculture's Strategic Plan for 2003 – 2006, the Bill should have been gazetted in the first quarter of 2003.⁶⁵ A version of the Bill has been made available on the National Department of Agriculture's website.⁶⁶

2.2.1.2.3 Food Security Bill

The fragmentation of food security interventions has led the National Department of Agriculture to propose that the activities of different government departments should be integrated. The first draft Food Security Bill⁶⁷ attempts to achieve a greater degree of integration between government departments on the issue of food security, through:

- reporting of food security related activities by all relevant departments to a lead department (understood to be Agriculture and Land Affairs); and
- establishing a food security project proposal, evaluation and disbursement system using funds in the Agricultural Debt Management Account.⁶⁸

Areas of contention in the Bill include the absence of any measures to a) regulate the private sector, or b) maintain a strategic stock for the purpose of disaster relief and/or price stability, or c) guarantee a minimum income for those groups affected by malnutrition.

Another contentious aspect of the June 2002 Draft Bill is the provision for Food Security Management Co-operation Agreements in section 25. The devolution of responsibility for delivery to non-State actors who are tied to

targets towards the progressive realisation of the right to food occurs without similar provisions to bind relevant organs of State.

Furthermore, the biggest problem with project application based facilities like those envisaged in the Draft Bill is the lack of credible organisations to provide effective project packaging and service delivery to project members.

Finally, there are concerns that a lack of participation in the process of the developing the Bill has led to very low levels of awareness among the potential beneficiaries and implementers of the legislation.

2.2.1.2.4 Agricultural Development Finance Bill

The Agricultural Development Finance Bill is the proposed legislative framework for creating an enabling environment for Financial Service Co-operatives in agriculture. The Department resuscitated the Bill during the reporting period and planned to deliver a draft to Cabinet in October 2003.

2.2.1.3 Social Security Nets

2.2.1.3.1 Sectoral Determination for Domestic Workers and Farm Workers

This item is repeated in the Right to Social Security report in this series.

The Minister of Labour determined two sectoral minimum wages in terms of the Basic Conditions of Employment Act 75 of 1997 during the reporting period. The first determination was for domestic workers, which became effective from 1 September 2002.⁶⁹ The second determination was for farm workers and became effective on 1 March 2003. A major consideration in making both determinations was the high level of exploitation of domestic workers and farm workers, especially in rural areas and provinces next to our South African Development Community neighbours.

2.2.2 Provincial Government

2.2.2.1 Improving Nutrition and Food Safety

The Mpumalanga Department of Health reported that new legislative developments took place with regard to: a) specifics on feeding days and menus for the Primary School Nutrition Programme b) transferring the Primary School Nutrition Programme to the Department of Education and c) fortification of maize meal and bread. Legislation related to the National Food Fortification Programme was also reported by the North-West Department of Health.

Through the Environmental Rights protocols response, Provincial Departments of Health reported on their food safety inspectorate functions, especially the improvements in programmes with street traders and home-based workers.

2.2.2.2 Food Production and Trade

All provincial departments of agriculture reported that there were no new legislative developments.

2.3 PROGRESS IN IMPLEMENTING ONGOING PROGRAMMES

2.3.1 *Improving Nutrition and Food Safety*

2.3.1.1 Integrated Nutrition Programme

The National Department of Health refers to the Integrated Nutrition Programme (INP) as the guiding policy framework for its nutrition-related interventions. The INP consists of seven strategies to improve the nutritional status of all South Africans, namely:

- Disease-specific nutrition support, treatment and counselling;
- Growth monitoring and promotion;
- Nutrition promotion;
- Micronutrient malnutrition;
- Food service management;
- Promotion, protection and support of breastfeeding; and
- Contribution to household food security.

On average, about 86% of the INP Conditional Grant Allocation is used annually to fund the Primary School Nutrition Programme (PSNP). The remainder is mostly allocated to one or all of the following programmes:

- **Nutrition interventions at health facilities to manage and prevent child malnutrition.** This is aimed at ensuring a healthy nutritional status for infants and young children, i.e. to target interventions towards children from 0 to five years of age with severe malnutrition, and pregnant women at risk;
- **Vitamin A supplementation:** To reduce child Vitamin A deficiency from 33,3% to 19% through Vitamin A supplementation by 2007. The programme targets all women postpartum six to eight weeks, non-breastfed infants (0 – five months), all infants (six – 11) months, and all children (12 – 60 months);
- **Nutritional supplementation interventions for people living with TB and/or HIV/AIDS:** To ensure a healthy nutritional status for people living with TB and/or HIV/AIDS. The Department of Health had already released National Guidelines on Nutrition for People Living with TB, HIV/AIDS in 2001⁷⁰;

- **The Baby Friendly Hospital Initiative:** To protect, promote and support breastfeeding and ensure that practices and behaviours in the health care settings are supportive of breastfeeding. To ensure breastfeeding for six months and to ensure continued breastfeeding for up to 24 months of age with the introduction of appropriate complementary feeding at six months of age. To provide appropriate information and adequate support to mothers/caretakers where breastfeeding is contra-indicated, to enable them to make decisions on the feeding options for their infants and ensure that the option is successfully carried out; and
- **Food Service Management Standards:** To ensure that hospitalised patients attain healthy nutritional status. Food service management includes the activities of planning, development, control implementation and evaluation of, and guidance in respect of suitable food service systems (procurement, storage, preparation and service of foods and beverages) for the provision of balanced nutrition to groups in the community and in public institutions for healthy and/or ill persons.

2.3.1.2 Primary School Nutrition Programme

The National Department of Health reported on Cabinet recommendations to improve the Primary School Nutrition Programme in its 2002/2003 protocol response.⁷¹ According to the National Department of Health's Annual Reports, the Cabinet recommendations can be summarised, as follows:⁷²

- implementing a strategy to identify and reach areas where poverty is most extreme
- introducing standard menu options
- setting a minimum frequency of 156 out of the 197 school days in a year, by 10am each day
- the inclusion of Grade R pupils
- introducing a monitoring system on standardised food
- increasing the participation of women's groups in the running of the programme.

The Department of Education will assume the leading role in the delivery of the Primary School Nutrition Programme (PSNP) in April 2004 and has renamed the programme as the National School Nutrition Programme (NSNP) and intends to extend the coverage of the programme into the Further Education and Training band (see the Education report in this series).⁷³

During the 2002/2003 financial year, the reach of the PSNP decreased significantly from the previous financial year. In 2002/2003, 4,8 million learners were targeted and 4 548 385 learners were reached, as compared to 4 719 489 in 2001/2002.⁷⁴ This decrease in coverage occurred despite the fact an additional 983 schools were involved in the programme in 2002/2003 as compared to the year before. Based on a review of the protocol responses from the provincial departments of health, part of the decline in coverage may be attributed to rapid increases in the cost of food procured for the programme and inflexibility in allocating more resources to the programme.

As the KwaZulu-Natal Department of Health stated:

due to inflation, the per capita costs per child who participated in the PSNP increased by 10 cents. The enrolments in school increased resulting in an increase in commitments ... With respect to the INP (PSNP) the decision that no more money would be made available (to top up the conditional grant) could have indirectly violated the right to basic nutrition for school children.⁷⁵

The Western Cape Department of Health responded to the inflated price problem by implementing a rationing system as shown in Table 4. Schools scoring above 0,5 on an index of poverty prepared by the Department of Education were included in the PSNP. Further details of the calculations behind the index were requested in order to establish who gained access to the programme and who did not, but this request was not satisfied.

Table 4: The Western Cape Department of Health PSNP Rationing Policy

<i>Department of Education School Poverty Index</i>	<i>Rationing policy</i>
0,9 – 1,0	100% of children in Grades R to 7
0,8 – 0,89	50% of children in Grades R to 7
0,5 – 0,79	25% of children in Grades R to 7

Source: Protocol response, Western Cape Department of Health

Table 5 provides a summary of the number of children reached by the PSNP at provincial level. A lack of up-to-date statistics on the number of learners in Grade 1 to 7 and Grade R to 7 from the National Department of Education makes it difficult to provide a clear indication of the coverage of the primary school nutrition programme. However, assuming that the number of learners has increased since 2001, it does appear that there may be some deficiencies in the reach of the school-feeding programme relative to actual need. The low percentage of coverage in the Free State may be an unintended consequence of the formula used to allocate funds from a national sphere to the provincial sphere in addition to an inability to spend existing funds (see budget section).

Table 5: Reporting on the number of learners reached by the PSNP at provincial level

<i>Province</i>	<i>No of Grade 1 to 7 Learners in 2001*</i>	<i>No of Learners Reached by the PSNP 2002/03</i>	<i>% of learners reached in 2002/03 as a % of all grade 1-7 learners in 2001</i>
KwaZulu-Natal	1 685 113	1 222 225	73%
Limpopo	1 063 960	1 170 000??	110%
Mpumalanga	564 205	440 000	78%
Gauteng	963 633	293 457	30%
Western Cape	585 361	158 000	27%
Free State	433 142	145 103	34%
North West	567 973	263 693**	46%
Eastern Cape	1 421 752	744 545****	52%
Northern Cape	128 277	111 362	87%
Grand Total	7 413 416	4 548 385***	61%

*Source: Grade 1 – 7 learners, Education Statistics in South Africa at a Glance in 2001, Published June 2003 and PSNP data from Provincial Basic Nutrition Protocols 2003 ** North West Department of Health, Portfolio Report 2002/2003 *** National Department of Health Annual Report 2002/2003 p11 **** Calculated as the difference between the National Department’s Total and the sum of figures from all the other provinces for the purposes of illustration*

Notes: ?? This figure is exactly the same as the number provided to the Commission for the 4th Economic and Social Rights Report. The case of Limpopo having more PSNP beneficiaries in 2002/2003 than there were learners in 2001 requires more attention.

No figures on the number of learners reached in the Eastern Cape were provided in the protocol responses and no annual report from the Eastern Cape Department of Health was available to the Commission at the time of writing. However, according to the Eastern Cape Department of Health’s *Strategic Plan for 2003/2004*:

The 2002/2003 budget for the INP was R131 million of which R114 million was allocated to the PSNP ... primary school feeding commenced on 22 July 2002 after an absence of 3 months. This scenario will result in an under expenditure for the 2002/03 to the tune of about R41 million.⁷⁶

The North West Department of Health asserts that there has been a dramatic turnaround in the coverage of the school feeding as a result of decentralising the programme to community level thereby benefitting 660 women’s groups and ensuring an income for 5 000 women.⁷⁷ For example, the Department cites that 85% of children targeted in 2002/2003 were reached, while the figure for 2001/2002 was 58%. In its *Strategic Plan for 2003/2004*, the Department states:

The new scheme is characterized by fewer disruptions in service delivery. Community involvement and say in the programme is prominent. The service providers have reported improvements in their lives due the opportunity made available even for the “ordinary”

community members regardless of their educational levels and status in the community. This majestic rise to a programme that we can all be proud of still has challenges and areas that need improvement. As with lessons learned in 2001, the experience gained in 2002 will be employed to further develop the programme.

Sustained training and skills transfer is fundamental to ensure that the PSNP SMME's grow beyond school feeding for long-term benefits. Forging linkages and collaborations with other service and development agencies to build the capacity of PSNP Service Providers will fast track the growth beyond PSNP. Communities are not passive recipients of services but are masters of their own actions and development.⁷⁸

2.3.1.3 Community Based Nutrition Programme

It is also important to note that the Gauteng Department of Health reported on the Community Based Nutrition Programme, which targets learners in Early Childhood Development (ECD) Centres or creches. The Gauteng Department of Health's Annual Report for 2002/2003 states that the Department aimed to reach 1 244 creches and 90 000 children. The Department's actual achievement was to reach 1 890 creches and 66 579 children.⁷⁹

2.3.1.4 Nutrition Interventions at Health Facilities to Manage and Prevent Child Malnutrition

During the year under review, the National Department of Health made significant progress in improving the Integrated Management of Childhood Illness (IMCI) by training almost 5 000 health care workers.⁸⁰ Child malnutrition, in particular, was targeted through training 750 health professionals in growth monitoring and promotion. Guidelines for nutrition interventions to assist health care workers in preventing child malnutrition were also released. The Vitamin A supplementation programme introduced in one province before 2002 was extended to all provinces in 2002/2003.⁸¹

Because of the lack of reporting from National and Provincial Health Departments on the impact of these measures in their protocol responses, the South African Human Rights Commission conducted an analysis of data from the District Health Information System.⁸²

Health facilities across the country are supposed to keep registers of children suffering from malnutrition. According to the District Health Information System, the health sector has been struggling for many years to enforce common growth monitoring practices. To begin with, perhaps not every child is weighed every time they visit a health facility and often only children looking unhealthy/malnourished are weighed due to workload problems. When interpreting the number of children weighed in the tables for 2002/03 below, it should be noted that the indicator for weighing children under 5 may include repeat visits to health facilities by the same child (and their parents) during the year.

When children are defined as being malnourished, they may become 'clients' of the Protein Energy Malnutrition (PEM) scheme depending on whether they meet the scheme's entry or exit criteria. It is also important to note that an **active PEM client** is defined as “one that actually received food or food supplements. Even if the parents in practice often will share the food received between all siblings (a major problem with the scheme), only the registered client should be counted.”⁸³

Table 6: Summary of Nutritional Indicators in Health Facilities in South Africa 2000/2001 – 2002/2003

	<i>Child under five years weighed⁸⁴ (Monthly average case load)</i>	<i>Not gaining weight under five years⁸⁵ (Monthly average case load and prevalence rate)</i>	<i>Severe malnutrition under five years – new⁸⁶ (Monthly average new case load)</i>	<i>Vitamin A to children 12 – 60 months (Monthly average)</i>	<i>Vitamin A to infants 6 – 11 months (Monthly average)</i>	<i>Vitamin A to new mother (Monthly average)</i>
Definition	A child weighed and the weight plotted onto the Road to Health Card, the patient folder and other relevant recording systems. Shows different individuals per month, possibly for more than one month.	A child under five years that has not gained weight compared with the weight recorded at least one month earlier on the Road to Health chart. Shows different individuals per month, possibly for more than one month.	A new child found to weigh less than 60% of Estimated Weight for Age (EWA), or to suffer from Marasmus, Kwashiorkor, or similar, excluding newborn babies. Severe malnutrition might also be denoted as clinically malnourished. Shows different individuals per month. Repeat visits of the same child are not counted.	Persons receiving dosage	Persons receiving dosage	Persons receiving dosage
2000/01	78 591	1 119	209	-	-	-
2001/02	266 553	3 504	3 170	2	86	76
2002/03	949 488	13 049	8 044	16 742	11 315	4 561
No / low reporting	NW	GP, KZN (Most)		GP, KZN, LP (Most), WC, EC (Some)	GP, KZN, LP (Most), WC, EC (Some)	GP, KZN, LP, WC, EC (Some)

Source: National Health Information System V1.3.0.42A provided by the Health Systems Trust to the South African Human Rights Commission on 15 August 2003

The impact of measures to address child malnutrition is evident in statistics from health facilities across the country (see Table 6). From 2001/2002 to 2002/2003, there was a 256% increase in the average number of children under five whose growth was monitored each month using the Road to Health Card. Growth monitoring is not well reported through the District Health Information System by facilities in the North West province. There was also a major roll-out of Vitamin A supplements to children under five and to new mothers.

In the context of more children under five being monitored for malnutrition, there was also an increase in the reported number of children under five who

did not gain weight or who were defined as severely malnourished. According to the Health Information System definition, the number of children who did not gain weight is a sensitive early warning indicator of looming malnutrition in a community. However, reporting on children under five not gaining weight was not in evidence in Gauteng and most of the facilities in KwaZulu-Natal. From 2001/2002 to 2002/2003, the **average** monthly number of cases of children under five who were affected by severe malnutrition increased by 154%. Severe malnutrition appears to be well monitored and reported in all provinces and most health facilities.

Table 7: Summary of Nutritional Indicators at Health Facilities in Provinces 2001/2002 – 2002/03

	<i>Children Under 5 weighed</i>			<i>Severe Malnutrition Under 5</i>			<i>PEM client under 5</i>	
	<i>2001/02</i>	<i>2002/03</i>	<i>% Change</i>	<i>2001/02</i>	<i>2002/03</i>	<i>% Change</i>	<i>2001</i>	<i>2002</i>
Free State	645 101	675 786	5%	2 451	1 791	-27%	10 786	11 008
Mpumalanga	840 879	906 877	8%	564	1 996	254%	1 363	1 584
Western Cape	1 373 953	1 373 506	0%	2 255	1 997	-11%		
Northern Cape	3 818	188 810	4845%	913	2 351	158%		
North West				9 068	4 734	-48%	451	1 045
Limpopo		2 444 940			5 457			
Eastern Cape	1 991 094	1 856 313	-7%	11 629	7 909	-32%	100 253	84 188
Gauteng	1 308 201	1 417 151	8%	25 321	23 428	-7%	15 847	12 137
KwaZulu-Natal	2 325 286	2 949 730	27%	45 936	51 489	12%		
Total	8 488 332	11 813 113	39%	98 137	101 152	3%	128 700	109 962

Source: National Health Information System V1.3.0.42A provided by the Health Systems Trust to the South African Human Rights Commission on 15 August 2003

As opposed to monthly averages, annual statistics for each province provide a somewhat clearer picture of the child malnutrition crisis⁸⁷ and the way in which the health system responded (see Table 7). Health professionals weighed children 12 million times during the year under review. This is a substantial volume of work towards monitoring child health across the country. According to relatively complete statistical information from the District Health Information System, over 100 000 children were defined as severely malnourished during the year under review. According to much less complete information approximately 110 000 children were recipients of food supplements through health facilities.

The greatest number of children weighed in 2002/03 was in KwaZulu-Natal, which was also the province with the greatest number of children defined as being severely malnourished. A large number of children were defined as severely malnourished in all provinces, especially Gauteng, the Eastern Cape, Limpopo and North West.

According to the District Health Information System, by far the largest number of PEM scheme recipients was in the Eastern Cape. However, there are many gaps in information on PEM scheme clients, making it difficult to interpret from the District Health Information System alone how well the health system responded malnutrition during the year under review.

For example, the KwaZulu-Natal Department of Health's Annual Report for 2002/2003 states in the section on reducing under 6 morbidity and mortality due to malnutrition that approximately 203 836 people were issued with nutritional supplements. The report also mentions that monitoring of the supplementation programme was a challenge that was exacerbated by the number of TB and HIV positive patients.⁸⁸

Interventions to treat malnutrition take place at a local level at health facilities like State hospitals, clinics and mobile clinics. For purposes of illustration, further details on the delivery of support to households experiencing malnutrition in rural areas of the Eastern Cape are provided through a case study analysis of the Kwabhaca (Mount Frere) Health District within Health Region E in the far north-east of the province. Information from the District Health Information System is analysed together with information on the qualitative impact of nutrition interventions as provided by researchers from the University of the Western Cape's School of Public Health.⁸⁹

Table 8: Malnutrition indicators in the Kwabhaca Health District 2001/2002 – 2002/2003

	<i>Indicator</i>	<i>2002/2003</i>	<i>2001/2002</i>
Low birth weight	Births total	1 347	1 400
	Live birth	1 244	1 296
	Live birth under 2 500g	357	90
Nutrition indicators	Child under five years weighed	55 192	59 632
	Not gaining weight under five years	856	911
	PEM client under five years	2 003	3 110
	Severe malnutrition under five years – new	333	411
	Vitamin A 200 000 units capsule	3	1
	Vitamin A supplement to children 12 – 23 months	1 883	58
	Vitamin A supplement to infants 6 – 11 months	1 544	36
	Vitamin A supplement to new mother	569	8
Facility use indicators	Primary Health Care headcount five years and older	203 996	237 007
	Primary Health Care headcount under five years	68 080	72 923
	Primary Health Care total headcount	272 076	309 930

Source: National Health Information System (EC PHC Data) V1.3.0.42A provided by the Health Systems Trust to the South African Human Rights Commission on 15 August 2003

Table 8 shows that health facilities within the Kwabhaca health district⁹⁰ were used frequently during the current reporting period, although less so than the year before. Despite an increase in the total population to be served within the Health District, Table 8 appears to confirm the statement made in the Intergovernmental Fiscal Review of Health, that there might be a ceiling on the number of people that the health facilities can attend to while caring for more HIV/AIDS patients. The number of PEM clients dropped from 3 110 in 2001/2002 to 2 003 in 2002/2003. The number of reported child deaths at birth declined by one from 104 in 2002/02 to 103 in 2002/03 and the number of live births under 2 500 grams increased from 90 to 357.

For those patients that do enter the Protein-Energy-Malnutrition scheme, there are indications that health care workers can be very successful. For example, the UWC School of Public Health's evaluation points to several improvements in the care of severely malnourished children as a result of the implementation of the WHO's 10-step malnutrition protocol, which forms part of the IMCI training package. However, the success of the measures was still hampered by problems at health facility level, including:

- intermittent supply problems with vitamins and micro-nutrients;
- power-cuts and no heating;
- poor follow-up after being discharged from care;
- staff shortages, of both doctors and nurses, and resultant low morale; and
- inadequate exposure of community service doctors before they are expected to attend to cases.

As part of improving follow-up after discharging patients from hospital, the UWC School of Public Health's next step was to "determine Household Food Security, caregiver knowledge and factors associated with malnutrition" and look at the "rate of recovery and health status at one month and six months post-discharge".⁹¹ A shocking 71% of caregivers were unable to implement their acquired knowledge of feeding practices because of their poverty and lack of access to State grants. Seven percent of households visited at their homes had no staple food, while 40% had between one and four items in the homestead.

Following the publication of the results of the evaluation, and through Imbizo Focus Week visits, the Minister for Social Development ordered mobile units to process Child Support Grant applications, and R2 million in emergency aid was provided for poverty-alleviation programmes in the Alfred Nzo District Municipality in the Eastern Cape. Food parcels also formed part of the response, as follows:

*Mount Frere residents received tons of food parcels as government, the private sector and Durban-based humanitarian food aid organisation – Gift of the Givers Foundation – and Tiger Foods joined forces to alleviate hunger in the area.*⁹²

Several provincial Departments of Health reported that they facilitated access to poverty-relief projects to families with children admitted to the Protein-Energy-Malnutrition Scheme, those with no or low income, and those dependent on grants. While the North West Department of Health mentioned this activity, only the Gauteng Department of Health had specific targets for this activity, namely 1 500 unemployed parents preparing food at schools, 19 SMMEs providing food to schools, and the Zivuseni project to encourage communities to grow vegetable gardens to improve nutritional status.

2.3.1.5 Baby Friendly Hospital Initiative

This programme was not reported on in any detail except in the case of North West province where the Department aimed to implement three programmes per financial year before March 2007. This was achieved in the 2003/2004 financial year. No report was provided for 2002/2003, probably due to the fact that infant feeding guidelines were only developed in December 2003. The Department aims to monitor progress with this programme through indicators such as the number of baby friendly facilities, the percentage of distribution points using infant feeding guidelines, and the number of nutrition and PMTCT site personnel trained in infant feeding. The Gauteng Department of Health set itself the goal of two Baby Friendly Hospital Initiatives, but did not report on whether this was achieved or not.

2.3.1.6 Nutritional Supplementation for People Living with TB and/or HIV/AIDS

Although it is part of the national Integrated Nutrition Programme, this programme was not itemised separately by provincial departments of Health in their protocol responses, except in the case of the Gauteng Department of Health which reported on the Supplementary Feeding Scheme for child-headed households, AIDS orphans and children living with or affected by HIV/AIDS, as well as other groups. The aim of the programme was to monitor 433 000 children for supplementary feeding in terms of the guidelines on nutrition interventions. No information was provided in the protocol response on whether this aim was achieved. However, the Department's Annual report states that the target of monitoring 433 000 children was achieved.⁹³

2.3.1.7 Food safety

The Medical Research Council prepared a new sampling frame for food that is consumed within South Africa in order to test for excessive levels of harmful toxins in terms of the levels set by the Codex Alimentarius Commission of the World Trade Organisation.⁹⁴ It is not clear how this work relates to the Food Control Department of the National Department of Health or the Forensic Chemistry Laboratory which took 4 486 samples of food and 15 500 pesticide residue samples in 2002.⁹⁵

2.3.2 Food Production and Trade – National

2.3.2.1 Agricultural Research and Technology

According to the Agricultural Research Council (ARC), “research and development programmes make a very significant contribution to optimise food production for beneficiaries whose needs range from self-sufficiency to highly intensive commercial production”.⁹⁶ The ARC reported on some examples of technology transfer projects, training interventions and learning materials that

assisted vulnerable groups to produce food and process it. The ARC has gone as far as offering bee-keeping as occupational therapy for persons with disabilities, which is commendable.

The ARC stated in its report to the SAHRC that its main focus was on historically disadvantaged groups, low-income and poverty-stricken groups, person living in rural areas and persons living in informal settlements. However, several projects also touched the lives of children, women, person with disabilities, persons living with and/or affected by HIV/AIDS and unemployed persons. In short, the ARC was able to demonstrate that it had developed innovative technical options and had adapted them for use by vulnerable groups and small-scale farmers. In some cases, like the Bee-keeping for Poverty Relief Programme (BPRP), the ARC's approach has been acclaimed as highly successful.

However, from the ARC protocol response and its 2002/2003 Annual Report is not clear how much of the ARC's resources are devoted to providing support to vulnerable groups. In the protocol response it is also not clear how many different types of beneficiaries receive support from the ARC. Since 1998, the ARC has received less grant funding directly from the State and more revenue from external contracts. External contracts include significant payments from a range of industry trusts that deduct statutory levies (in terms of the Marketing of Agricultural Products Act 47 of 1997) for each ton of a commodity sold. Levies are to all intents and purposes public monies.

2.3.2.2 The Special Programme for Food Security (SPFS)

According to the *South African Yearbook 2001*, the SPFS was launched in February 2000 and aimed to support 3 000 households with infrastructure and agricultural input support to the value of approximately R2 000 to R3 000 per household. The SPFS was designed to increase food production and livelihoods among smallholders by encouraging adoption of new technology and reducing constraints to farm output.

According to the National Department of Agriculture's protocol response for 2003, the preparatory phase of the programme has been completed and an implementation report has been finalised along with institutional arrangements. The future aim of the programme is to reach 62 000 households per annum. In its 2003 – 2006 Strategic Plan, the National Department of Agriculture undertook to deliver production support packages and information packages to 200 000 food insecure households by March 2004.⁹⁷

2.3.2.3 The LandCare Programme

The LandCare Programme “supports the development of infrastructure and facilitates for productive and sustainable land use”.⁹⁸ The LandCare Programme is a community-based programme with an integrated approach to sustainable use and management of agricultural resources focused on degraded and water-scare parts of the former homeland areas. The National Department of

April 2002 – March 2003

Agriculture reports, “approximately 140 key soil conservation structures were completed during the period under review”.⁹⁹ The National Department of Agriculture measures its success in terms of the number of hectares of land protected from soil erosion. It stated that it achieved its objective of an additional 5 000 protected ha per year.¹⁰⁰

2.3.2.4 Water Use and Irrigation Development

The National Department of Agriculture reported that 16 irrigation schemes, serving 1 318 people, were revitalised during the reporting period. The main focus of the revitalisation programme is to “empower the community to take ownership of the schemes, to rehabilitate infrastructure, construct conservation works and manage the infrastructure and conservation works in a professional manner”.¹⁰¹ The Department met its target of five irrigation schemes revitalised per year.

The National Department of Agriculture reported the establishment and maintenance of infrastructure for water conservation through the drilling of boreholes for resource-poor farmers who reside in the ISRDP poverty nodes. The Department only drilled 337 boreholes in the 2002/2003 financial year. The Department’s target was to drill 650 boreholes per year.¹⁰² A total of 18 768 people benefited from borehole drilling valued at approximately R27 780 each, excluding the cost of the pump.

2.3.2.5 Financial Services and Co-operative Development

According to the National Department of Agriculture’s Annual Report for 2002/2003, at the end of March 2003, 439 co-operatives were registered under the Co-operatives Act 91 of 1981. Most of the co-operatives that remained registered under the Act were trading co-operatives (387), followed by agricultural co-operatives (50), and financial co-operatives (2). During the year under review, a total of 53 co-operatives were struck off the register in terms of section 45 of the Act.¹⁰³ A further 40 co-operatives were in the process of being removed from the register, whilst 51 applications for registration were being considered.¹⁰⁴

The National Department is involved in co-operative promotion through establishing financial services co-operatives of relevance to women¹⁰⁵ and the youth. This is being done through creating an enabling regulatory environment for the development of Financial Services Co-operatives (FSCs) in agriculture. The Department also strives to integrate the co-operative development activities for FSCs and agricultural co-operatives through a central committee.

The Department drafted the Agriculture and Rural Financial Services Policy, Agriculture and Financial Services Policy and draft sector specific strategies on co-operative development for consideration at the Intergovernmental Technical Committee on Agriculture (ITCA).

A co-ordinating committee comprised of representatives from the Reserve Bank, the National Treasury, Department of Trade and Industry and National

Department of Agriculture acts as the interim supervisory body for FSCs through dealing with compliancy issues, regulation and auditing.

The Office of the Registrar of Co-operatives reported that the Draft Co-operatives Bill was submitted to the office of the State Law Advisor for certification, however the Department also stated that the Bill has since been transferred to the Department of Trade and Industry for administrative purposes.¹⁰⁶

According to the National Department's protocol response, a total of 64 financial services co-operatives were established during the period under review. The Department's Annual Report states that "to date there are 63 registered and operational Financial Services Co-operatives in the country", mostly in KwaZulu-Natal (19), Mpumalanga (14) and the Eastern Cape (13). The number of Financial Services Co-operatives then drops off sharply to six each in Limpopo and North West, two in the Free State and only one in each remaining province.¹⁰⁷

However, the outputs, indicators and targets section of the Department's Annual Report states: "to date 18 Agricultural Co-operatives and eight Financial Services Co-operatives have been registered".¹⁰⁸ These figures do not concur with the information reported by the office of the Registrar of Co-operatives.

2.3.2.6 Farmer Settlement Programme

The National Department set itself the objective of settling 900 commercially viable farmers per year (100 per province) over the medium term. The National Department's main contribution towards achieving this appears to be through the comprehensive farmers support package described earlier. The Farmers Settlement Directorate otherwise supports the process by strengthening institutional systems, providing supportive infrastructure and launching special projects. The Directorate maintains an inventory of State land. It also creates Public-Private Partnerships (PPPs) with major agricultural input and service providers such as Syngenta, Bayer SA and Kynoch, among others.

Land Redistribution for Agricultural Development (LRAD) projects resulted in 15 605 individuals benefiting from the redistribution of a total of 272 480 ha. A total of 35% of the grants reached groups of women, while 22% of the grants reached groups of youths (35 years and younger).¹⁰⁹

The Directorate also supported some land restitution beneficiaries, but it was not stated how many communities or individuals this involved.

2.3.3 Food production and trade – Provincial

2.3.3.1 Eastern Cape

The Eastern Cape Department of Agriculture and Land Affairs reported on the launch of a major new project to boost maize production as follows:

April 2002 – March 2003

During this period the Massive Food Production project was launched which will produce between 40 000 and 100 000 tons of maize in the rural areas of the province per annum, during next five years. This is a conditional grant scheme for which the Cabinet has identified R50 million in the next financial year, 2003/2004.¹¹⁰

The Department listed its achievements in the 2002/2003 financial year as:

- Better control of animal tick-borne diseases;
- 600 km of fencing for field protection;
- 24 000 ha of arable land fenced for food production;
- 24 small irrigation schemes for vegetable production; and
- an estimated 20 000 farmers assisted in food production techniques.¹¹¹

The Department indicated that it catered for vulnerable groups as follows: women, female-headed households, those living in rural areas, the unemployed, low-income and poverty-stricken groups and historically disadvantaged racial groups. The Department was not able to provide answers to many of the questions in the sufficient food protocol because of a limited budget and because:

the Department has not established any [right to sufficient food] monitoring mechanisms at this time. If these are seen to be required, and if this is not done by those departments responsible for such monitoring, the Department of Agriculture will be willing to establish such monitoring for the Research Council on a cost-recovery basis.¹¹²

2.3.3.2 KwaZulu-Natal

The KwaZulu-Natal Department of Agriculture of Environmental Affairs provided a summarised list of projects delivered during the 2002/2003 financial year as part of its response to the sufficient food protocol. A substantial number of beneficiaries (22 609 people) were reported for a diverse range of farmer settlement projects (see Figure 1).

It is not clear whether all the projects in Figure 1 were delivered during the reporting period or whether they are reported in a multi-year fashion. The full impact of the projects on the economic and social life of the respective communities is the subject of an audit. The audit was not accessible to the Commission at the time of writing.

The Department stated that it catered for the same list of vulnerable groups as the Eastern Cape Department of Agriculture, with the addition of child-headed households, girl-children, and persons living with and/or affected by HIV/AIDS, but gave no details of specific projects aimed at these vulnerable groups.

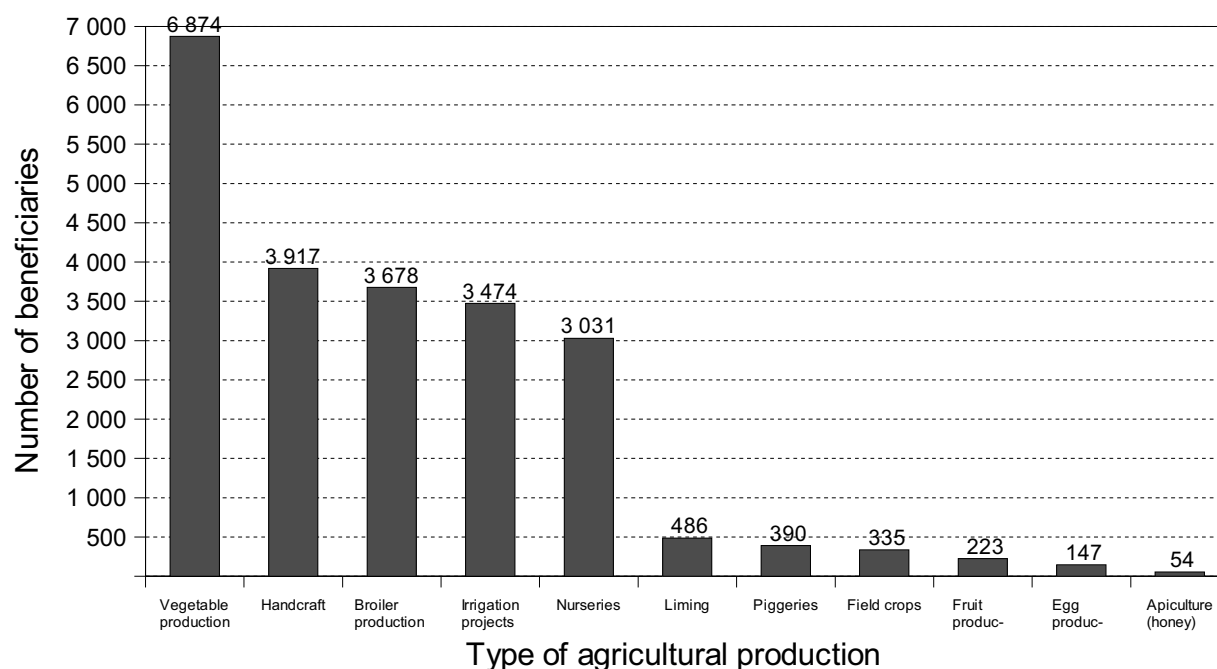


Figure 1: The Number of Farmer Settlement Beneficiaries According to Type of Project in KwaZulu-Natal

Source: KwaZulu-Natal Department of Agriculture and Environmental Affairs protocol response

2.3.3.3 Free State

The Free State Department of Agriculture reported very briefly on its activities in terms of the Integrated Food Security Strategy for South Africa. Some 82 beneficiaries who received food parcels under the National Food Emergency Scheme also received follow-up support for food production. The Department paid more attention to an EU-funded finance facility called the Community Projects Fund Support Programme (CPF-SP). Under this programme, 45 projects were approved and established by providing financial grants to 541 beneficiaries, 58% of whom were women. The CPF-SP envisages three main client groups, as follows:

- **Survivalists:** Groups that have no resources, no skilled/semi skilled work experience and live primarily off grants received by members of the household;
- **Subsistence micro-enterprise owners:** Individuals or groups with basic business skills who run a micro-enterprise that is able to meet very minimal subsistence needs of the household, but where there is risk of loss of assets shifting the household back into the survivalist mode;
- **Emerging farmers who benefited from the land reform process, and small business owners:** Individuals or groups who have access to

productive resources such as land and or tools and have basic business training or farming skills. These groups require assistance with the quality and quantity of their products, access to markets, information, bargaining power and access to capital to take their businesses to economies of scale and greater levels of sustainability.

The Department admitted that it had a minimal impact during the financial year because its projects were still in their infancy. Despite stating that the CPF-SP catered for a wide range of vulnerable groups, the Department also stated that:

The Department did not have a formal Food Security Programme in any of the years under review. It is possible that the under-expenditure on the CPF-SP marginally distracted from the realisation of the “right”. It should, however be pointed out that the CPF-SP is not a Food Security Programme per se, rather a development programme for the development of sustainable projects to increase agricultural output in the province.

From the above it can be seen that the Department does not make a direct connection between its agricultural development programmes and the progressive realisation of the right to food.

2.3.3.4 Mpumalanga

At the beginning of the 2002/2003 financial year, the Mpumalanga Department of Agriculture, Conservation and Environment (DACE) was provided with a long list of recommendations by the Portfolio Committee on Agriculture, Conservation and Environment that covered detailed aspects of the functioning of the Department and its relationship with the Mpumalanga Parks Board and Mpumalanga Agricultural Development Corporation.¹¹³

The Portfolio Committee on Agriculture, Conservation and Environment made use of strategic plans, organograms and asset registers of the Department of Agriculture and the Public Entities to make its recommendations. This approach seems to have resulted in some considerable improvements in the delivery performance of the Department during the 2002/2003 financial year. The Department’s Annual Report for 2002/2003 highlights six achievements,¹¹⁴ which have been supplemented with relevant indicators:

Table 9: Summary of DACE Targets and Achievements Regarding Sufficient Food 2002/2003

	<i>Target</i>	<i>Achievement</i>
1. Successful implementation of pre- and post-LRAD settlement support in co-operation with the Department of Land Affairs, the Land Bank and other key stakeholders	Assist land affairs to screen and settle 900 beneficiaries on 82 farms (women, youth, rural)	1 271 beneficiaries settled on 81 farms
2. Farmer training being taken to new heights	Provide 7 400 farmers and prospective farmers with 381 courses	7 261 participants were reached by 392 targeted, needs-driven, practical courses
3. Food security being supported through funds set aside for technical support as there were no funds specifically budgeted for food security	Support 4 720 participants in 472 food security related projects	5 505 participants benefited from 563 projects
4. LandCare projects were implemented for improved natural resource utilisation and these projects succeeded in creating jobs	Sponsor 35 senior LandCare projects	206 females, 22 disabled males, 15 disabled females, five disabled youths, and 114 males benefited from grant funding of 36 senior projects. 28 Junior LandCare projects were supported
5. Significant results were achieved in disease control and animal health services	Promote sound health through controlling 33 diseases, maintaining 218 dip tanks and promote veterinary health and food safety through conducting and verifying 404 Hygiene Assessment Systems (HAS) in abattoirs for meat export	15 diseases were controlled, 206 dip tanks and handling facilities were maintained, and 404 HAS were verified
6. Research and Development remains the backbone of the farmer development programme, providing information and adapting agricultural technology that will enhance productivity and ensure sustainable use of the land	Extension support to 6 500 farmers through 24 000 contact sessions	8 014 farmers on 3 444 projects were reached by 25 631 contact sessions. As a result of 50% under-resourcing, partnerships were entered into with the Sugar Growers Association, CottonSA, Rural Action Committee (TRAC) and GTZ (German Technical Co-operation)

Source: Mpumalanga Department of Agriculture, Conservation and Environment Annual Report 2002/2003 and the protocol response from the same department.

The Head of Department highlights that the Department is revisiting its Medium Term Expenditure Framework with a view towards significantly accommodating funding for agricultural infrastructure development, including irrigation infrastructure development and funding for the Gutshwa dam, the

rehabilitation of dipping and animal handling facilities, and roll out of “start up packages” for food security.

2.3.3.5 North West

The North West Department of Agriculture reported on its objectives, beneficiary groups and achievements according to its new departmental strategic focus areas, some of which were derived from the *Strategic Plan for Agriculture*,¹¹⁵ namely:

Table 10: Summary of the North West Department of Agriculture’s Targets and Achievements Regarding Sufficient Food 2002/2003

Enhancing equitable access and participation¹¹⁶	
LRAD	<ul style="list-style-type: none"> 724 beneficiaries and 64 projects were implemented
Power of Attorney for Disposal of State Land	<ul style="list-style-type: none"> (11 farms were leased)
Black Economic Empowerment (BEE) Policy – Access to Finance	<ul style="list-style-type: none"> 60% of Taung irrigation scheme farmers were financed by SA Malters.¹¹⁷
Improving competitiveness and profitability¹¹⁸	
BEE facilitating cost-efficient production and access to markets	<ul style="list-style-type: none"> leasing three silos to two BEE companies
Integrated Sustainable Rural Development Programme (ISRDS) and National Strategy for Sustainable Development	<ul style="list-style-type: none"> livestock auction plans and a goat production programme
To ensure sustainable resource use and management¹¹⁹	
National LandCare Programme	<ul style="list-style-type: none"> 31 new LandCare projects implemented and 72 existing projects supported, resulting in 2 300 jobs being created
Integrated and Sustainable Rural Development	
Integrated Sustainable Rural Development Programme and Black Economic Empowerment Policy	<ul style="list-style-type: none"> completed situational analyses for goat production potential in 155 villages and trained 525 people in goat management
Food Security	
Integrated the Food Security Strategy and Poverty Relief programme	<ul style="list-style-type: none"> 30 new household food security projects were implemented, benefiting 200 households

This Department was able to claim other achievements such as:

- 3 000 people employed in the wild game industry and 7 000 in the tloutaxaba (Devil's Claw) project, of which 5 453 were women;
- 525 people benefiting from a livestock improvement programme; and
- 18 women and 30 youths trained as HIV/AIDS peer educators.

A more detailed look at the Department's performance measures suggests that there is a problem with agricultural infrastructure delivery. The source of the problem is not clear from the protocol response. Table 11 shows a summary of performance indicators provided by the Department. Further clarification is required from the Department in order to state whether there is a trade-off between the number of meetings held as part of capacity building and the delivery of planned-for (needed) infrastructure.

Table 11: Summary of the targets versus actual performance of the North West Department of Agriculture

<i>Area of performance</i>	<i>Average percentage of targets met</i>
Erection of livestock dipping tanks	38%
Provision of LandCare infrastructure facilities	41%
Settlement of new entrants into agriculture	55%
Provision of livestock infrastructure facilities	55%
Provision of horticultural infrastructure facilities	63%
Capacity building for farmers in crop production	74%
Support to farmers and commodity organisations	83%
Capacity building for farmers in horticulture	108%*
Capacity building for LandCare projects	110%**
Capacity building for farmers in livestock production	112%*

Source: North West Department of Agriculture Protocol response.

*Notes: * Results from over performance on meetings by a significant degree relative to other types of capacity building intervention. ** Results from more farmers' days and demonstrations than targeted.*

2.3.3.6 Western Cape

The Western Cape Department of Agriculture reported on the delivery of a diverse range of agricultural infrastructure projects and support services in 2002/2003. For example, the Department's infrastructure programme resulted in funding for 29 projects, its Agricultural Water Conservation programme delivered 75 irrigation blocks, and another infrastructure programme resulted in 9 conservation infrastructure projects for previously disadvantaged individuals. Some 57 Land Redistribution for Agricultural Development (LRAD) projects involving 3 944 people were also completed. The most notable aspect of the Department's protocol response was the emphasis placed on expanding the Farmer Settlement Directorate in the 2003/2004 financial year with two clear programmes:

- **Support for the Land Redistribution for Agricultural Development process (LRAD):** A protocol explaining the role of the Provincial Department of Agriculture in facilitating the National LRAD programme; and
- **An Infrastructure Development Process:** A proposed pathway for the delivery of infrastructure projects.

This approach may allow the Department to expand its level of service delivery and improve the quality of its work, however its successful implementation will be dependent on the allocation of additional funds to the Department.¹²⁰

The Department referred to the project feedback report of the Impendulo Poverty Relief Scheme (food parcel programme) in its protocol response. The pilot project was granted a budget of R1 million over a six-month period. The report states as follows regarding the distribution of food parcels:

*Members of the MK veterans association (MKMVA) were responsible for the transport of the parcels. They delivered an average of 5 500 parcels a day, three times a week (Mondays, Wednesdays and Fridays). This amount was far too much for the small-scale farmers to supply and commercial farmers were approached in order to resolve the problem. The supply of Grade 2 fruit and vegetables was inconsistent and volatile, while the price of vegetables was at times exceptionally high. During the initial stages of the project, only fruit was bought due to expensive vegetable prices. This made it difficult to budget over the short term.*¹²¹

This indicates that the effectiveness of the programme was hampered by insufficient supplies from small-scale farmers and high and volatile prices for basic foodstuffs supplied by commercial farmers.

2.3.3.7 Limpopo

During the year under review, the Limpopo Department of Agriculture focused on the restructuring and transformation of state-owned assets, support to land reform beneficiaries, poverty reduction programmes, animal health and production activities as well as farmer education and training.¹²² The Department also trained its staff to conduct inspections in terms of the Meat Safety Act 40 of 2000. The function of inspecting farm animal and wild animal meat in terms of the Act has been delegated to provinces by the National Department of Agriculture.

A summary of the Limpopo Department of Agriculture's main reported achievements during the period under review is provided in Table 12.

Table 12: Limpopo Department of Agriculture Programme and Sub-Programmes in 2002/2003

<i>Programme</i>	<i>Sub-programme</i>	<i>Target</i>	<i>Reported Achievement</i>
Restructuring State-owned assets	Agriculture and Rural Development Corporation (ARDC)	Continue to revitalise 41 out of 43 farmer settlement projects supported by the ARDC	Most projects are due to be converted into equity shareholdings involving farming communities and estate farm workers. However, due to the long-term nature of leases for implementation of this model of ownership, and in order to secure the productivity of the projects, short-term "operating contracts" emanating from the principles of equity shareholding have been implemented with a range of private investors. Nine schemes have reached self-sustainability and profitability. The staff complement of ARDC reduced from 2 800 in April 2001 to 1 300 in April 2003. There have been increased exports of higher quality fruit from some of the ARDC schemes.
	Clearing decommissioned sisal farms	Clear 15 sisal farms to make them available for restitution claimants or alternative land use.	The sisal clearing programme was 98% complete and benefited approximately 1 200 workers from surrounding communities and 40 black emerging contractors.
Land Reform	Land Redistribution for Agricultural Development	Create 70 000 farmers within 15 years	33 389ha (71% State land, 23% bought privately, 6% private donation) redistributed and 247 farmers created.
	Land Restitution	-	R3.3 million was spent on starter packs in the form of farming implements and machinery for 8 restitution communities. R500 000 of the R3,3 million was spent on chemical inputs for 14 horticultural farms, resulting in continued production and 227 jobs being saved during the process of transferring farm ownership.
	Settlement and Land Acquisition Grant (SLAG)	Rehabilitate 76 projects at risk of sequestration, desertion, or under-utilisation.	Molemole Cluster (comprising 19 projects) complete
	Irrigation rehabilitation	Revitalise 28 irrigation schemes funded by the WaterCare programme of the National Department of Agriculture	3 000 farmers have been trained in basic agricultural production and technical / financial management. A master plan for revitalising 114 irrigation schemes in the province will begin in 2003/2004 for a period of six years to the value of R230 million.
Poverty reduction	Smallholder poverty eradication projects	Revitalise 1 360 small scale projects developed by other departments	146 projects evaluated for further improvement

<i>Programme</i>	<i>Sub-programme</i>	<i>Target</i>	<i>Reported Achievement</i>
	FAO Supported Programme and Food Security	Enhance food security in the ISRDP nodal areas of Sekhukhune and Bohlabela districts through: a large irrigation project on less than 10-hectare plots, providing layer chickens to 10 000 families, providing 200 families with milk cows, assisting 30 000 households with vegetable production starter packs.	The Department embarked upon three home-based food production projects. A total of 5 598 egg-laying chickens were distributed to 315 households who received food parcels from the Department of Welfare. The planning phase for other elements of the programme had been completed by the end of the reporting period.
	Limpopo Agricultural Development Programme ¹²³	Establish 11 communal food gardens using the Community Based Planning methodology.	Baseline studies and training of extension staff and community members was completed.
	Broadening Access to Service and Extension Development (BASED)	To enhance the capacity of extension agents and smallholder farmers Participatory Extension Approaches.	Areas to scale up the programme have been identified. Smallholder farmers have produced drought tolerant maize seed. A seed-multiplication centre has been established at Madzivhandila College where farmers can have their seed cleaned and packaged for marketing.
Animal health and animal production			A range of animal health interventions against Foot and Mouth Disease, Rabies, Brucellosis, Tuberculosis, Corridor disease, Newcastle disease, Anthrax, Lumpy Skin Disease, Black Quarter, Bovine Malignant catarrh, and internal and external parasites were made during the reporting period, resulting in no major disease outbreaks.

Source: Limpopo Department of Agriculture Annual Report 2002/2003

2.3.3.8 Northern Cape

The Northern Cape Agriculture, Conservation and Environment Department reported that 386 beneficiaries were settled on 36 797 hectares of land through the Land Redistribution for Agricultural Development Programme. The Department also mentioned that it embarked on 12 food security pilot projects and identified 4 670 starter pack beneficiaries through the help of the Northern Cape Department of Social Services. The Department also highlighted the importance of the female farmer of the year competition.¹²⁴

2.3.3.9 Gauteng

The Gauteng Department of Agriculture, Conservation, Environment and Land Affairs indicated that the total farmland area in the province is 774 265 ha. The

Department estimates that 67% or 293 571 ha of the total arable farm land area is currently being cultivated, leaving room for further development of agricultural production especially in light of declining mining and industrial activities in some regions. The Department estimates that there are approximately 3 200 farmers in Gauteng employing 39 295 farm workers on 2 342 farm units. The Department provided detailed indicators of their targets and outputs for the reporting period according to programme and sub-programme categories. A short summary of achievements follows:

- **Agriculture – Household Food Security:** The Department assisted 2 664 women, 266 youth and 30 differently abled people to grow their own food during the reporting period.
- **Farmer Settlement and Established Agriculture:** Extension was provided to 1 372 beneficiaries, however the development of business plans and commodity-based structures and facilitation and co-ordination failed to meet their targeted outputs.
- **Specialised Support Services:** A wide range of technical services relating to agricultural planning, soil conservation and marketing were provided according to target.
- **Veterinary Services – Animal Health:** Animal health interventions against Brucellosis, Foot and Mouth Disease, Rabies and other diseases were completed according to the target or exceeded the target. 11 752 import/export control permits were issued during the reporting period.
- **Veterinary Public Health:** Ninety-four abattoirs and seven sterilisation installations were inspected for a range of hygiene risks according to target.
- **Epidemiology and Laboratory Services:** Surveillance and diagnostic services were rendered to support the other veterinary service sub-programmes.
- **Community Development and Law Enforcement:** Outreach activities were conducted at shopping centres with a view towards empowering communities with some veterinary knowledge. Curriculum materials for schools were prepared. A range of law enforcement activities were conducted mostly at livestock auctions and stock pens, although illegal slaughtering was also investigated. The Department reported that there were nine prosecutions.

2.3.4 Income Generation and Job Creation Opportunities

2.3.4.1 Public Works Programme

According to its 2002/2003 Annual Report, the National Department of Public Works created 20 539 jobs as a result of public works activities at a local level.¹²⁵ Public works are being designed in such a way as to deliver an integrated cluster of local needs, with job spin-offs, productive assets and

income to assist households to afford basic needs, including food. Key to the Department's approach is passing on the management and maintenance functions to local authorities and revitalising projects that have failed since construction was completed.

The Construction Industry Development Programme (CIDP), which was supported by the International Labour Organisation (ILO), has been an important vehicle for Black Economic Empowerment in many localities. However, one major problem with public works as a job creator and a means of Black Economic Empowerment is the pace of its expansion. In the 2003/2004 financial year, the Department anticipates that it will only create 25 000 jobs and 600 community assets.

2.4 BUDGETARY MEASURES

2.4.1 Improving Nutrition

The National Department of Health budget for the Integrated Nutrition Programme increased by approximately R15 million from 2001/2002 to 2002/2003 (see Table 13).

Table 13: National Budget for the Integrated Nutrition Programme

	<i>Allocation for National Programme in Rands</i>	<i>National Budget Expenditure in Rands</i>	<i>Conditional grant allocation (transfer to Provinces) in Rands</i>	<i>Conditional Grant (transferred to Provinces) in Rands</i>	<i>Conditional Grant (Provincial expenditure) in Rands</i>
2001/02	4 536 000	2 734 668 (60%)	582 411 000	582 411 000 (100%)	475 458 000 (82%)
2002/03	4 240 000	3 913 427 (92%)	592 411 000	592 411 000 (100%)	580 078 000 (98%)

Source: National Department of Health Protocol Response 2003

Notes: Allocation as a % of the Department's Budget was not provided because the Department's total revenue is unknown. Donor funding was zero in both years.

The Integrated Nutrition Programme consisted of transfers to the provincial Departments of Health. The Conditional Grant allocation to provinces were distributed from the National Department of Health according to an index, comprised of three indicators:

- the 1996 poverty gap (65% of the index);
- the 1996 population – 0 to 15 years – living under the poverty line (30% of the index); and
- the 2000 anthropometric indicators (5% of the index).

The transfers made to each province in 2002/2003 are shown in Table 14. Possibly due to food price increases, approximately R50 million more than allocated to provinces was required to maintain the programme at a substantially lower level of coverage than the previous financial year.

Table 14: Provinces Expenditure – Integrated Nutrition Programme

<i>Province</i>	<i>Transfer R'000</i>	<i>Amount Spent R'000</i>	<i>% Transferred Spent</i>
Free State	40 543	32 918	81%
Western Cape	28 789	28 657	100%
Eastern Cape	131 838	135 464	103%
Mpumalanga	39 728	40 956	103%
Northern Cape	10 390	10 973	106%
Limpopo	109 127	117 548	108%
North West	39 390	43 762	111%
KwaZulu-Natal	136 337	162 507	119%
Gauteng	56 269	69 809	124%
Total	592 411	642 594	108%

Source: National Department of Health Annual Report, 2002/2003 p122

Some of the operational problems involved in the Primary School Nutrition Programme have been discussed earlier in the report. However, one major cause of weakness in the programme was an unrealistic set of national financial assumptions. In 2001/2002 the cost of food in each “meal” ranged from 39 cents to R1 and the total cost of delivery per “meal” ranged from 60 cents to R1.10.¹²⁶ The total cost of the food dose in 2001/2002 therefore ranged from approximately 99 cents to R2.10. In 2002/2003, the maximum budgeted resource available per targeted learner per day was less than 67 cents.¹²⁷ This was clearly an unreasonable set of parameters for the programme to be improved to meet the higher standards set by Cabinet in 2001.

Only the Gauteng Department of Health provided a detailed breakdown of its Integrated Nutrition Programme budget. This approach may allow health facility spending on food supplements and nutrition to be itemised more clearly. Nevertheless, none of the protocol responses or Annual Reports from provincial Departments of Health provided a full breakdown for basic nutrition-related interventions. This appears to be a consequence of the aggregated requirements in the National guidelines for Annual Reporting from Provincial Departments of Health. Despite the lack of disaggregated budget information for the Integrated Nutrition Programme, Table 15 shows that Gauteng and Western Cape added considerable funds to the Conditional Grant from National Government in order to supplement their programmes. Others only made use of the Conditional Grant.

Table 15: Gauteng and Western Cape Departments of Health, Integrated Nutrition Programme Budget and Expenditure 2002/2003

	<i>Allocation for programmes</i>	<i>Conditional Grant</i>	<i>Actual Expenditure</i>
GAUTENG			
Primary School Nutrition Programme	54 797 630	56 268 692	57 061 755
Community Based Nutrition Programme	9 755 000		12 853 930
Supplementary feeding	1 416 370		536 859
Total	65 969 000	56 268 692	70 452 544
WESTERN CAPE			
Integrated Nutrition Programme	44 182 000	28 789 000	41 155 000

2.4.2 Food Production and Trade

2.4.2.1 LandCare Programme

In 2002/2003 the National Department allocated R24 million to the provinces for the implementation of the LandCare Programme. However, according to the National Department of Agriculture's 2002/2003 Annual Report only 65,1% of the funds that were transferred to provincial level were spent (see Table 16).

Gauteng does not receive a conditional grant under the LandCare programme. KwaZulu-Natal spent only 27% of the conditional grant from National Government, which indicates that there may have been serious problems within that Department. Free State and Mpumalanga also show levels of underspending greater than 10%.

Table 16: Actual Expenditure on the LandCare Programme by Provincial Departments of Agriculture

	<i>Actual Conditional Grant Transferred to Province R'000</i>	<i>Actual Amount Spent R'000</i>	<i>% of Transferred funds spent</i>
Eastern Cape	6 000	4 397	73%
Free State	1 400	880	63%
KwaZulu-Natal	4 000	1 093	27%
Mpumalanga	2 000	1 215	61%
Northern Cape	1 300	976	75%
Limpopo	5 000	3 585	72%
North West	3 000	2 283	76%
Western Cape	1 300	1 193	92%
Total	24 000	15 622	65%

Source: National Department of Agriculture, Annual Report 2002/2003, p165.

One concern about the LandCare programme is the fact that the Poverty Alleviation Programme from which the funds are derived at a national level ends in 2003/2004 at a value of R38 million. Thereafter, it appears that the LandCare programme will run under the SPFS, which was developed with the assistance of the FAO. No budget information on the Special Programme for Food Security could be found in the National Department of Agriculture's

Annual Report or the protocol response for 2003. The Department did not provide information on its objectives and targets for the SPFS or the LandCare Programme. The Department's detailed intentions and delivery performance in terms on these services are, therefore, unclear.

2.4.2.2 Agricultural Risk Management – Water Use and Irrigation Development

The National Department's only major capital programme is the drilling of boreholes under the water use and irrigation development sub-programme. In 2002/2003 96,6% of the R28 123 000 allocated was spent. This equates to an average capital cost of approximately R83 000 for each of the 339 boreholes delivered in the financial year.

2.4.2.3 Provincial Agriculture Departments

Agriculture is a concurrent National and Provincial competency and the total budget devoted to provinces (R2,6 billion) is approximately 3 times the National Budget (R0,87 billion). The Intergovernmental Fiscal Review of Agriculture for 2003 provides an account of the low level of capital expenditure by provincial Departments of Agriculture. Approximately 9,9% of the total budget (R201 million in 2002/2003) went to capital projects mostly involving the revival of irrigation projects, irrigation development, fencing, boreholes and other marketing support infrastructure such as sheep shearing infrastructure. The non-personnel, non-capital part of the budget is mostly devoted to animal health functions like dipping, vaccination and veterinary services (approximately R276 million of R610 million) as well as training relating to production and marketing (approximately R334 million of R610 million).

There are very few grants or revolving loan funds to assist new farmers to establish themselves. The Surplus People's Project has characterised the situation as follows:

of the seven departments for which figures are available, Limpopo, Northern Cape and Free State provide no funds from their budgets for such transfers to small-scale farmers. The other four provinces (Eastern Cape, KwaZulu Natal, Western Cape and Gauteng) appear to have allocated a total of approximately R26 million to transfers that may be related to supporting farmers. Considering the total budget of the seven agricultural departments and the needs of current and future farmers, this is miniscule.¹²⁸

3 CHALLENGES FOR THE REALISATION OF ECONOMIC AND SOCIAL RIGHTS

3.1 CORRUPTION

None of the Provincial Departments of Agriculture reported on corruption or administrative action. However, it is now commonly known that the KwaZulu-Natal Department of Agriculture has experienced problems during the reporting period.¹²⁹

More information on problems associated with the Primary School Nutrition programme was forthcoming from some Provincial Departments of Health. For example, the KwaZulu-Natal Department of Health reported on maladministration and corruption as follows:

The Department of Health Special Investigation Unit (SIU) has conducted numerous investigations into corruption relating to the feeding schemes. The SIU has also investigated these matters in conjunction with the Department of Social Development, Welfare, SAPS, Forensic Investigators and the Directorate of Special Operations (Scorpions).

The investigations led to the arrest of several senior officials from the Departments of Health, Social Welfare and Education. Private suppliers were also arrested in these investigations for defrauding the Department of Health.¹³⁰

3.2 THE DELIVERY OF BASIC SERVICES

It is commonly understood by most that the highest rates of poverty are to be found in rural South Africa.¹³¹ That said, people living in informal settlements in metropolitan areas or small towns also experience poverty and disease rates that are very high.¹³² The types of problems and solutions for each type of settlement (beyond simply rural and urban) differ in many respects. This point could be appreciated more fully if more people had access to reliable maps and aerial photographs of their own country, province and locality, especially when they indicate the status quo and plans for the future.

One of the most common and critical problems in all poverty-stricken areas, which relates to the problem of malnutrition, is insufficient clean water and sanitation, which often results in disease and contributes to the cycle of poverty. The problem of inadequate service availability and being trapped in a cycle of poverty are therefore interlinked.

There seems to be some consensus that improved levels of service are an important part of the fight against poverty. However, the ability to pay for services, due to the high unemployment levels, is a growing problem. This is especially the case when food prices rise, own production is limited by lack of quality land and finance¹³³ and incomes remain stagnant. This may be an especially big problem for people involved in informal income-earning

activities and those employed as casualised cheap labour, especially when rural to urban migration is taking place.

Public servants who are expected to deliver public services according to set timeframes at the same time as ensuring effective participation with beneficiaries can all too easily be squeezed between a mobilised community and an inflexible bureaucracy that had not planned properly or allocated sufficient resources. The key to successful implementation would seem to hinge on how beneficiaries are included in developing the service delivery system and how public office bearers, officials, private companies and other non-governmental support organisations (NGOs and CBOs) are held accountable.

3.3 GENDER AND THE RIGHT TO FOOD

In South Africa, there appears to be comparatively little useful research that indicates how the nutritional problems of males and females (of different ages) differ and how these problems come about. The undernutrition of girl-children is implicated in nutrition problems later in life, but it does not appear that there is a major focus on addressing this issue at present.

Many women are organised into pre-co-operative or semi-co-operative structures (burial societies, stokvels, and faith-based groups) that have an important supportive function in times of shock or crises. Many of these organisations operate rotating savings and credit schemes that are sometimes linked to productive activities or bulk purchases of basic goods including food. An enabling and supportive environment for these types of groups is not well catered for in the Co-operatives Act or the activities of those organs of State that are responsible for promoting co-operatives.

3.4 ROLE OF CIVIL SOCIETY

In the run up to the Growth and Development Summit Agreement in 2003, the trade union movement called for a number of sector summits, including one for agriculture and agro-processing. The proposal was for government, labour, community and business representatives to negotiate a sector-specific agreement that would ensure quality job creation in the industry and food security for the country over the medium term.

3.5 MONITORING, EVALUATION AND COMMUNICATION

In general, very few departments reported in any detail on their monitoring and evaluation systems. However, there were some notable exceptions to this general pattern. The KwaZulu-Natal Department of Health reported that:

the Nutrition Personnel in the Districts developed a standardised monitoring form for use. It is reviewed periodically. Statistics are on the Primary School Nutrition Programme and the Protein Energy Malnutrition Programme. Clinical records are kept at Primary Health

April 2002 – March 2003

Care level. Information is channelled to the Informatics section by District Health Officers. The statistics cover malnutrition rates.

and

Some of the indicators (data elements) were not collected and therefore difficult to assess, eg the impact of the Primary School Nutrition Programme.

The Mpumalanga Department of Agriculture, Conservation and Environment stated as follows:

The Department uses Department of Health, Social Services and Population Development data. Field officers, especially home economists, verify the data through physical engagements.¹³⁴

After raising the problem of “timely” community participation, the Western Cape Department of Agriculture stated:

Yes, the Department of Agriculture experienced difficulties in monitoring and assessing the realisation of the right. This is due to the limited skills available in the Department to collect and analyse the data required to make informed conclusions. Sociologists and/or anthropologists are not seen as a human resource capacity requirement in Agriculture.

The Eastern Cape Department of Agriculture and Land Affairs made an argument for centralising and co-ordinating food security initiatives at provincial level as follows:

It is difficult to co-ordinate food security and food production programmes that are initiated by other Departments and non-governmental organisations. There should be a provincial Food Security Strategy with its own budget. The various departments and organisations can then apply for funds for their programmes.

3.6 INTEGRATION

Prior to 2002/2003, the set of interventions by organs of State to realise the right to food was fragmented across three government functions: social security, health and agriculture. In April 2004, the Department of Education will also play a significant role when it takes up a leading role in the delivery of the National School Nutrition Programme (NSNP).¹³⁵ It is mostly with the introduction of the Integrated Food Security and Nutrition Programme (IFSNP) during this reporting period that there appears to be a higher degree of inter-departmental co-operation, however, this appears to mostly consist of interactions between Social Development and Agriculture in the Director General’s Social Cluster and at provincial level.¹³⁶ Integration with the National Department of Health appears to have been less of an emphasis, except in isolated cases at provincial level.

The National Department's protocol response identified three serious implementation difficulties with the IFSS-SA:

- Non-alignment of national and provincial priority areas;
- Ineffective co-ordination mechanisms within and across levels of government; and
- Inadequate human resource capacity.

While this was broadly a correct presentation of some of the problems involved in implementing the IFSS-SA, there were some positive developments during the reporting period. For example, the Mpumalanga Department of Agriculture, Conservation and Environment stated that:

The Resource Management Department has been tasked to come up with maps indicating soil potentials and where good soils are found in a municipality. However, the challenge is that of funds and the limitation of the technology to do such, since the (available) satellite photographs only go to a certain resolution. The Department is realigning its activities in order to ensure that the agricultural sector is accounted for ... There is continuous interaction between the Department of Health and the Department of Social Services and Population Development. Thanks to the integrated food security programme, departments now work in a complementary manner.¹³⁷

From available information, it was not clear whether the National Department of Agriculture had developed a comprehensive implementation plan to facilitate the integration of IFSNP activities at local, provincial and national spheres.

4 CRITIQUE OF MEASURES INSTITUTED

The key problems with the measures instituted to realise the right to food during the reporting period include: a) inadequate protection of the right to food, b) insufficient focus on the scale of hunger and severity of malnutrition, c) unreasonable operational planning, d) costly systems to regulate food quality, e) low levels of participation by those who are directly affected, f) the appropriateness of technology as an aspect of right to food interventions.

4.1 INADEQUATE PROTECTION OF THE RIGHT TO FOOD

During the 2002/2003 financial year, many government departments were faced with new challenges to realise the right to food within a tighter time frame and higher food prices. Dramatic food price increases, drought and disease within South Africa and the region led to new demands on State resources. Poor households, who spend a high percentage of their income on food, were also forced to pay substantially higher prices for food, with a negative impact on their resources for ensuring health, quality education and other economic and social rights. Community-based research confirms that

food price increases were the cause of very serious problems for many vulnerable groups.¹³⁸ Quantitative analysis also confirms that food price increases had a negative impact on poverty alleviation and inequality. As the main contributor to overall inflation during 2002/2003, food price increases also had a significant macro-economic impact.

During the reporting period, Cabinet responded to the food price problem by allocating contingency funds for targeted food relief programmes¹³⁹ and also approved the establishment of a food price monitoring mechanism. However, these positive interventions occurred quite some time after food prices had risen dramatically, and the profit rates of most large established agricultural, food trading, food processing and food retailing/wholesaling companies reached high levels.¹⁴⁰

The introduction of a new, emergency, food price monitoring mechanism to scrutinise prices accessible through the market, indicates a key deficiency in the State's existing system for regulating the sector. Furthermore, it was not possible for the South African Human Rights Commission to assess whether an unfair proportion of State funds, used to procure food for supplements or catering (in schools, hospitals, prisons and the military), was redirected back to the private sector as profit.¹⁴¹

During the period under review, the Competition Commission completed an investigation on the upsurge in food prices after rapid depreciation of the rand against the dollar in 2001.¹⁴² The lengthy report concluded that opportunistic behaviour leading to food prices increases was *unlikely* and food price increases were not excessive in terms of the Competition Act 89 of 1998. However, the report did raise concern about the price of white maize as follows:

*The importance of maize-meal in the diet of low-income South African consumers indicates that the maize price should be assessed. In particular, the Safex price-setting mechanism, as it is by all accounts the bellwether price of maize. Some complaints have been received by the National Chamber of Milling (NCM) about market manipulation by international trading companies, but on initial enquiries that seems unlikely, for there are safeguards in place, although it should be noted that there is not yet a limit on open positions.*¹⁴³

The potential impact of a lack of position limits is confirmed by the Chairperson of the Food Price Monitoring Committee when he stated the following:

accusations about unethical behaviour of certain commodity traders and the manipulation of the agricultural futures market of the Johannesburg Stock Exchange was rife. Various facts and some evidence obtained by the Food Price Monitoring Committee and the Financial Services Board point to the potential for price manipulation. It seems, however, very plausible that it was the market sentiment that was "manipulated". The potential for manipulation lies in the large open positions of traders, which makes it possible for larger traders to corner the market and lead

the market (especially inexperienced traders) into a particular direction. To prevent this from taking place, the JSE recently announced the introduction of position limits.¹⁴⁴

Apart from the fact that there is a court case regarding the alleged abuse of a workers' pension fund,¹⁴⁵ the key point here is that the costs of inadequate safeguards on SAFEX were potentially passed on to low-income consumers who could ill afford such increases for such a sustained period of time. At a minimum, the potential for manipulation should have been prevented when serious warnings were first signalled in 2002.

4.2 THE SEVERITY OF HUNGER AND MALNUTRITION

4.2.1 The Scale of Absolute Poverty

Malnutrition among children occurs within the context of high levels of absolute poverty in the country as a whole and a growing number of people are defined as vulnerable. Table 17 shows a set of indicators of absolute poverty at different points in South Africa's recent history. Poverty lines are mostly defined in terms of a minimum basket of foodstuffs and other household items per person, hence their relevance to the discussion here.

Table 17: Food insecurity, absolute poverty and vulnerable group indicators

<i>Poverty measure</i>	<i>Period 1</i>	<i>Period 2</i>	<i>Source</i>
<i>Individuals (millions)</i>			
Minimum Subsistence Level	1989 – 16,3		RSA, 1992a
2000 kcal/day	1994 – 14,8		PSLSD, 1994
BMR Minimum Living Level	1994 – 17		ANC, 1994
Food poor	1995 – 18,2	1999 – 19,2	NIEP, 2002
Orshansky poor	1995 – 23,8	1999 – 25,3	NIEP, 2002
UNDP poor	1995 – 21,1	1999 – 22,2	NIEP, 2002
World Bank poor	1995 – 14,2	1999 – 16,7	NIEP, 2002
Traditional poor	1995 – 31,8	1999 – 32,4	NIEP, 2002
Chronically poor migrants	2000 – 0,25 to 0,5		Aliber, 2003
Street/homeless	2000 – 0,02 to 0,1		Aliber, 2003
AIDS orphans	2000 – 0,371	2010 – 1,9	Aliber, 2003
R401 per adult equivalent	2001 – 21,1		Taylor, 2002
R354 per adult equivalent	1995 – 20,2	2002 – 21,9	UNDP, 2004
<i>Households (millions)</i>			
Chronically poor rural	2000 – 1		Aliber, 2003
Female-headed	2000 – 0,767		Aliber, 2003
Disabled	2000 – 0,038		Aliber, 2003
Elderly	2000 – 0,378		Aliber, 2003
AIDS families	2000 – 0,06	2010 – 0,54	Aliber, 2003

The following issues are worth highlighting upfront:

- the scale of the measured food insecurity (and poverty) problem is so large that there has been ongoing disagreement about the extent to which food-insecure households should be targeted with income/food

support programmes as opposed to using macro-economic price controls, more rapid agrarian reform and/or general consumer subsidies (like a Basic Income Grant);

- under apartheid, the State legitimised more limited and targeted programmes by arguing that the sheer magnitude of the indicators demonstrated that they were an incorrect reflection of reality on the ground;
- the level of absolute poverty does vary quite considerably depending on what indicator is used;
- few of the indicators have been monitored consistently over time, however, there appears to be an increase in absolute poverty when this has been done; and
- attempts to improve targeting through identifying the chronically poor are still in their early stages.

For instance, prior to the Integrated Food Security Strategy, the Government was accused of adopting a piece-meal approach to the problem of food insecurity as follows:

the 2000 Cabinet Lekgotla (strategic planning session) decided that there was a need to implement an Integrated Food Security Strategy, and this was later adopted at a MinMEC (forum of national and provincial agricultural ministers), and a Draft Bill on food security developed in 2001. Further work has occurred on setting up information systems and project identification, and three pilot projects have been initiated at provincial level, which will be rolled out to the rest of the country in due course. The Government has interpreted the problem as being addressed through demonstration projects. It has raised money for this approach through holding a Telefood concert, which was telecast internationally in conjunction with the SABC and the FAO. However, a piecemeal project approach may only produce temporary, palliative solutions. Without systematically addressing the land question, skills, inputs, extension services, credit, food prices and non-agricultural livelihoods, the food security of the South African urban and rural poor will remain elusive.¹⁴⁶

The key question raised above is whether macro-economic price controls, more rapid agrarian reform and general consumer subsidies (like a Basic Income Grant) could be more effective at addressing absolute poverty, within available resources, than targeted programmes that intend to reach a smaller number of people who are defined as chronically poor or vulnerable.

4.2.2 The Number of Stunted, Underweight, Wasted and Severely Malnourished Children

The prevalence of stunting, being underweight, wasting and severe malnourishment amongst children provides one way to identify households in

desperate need, ideally before there are malnutrition related deaths. Ever since the introduction of the Reconstruction and Development Programme (RDP) in 1994, emphasis has been placed on nutritional monitoring of children as part of a broader system of monitoring economic growth, development and poverty. Child growth monitoring provides one way to identify malnutrition problems early enough for preventative action to be taken. According to a World Health Organisation (WHO) study:

Stunting is a major nutritional problem in children under five years of age in South Africa, especially in urban-informal settlements and rural areas. It has only recently attracted much attention in South Africa and internationally.¹⁴⁷

In the period from 1994 to 1999, there was no improvement in the prevalence rate of undernutrition among young children in South Africa, despite increased monitoring in certain provinces (see Table 18). The prevalence of more severe forms of malnutrition showed signs of increasing rather than decreasing.¹⁴⁸

Table 18: The prevalence of undernutrition among young children compared with National Department of Health policy targets

	Survey 1994 Age 6 – 71 months ¹⁴⁹	Survey 1999 Age 12 – 71 months ¹⁵⁰	Target 2000 Age under 60 months ¹⁵¹	Target 2005 Age under 60 months ¹⁵²
Stunted	22,9%	23,8%	20%	20%
Underweight	9,3%	11,1%	10%	10%
Wasting	2,6%	3,6%	1% ^a	2%

Source: Survey results published by the Health Systems Trust on new.hst.org.za/indic

Notes: According to Census in Brief, the number of children under five years of age increased by 6 195 from 1996 to 2001. The total number of children under five in 2001 was 4,45 million.
^a Refers to the target for severe undernutrition, which is three standard deviations from the reference mean instead of two standard deviations, as is the case with wasting. Unlike the other values it is therefore not directly comparable. Severe malnutrition (for children under five years of age) refers to children whose weight on admission to a hospital is below the line representing the third percentile (60% of expected weight for age) on the Road to Health Card.

Although it is widely accepted that the causes of undernutrition among young children are complex and therefore not solely within the control of the Departments of Health. The least the National Department of Health could do is set progressive targets for itself and others. In this regard, it is not clear why the National Department of Health decided on virtually identical undernutrition targets for 2000 and 2005 (see Table 18). The targets are unreasonable.

It is acknowledged that from 1999 onwards the Department of Health has made considerable progress in consolidating a new and more comprehensive monitoring system from the district health level upwards. It is also acknowledged that the practical importance of district level health monitoring has been demonstrated in pilot projects in several vulnerable areas of the country. However, it is doubtful whether the scale and urgency of these

interventions matches the needs of all vulnerable groups. This is especially true in the context of the food price increases, which took place during the 2002/2003 reporting period, and the rapid increase in the number of malnourished children who entered the public health system under the Protein Energy Malnutrition scheme. The urgency of reducing the prevalence of malnutrition more rapidly than planned by the National Department of Health is underscored by statistics on the causes of death in South Africa.

4.2.3 Malnutrition Related Deaths

According to Statistics South Africa (STATSSA), the general pattern in causes of death from 1997 to 2001 is a major increase in HIV/AIDS related deaths relative to unspecified unnatural causes (i.e. suicide, drowning, motor accidents).¹⁵³ STATSSA also found that:

*malnutrition was a significant cause of death in the age group 0 – 14 years, being the seventh leading cause among males and females, accounting for 6,5% and 6,1% of deaths respectively.*¹⁵⁴

More detailed information based on the mortality profile in 2000 suggests that of the 303 081 male and 253 504 female deaths recorded for that year, protein energy malnutrition ranked lowest out of a list of 20 specific causes of death.¹⁵⁵ However, when the figures are recalculated to take account of the years of life lost, nutritional deficiencies rank 11th as a cause (at 1,6%) relative to HIV/AIDS which ranks highest (at 39%).

In 2000, the estimated number of deaths from protein energy malnutrition was 2 526 males and 2 123 females. An estimated 5 511 people died from protein energy malnutrition in 2000, with 83% of deaths occurring in the 0 – 4 years age group. A further 184 people died from other nutritional deficiencies, including pellagra, which almost exclusively affected people over the age of 14 years. At the time of writing, more up-to-date information on causes of death were not available to the Commission, but the Medical Research Council (MRC) stated that it was conducting further work on quantifying “risk factors, such as tobacco use, malnutrition, unsafe sex, alcohol consumption, poor water supply and sanitation, and hypertension.”¹⁵⁶

The above discussion makes it is clear that in 2000, a large number of young children died from malnutrition. During the reporting period, 101 152 children were admitted to hospital with severe malnutrition, but it was not possible to state how many children died of malnutrition.

It is however, *very alarming* to understand that case fatality rates for children admitted with a diagnosis of severe malnutrition in January – April 2001 in two rural hospitals in the Eastern Cape ranged from 21% at Mary Theresa referral hospital to 38% at Sipepetu referral hospital. The study concludes by stating:

*Quality of care improved with the implementation of the WHO [IMCI] guidelines and case-fatality rates fell. Although major changes in medical and nursing practice were achieved in these **under-resourced***

*hospitals, not all tasks were done with adequate care and errors led to unnecessary deaths.*¹⁵⁷

There appears to be a low level of awareness and sensitivity to the high number of deaths in South Africa as a result of protein energy malnutrition even outside of times of drought and high food prices. While 166 deaths in the Eastern Cape were reported at the height of the most recent crisis, this story only came to the media's attention through the advocacy of organisations involved in addressing the malnutrition problem at health facilities in the area.¹⁵⁸ Associated with the lack of awareness and sensitivity among those who are not affected by the crisis must be a lack of adequate awareness, amongst those who are directly affected, of their rights and available recourses.

4.3 UNREASONABLE OPERATIONAL PLANNING

Despite the fact that major new food programmes were implemented approximately six months after the Cabinet decision in October 2002 (i.e. March/April 2003), it should be borne in mind that the food price crisis began at the beginning of 2002, with warnings as early as December 2001. It took quite some time for key government agencies to realise the scale of crisis posed by a doubling of basic food prices within the space of a few months and what government could do about it in the short and medium term.

Part of the hesitance also stemmed from the defensive reaction of organised business to suggestions that food prices increases were unjustified and that companies were involved in "speculative profiteering". While interim relief measures were provided to existing beneficiaries of social grants through easy-to-implement increases in their transfer payments once during 2002, a large number of people face mostly document related administrative barriers in accessing social security (see the Social Security report). With the exception of the Department of Social Development which took responsibility for distributing food parcels with a view towards extending registration for child support grants, other government departments were expected to adopt new programmes at short notice, for which they appeared to be ill prepared.

In this regard, it does not appear to help matters that most government departments avoid setting themselves clear delivery targets that relate specifically to vulnerable groups. The lack of clear programmes linked to specific targets creates problems with financial planning, human resources and integration with the plans of other relevant organs of State and civil society. Clear programmes with objectives, targets and other resource information also facilitate the oversight function of local councils, provincial and national legislatures.

4.4 THE REGULATORY SYSTEM REGARDING FOOD QUALITY

When it comes to the ensuring quality standards of basic food there are also serious problems, especially when it comes to the issue of food fortification, its direct costs and the costs of enforcement. Since 1999, industry has refused to

carry the costs of fortification and has insisted that government allocate sufficient resources to monitor and enforce compliance with food standards. There has been very little movement towards food industries adopting codes of conduct that apply with any force to the members of industry lobby associations. Therefore, while the National Department of Health will be commencing with food fortification of maize and wheat in 2003/2004, the costs of the “new development” are passed on to poor consumers (as “beneficiaries”) when they buy products. Furthermore:

a delay in finalising the [fortification] programme for maize and wheat has led to problems for consumers ... in the absence of one standard micro-nutrient formula for all bread, there has been scope for companies to brand bread and label it with claims of vitamin “enrichment” that make it difficult for consumers to compare like prices.¹⁵⁹

4.5 THE LEVEL OF PARTICIPATION BY THOSE DIRECTLY AFFECTED

As handed down in the *TAC* judgment, for a government programme to be reasonable its contents must be made known appropriately. The Integrated Food Security Strategy and National Guidelines for Integrated Management of Agricultural Water Use released by the National Department of Agriculture are not widely known of, and nor is the Protein Energy Malnutrition scheme. Many other policies and documents relevant to those directly affected by malnutrition and hunger are not accessible or understood by the large number of people that are potentially affected by the problem.

4.6 THE APPROPRIATENESS OF INTERVENTIONS

The issue of technology is rarely considered as an aspect of the right to food. However, there are several reasons to be pre-cautious about inappropriate agricultural and food technology, because:

- it could eventually facilitate concentration of ownership of the means of production (especially land and machinery);
- it could displace labour to a significant extent or result in more hazardous working conditions;
- it could de-emphasise indigenous knowledge relative to western scientific knowledge;
- it could result in a food system with a highly negative energy balance and environmental externalities that will be impossible to reverse;

- it could result in food with little or low nutritional value and balance (i.e. specific food refinements and additives as opposed to holism and fermentation). Some new technologies may also cause nutritional hazards;
- it could also result in longer food chains with higher distribution and pest control costs and active ingredient resistance (i.e. while high input systems have economies of scale in planting, harvesting and storage (which smaller farmers usually do not benefit from) the flipside of the coin is diseconomies of scale in crop protection against fungus, insects and weeds in the field as well as fungus, insects and rats in silos and ships);
- finally, it could prejudice farmers' rights to save and share seed or everyone's right to bodily and psychological integrity.

Inappropriate technology may be especially present in highly unequal societies like South Africa where innovations tend to be skewed in favour of elites. In this regard, the ARC seems capable of providing and facilitating much more widespread and relevant agricultural support to vulnerable groups through provincial department's of agriculture and local municipalities, if its approach to resource allocation allows for this.

5 RECOMMENDATIONS

Previous Economic and Social Rights Reports focused on the multi-sectoral nature of the right to food and the details of government programmes to support food production, basic nutrition, income generation and social assistance. As far back as the 1st and 2nd Economic and Social Rights reports, the State was encouraged to integrate its activities, improve government information and monitoring systems, clarify qualification criteria, and institute practical measures to extend the scope of programmes to additional target groups or to address specific problems.

The 4th Economic and Social Rights Report called for progress in creating employment, reducing food prices and delivering nutritional education as ways to realise the right to food. The fourth report stated that legislation on the right to food would hopefully assist in addressing the shortfalls in the measures adopted by government.

This report emphasises that urgent progress must be made on the following:

1. curbing deaths from nutrition-related causes;
2. ensuring that the potential of children in vulnerable situations is enhanced by good basic nutrition; and

3. expanding the number of people that have the opportunity to produce, earn, or receive sufficient support to feed and sustain themselves.

Raising Awareness of Malnutrition

Evidence presented in this report suggests that South Africa's malnutrition problem is not a "moderate public health" problem; it is a malnutrition crisis that is especially poorly understood by more affluent members of society.

One way to begin to address this problem is to raise general awareness of the scale of the malnutrition problem in South Africa and communicate inspiring examples of how this is being addressed through income support, asset redistribution, and production support. The Female Farmer of the Year competition is already one example of a government awareness-raising programme. Given the significant problems in the Primary School Nutrition Programme in some areas of the country, there is also a need to effectively communicate how successful implementation of the programme has been achieved in some localities and provinces.

Good nutrition needs to be promoted in an independent and culturally sensitive manner to all age groups. This is especially true for those areas of the country (like rural areas and informal settlements) that are actively supplied with low quality foods or foods with high concentrations of additives/toxins.

Rolling out the Integrated Food Security Strategy

The next proposed step is to ensure that reasonable objectives and targets are released in terms of the Integrated Food Security Strategy, as a matter of urgency. Provincial integrated food security strategies may assist in bringing the work of different departments together in a way that draws on the Integrated Food Security Strategy at a national level, but adapts it to provincial reality. The targets contained in a provincial food security strategy should be based on the level of need that exists, especially as represented by indicators of malnutrition at a local level. This implies that Departments of Agriculture should better integrate their activities with the work of Health, Social Development, Education, Land Affairs and Water Affairs and Forestry at a decentralised level. Practical steps need to be taken to provide education, skills development and information systems (including Geographic Information Systems) to achieve better integration.

Consideration should be given to acknowledging and supporting primary health care workers, and Community Based Organisations of community health workers, in their efforts to identify individuals and households who currently fall outside the social security system. This could be done with a view to getting these households onto the system as well as referring them for further support from Social Development, Education, Agriculture and Public Works. More attention needs to be paid to staffing, equipment and vehicle purchasing and utilisation to ensure that families affected by malnutrition are brought onto the health care, social security and small scale production systems.

Practically speaking, the scale of the National Department of Health's National Integration Project (NIP) could be expanded to identify many more households that are in desperate need.¹⁶⁰ For example, at the NIP site in Impendle, KwaZulu-Natal, "approximately 900 orphans and vulnerable children were assisted to access education, 495 were assisted to access Child Support Grants and ... all children (identified) have at least 2 meals per day (to and from school) while their applications are being processed".¹⁶¹

The Department of Health should urgently revise its targets in order to halve the number of children suffering from malnutrition by 2015. The objectives and targets in terms of the Integrated Food Security Strategy should be properly costed and planned for, and should take into consideration, the practical experience gained by provincial and local government as well as NGOs and CBOs. The objectives and targets should be made known for comment before they are finalised.

The National Department of Health should substantially improve reporting on the Protein Energy Malnutrition scheme and nutritional supplementation interventions for people living with TB and/or HIV/AIDS, in order to support their urgent roll-out. In this regard, there is a need to consider how the Integrated Nutrition Programme (INP) could be reformulated to reflect a larger scale and more sustainable programme to support HIV/AIDS sufferers, including: patients who are receiving drug therapy, malnourished people more generally. Possibly, now that the National Department of Education is responsible for the National School Nutrition Programme, the National Department of Health could consider expanding the remaining sub programmes under the INP as one relatively speedy way to improve nutritional support, in co-operation with community based health care workers- in order to half hunger by 2015.

Improving Food Safety

There is a need for clear information on the different types of toxin and contaminant contraventions among domestic foodstuffs relative to the Medical Research Council's food sampling frame. This information will assist in assessing work done towards the implementation of the Foodstuffs, Cosmetics and Disinfectants Act 54 of 1972.

Notwithstanding the National Department of Health's food fortification programme, the immune systems of vulnerable groups should not be further burdened by toxins in basic foodstuffs. Information on human and financial resource allocations towards testing domestically consumed basic food items (separating out imported food) as opposed to those for export, should also be provided.

Better Regulation of Food Pricing

When it comes to the issue of food price inflation, the Pricing Committee established by the National Department of Health to regulate drug prices, may hold important lessons.¹⁶² When the Department of Education takes up its role of delivering the Primary School Nutrition Programme in 2004/2005, this report demonstrates that it is going to have to pay careful attention to the issue

of food quality, pricing and affirmative procurement if it is to expand and improve the programme. Transparency is required on the price and quality of food purchased on tender by hospitals and other government departments, in order to ensure that food is accessible to the poor.

The National Department of Agriculture should report on the role they see for State-owned strategic grain stocks, both physical and “virtual”. The relevant organ of State should also report regularly on the number of quality jobs involved in producing quality food purchased by the State, by type and size of enterprise i.e. SMMEs, large established corporations and co-operatives. Co-operative groups are already involved in producing and processing food with intermediate technology.

Accelerating Agrarian Reform

Given that the concentrated structure of present day food markets derives from South Africa’s highly unequal distribution of land and natural resources, the progressive realisation of the right to food is fundamentally linked to rapidly realising the land and water rights of vulnerable groups (see the Right to Land report).¹⁶³

The National and Provincial Departments of Agriculture should change their budgeting format to clearly reflect spending on agricultural infrastructure and equipment, production inputs and training for land reform beneficiaries and resource poor farmers.

The Agricultural Research Council should deepen and expand its programmes that are relevant to resource poor farmers and HIV/AIDS sufferers. Possible sub-programme for consideration as part of sustainable rural livelihoods include: traditional, neglected and underutilised crops; agricultural diversification; home gardens; wild food plants; medicinal plants; and community seed systems.¹⁶⁴

Communication of Policy and Legislative Developments

A wide range of legislation, policy and guidelines is referred to in annual reports and in the protocol responses, and should be made much more accessible to the general public, especially through communicating in a relevant language and media format. Some specific examples of legislation and policy that requires broader awareness and understanding include:

- The Food Price Monitoring Committee Report;
- Agricultural Risk Insurance Bill;
- Sustainable Utilisation of Agricultural Resources (SUAR) Bill;
- Food Security Bill;
- Regulations in terms of the Foodstuffs, Cosmetics and Disinfectants Act No 54 of 1972; and
- The implementation report for the Special Programme for Food Security (SPFS).

National framework legislation on the Right to Food will be useful in that it will encourage focused action towards the realisation of the right to food at national, provincial and local level. Framework legislation will also be required to establish the institutions and systems required for effective participation from various organs of State and organs of civil society. Food security interventions cannot be left up to departmental policy, especially since the country is likely to face a drought or another spate of price volatility at some time in the not too distant future.

A framework law is a flexible instrument that focuses systematically on the realisation of the right to food. It therefore serves the purpose of the South African Constitution. Moreover, it is in accordance with international human rights law, which sees such a law as a State obligation under the International Covenant on Economic, Social and Cultural Rights. Even if such a law may not seem feasible today or tomorrow, it is worth the effort to start building a national campaign towards this goal. This process will also generate and/or strengthen the actors and monitoring mechanisms that will ensure that a framework law, once adopted, will be implemented.¹⁶⁵

Marshalling the energy and resources of society

Finally, the call for government, labour, community and business representatives to negotiate an agreement at National Economic Development and Labour Council (NEDLAC) that would ensure quality job creation in the food industry, and the right to food, should be supported. This approach to engaging with the problems in the food industry will ensure that participation in initiatives towards the right to right to food are broadened and deepened effectively.

1 The 5th basic nutrition protocol designed by the SAHRC is based on section 28 (1)(c) of the Constitution and was sent to the National Department of Health and the provincial Departments of Health for their response. The 5th sufficient food protocol is based on section 27 (1)(b) and was sent to the National Department of Agriculture, the Agricultural Research Council and the Provincial Departments of Agriculture. The Department of Correctional Services used the 4th Economic and Social Rights protocol relating to prisoners' rights in terms of section 35 (2)(e) to respond in the 2002/2003 financial year.

2 South African Human Rights Commission (2003) 5th Economic and Social Rights Protocols www.sahrc.org.za/protocols_2002_2003.htm (Accessed 9 February 2004)

3 Mr Asbjørn Eide, *The right to adequate food and to be free from hunger*, Updated study on the right to food, submitted in accordance with Sub-Commission decision 1998/106, Commission on Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/Sub.2/1999/12, 28 June 1999.

4 United Nations General Assembly, Special Rapporteur on the Right to Food, *The Right to Food*, 05 August 2003 paragraph 39

5 Danie Brand, *The Rights to Food and Nutrition in South African Constitution*, Centre for Human Rights, University of Pretoria, July 2000.

6 The Commission adopts the following definition of the obligation to protect contained in section 7(2) of the Constitution: “

7 Mr. Asbjørn Eide, *The Right To Adequate Food And To Be Free From Hunger*, updated study on the right to food, submitted in accordance with Sub-Commission decision 1998/106, Commission on Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/Sub.2/1999/12, 28 June 28 1999.

8 South African Human Rights Commission, *Final Report on the Inquiry into Human Rights Violations in Farming Communities*, August 2003.

9 *Ibid.*, 180.

10 South African Human Rights Commission, *The Right to Have Access to Sufficient Food*, in 4th Economic and Social Rights Report 2000/2002, April 2003.

11 Julia Sloth-Nielsen, *Children*, Chapter 23, South African Constitutional Law: The Bill of Rights

12 The *TAC* judgment concerned itself with the specific case of “children born in hospitals and clinics to mothers who are for the most part indigent and unable to gain access to private medical treatment which is beyond their means”. The judgment states that these “mothers and their children are, in the main, dependent on the State to make health care services available to them”. See *Minister of Health and Others v Treatment Action Campaign and Others (1) 2002 (10) BCLR 1033 (CC)* [74-81].

13 Alfred Cockrell, *Private Law and the Bill of Rights: A Threshold issue of “horizontality”* Bill of Rights Compendium

14 *Government of the Republic of South Africa and Others v Grootboom and Others 2000(11) BCLR 1169 (CC)*

15 *Ibid.*, [39]

16 See for example, Danie Brand, *Between availability and entitlement: The Constitution, Grootboom, and the right to food*, Executive Summary of paper presented at a colloquium 17 - 19 March 2002 Socio-Economic Rights Project, CLC, UWC and Danie Brand, *Food security, social security and Grootboom*, Community Law Centre ESR Review, Vol 3, No 1 July 2002

17 *Ibid.*, [135]

18 See *Minister of Health and Others v Treatment Action Campaign and Others (1) 2002 (10) BCLR 1033 (CC)* [123]

19 In the *TAC* judgment the Constitutional Court called for a comparison between the savings from preventing newborn babies from being infected with HIV and the costs of providing breastmilk substitutes (see *Minister of Health and Others v Treatment Action Campaign and Others (1) 2002 (10) BCLR 1033 (CC)* p1060 [91]).

20 Based on the *Kutumela* case in the North West province, the Legal Resources Centre secured agreement from the National Department of Social Development to introduce binding national regulations on the implementation of the National Food Emergency Scheme by April 2004. Personal communication, Nick de Villiers, 8 October 2003. The National Food Emergency Scheme was announced on 29 October 2002 in response to rapid food price inflation that peaked in the first half of 2002.

21 Following press reports that the National Food Emergency Scheme was not being implemented in parts of KwaZulu-Natal, on 24 January 2003, Commissioner Karthy Govender wrote to the Minister of Social Development and the MEC – Provincial Social Development for KwaZulu-Natal requesting that the matter be resolved by 27 January 2003. A letter dated 28 January 2003 assured the Commissioner that food distribution would begin on 3 February 2003. The letter followed a meeting on 23 January 2003 between the National and Provincial sphere where the parties resolved questions

of mandates, guidelines and logistics. Gift of the Givers appears to have been the Not For Profit chosen for the task of delivering food parcels.

22 United Nations General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966 entry into force 3 January 1976, South Africa signed the convention in 1994, but has not ratified.

23 Committee on Economic, Social and Cultural Rights, Twentieth Session, *General Comment 12 The Right to Adequate Food*, 26 April – 14 May 1999

24 The concept of a core obligation is problematic in South African law. In the *TAC* judgment the Constitutional Court stated that “Although Yacoob J indicated that evidence in a particular case may show that there is a minimum core of a particular service that should be taken into account in determining whether measures adopted by the State are reasonable, the socio-economic rights of the Constitution should not be construed as entitling everyone to demand that the minimum core be provided to them. Minimum core was thus treated as possibly being relevant to reasonableness under section 26(2), and not as a self-standing right conferred on everyone under section 26(1). See *Minister of Health and Others v Treatment Action Campaign and Others* (1) 2002 (10) BCLR 1033 (CC) p 1060 [34]

25 United Nations Economic and Social Council, *The Right to Food*, Report by the Special Rapporteur on the right to food, Mr. Jean Ziegler, submitted in accordance with Commission on Human Rights resolution 2000/10, 7 February 2001 (E/CN.4/2001/53). An emphasis on the notion of “access” is already present in South Africa’s Constitution and the draft Food Security Bill. The draft Bill defines food security as: “access by all people at all times to adequate, safe and nutritious food for a healthy and productive life” see National Department of Agriculture, Definitions, National Food Security Draft Bill [June.2002] [Latest Draft] Act Confidential- Not For Publication. This definition is virtually identical to the World Bank definition of food security first published in 1986.

26 The idea of voluntary guidelines on the right to food originates from major international conferences like the United Nations (UN) Millennium Summit in September 2000 and the FAO’s World Food Summit in 2001.

27 According to the Intergovernmental Working Group international obligations concerning the right to food include the following: Article 11 of the International Covenant on Economic, Social and Cultural Rights, Articles 24 and 27 of the Convention on the Rights of the Child, Article 12 of the International Convention on the Elimination of Discrimination against Women, and several provisions in the 1949 Geneva Conventions and their Additional Protocols.

28 United Nations, Millennium Development Goals, <http://www.undp.org/mdg/>

29 Mohammad Saeid Nouri-Naeni, *The Right to Food, Policies Against Hunger Defining the role of Food Aid*, 2-4 September 2003, http://foodaid.zadi.de/pr_naeni_en.ppt. A first draft of the voluntary guidelines will be discussed at the second session of the Intergovernmental Working Group from 27-29 October 2003. The guidelines will be prepared according to a framework agreed in June 2003 (see Food and Agriculture Organisation, Report of the 29th Session of the Committee on World Food Security (CFS), June 2003 CL 124/10).

30 South Africa ratified the Convention on 15 December 1995 and it came into effect on 14 January 1996.

31 United Nations General Assembly, Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), adopted 18 December 1979, entry into force as an international treaty on 3 September 1981 <http://www.un.org/womenwatch/daw/cedaw/econvention.htm> accessed 17 October 2003.

32 United Nations General Assembly, *Convention on the Rights of the Child*, General Assembly Resolution 44/25 of 20 November 1989, <http://www.unhchr.ch/html/menu3/b/k2crc.htm> accessed on 3 June 2004.

33 United Nations General Assembly 74th plenary meeting Implementation of the International Plan of Action on Ageing and Related Activities 16 December 1991 A/RES/46/91 <http://www.unescap.org/ageing/res/res46-91.htm>

34 Department: Agriculture Republic of South Africa, *The Integrated Food Security Strategy for South Africa*, Pretoria 17 July 2002. Published at <http://www.nda.agric.za/docs/Foodsecurity/FinalIFSS.pdf> (220kb) created on 27 March 2003. Website accessed 25 August 2003.

35 As the IFSS says “South Africa pledged to support the World Food Summit Plan of Action that was encapsulated in the 1996 Rome Declaration on World Food Security ... As a response to the Rome Declaration, the government appointed a Food Security Working Group to investigate options for achieving food security in South Africa. The IFSS builds on the proposals made in the 1997 Discussion Document on Food Security”. See Food Security Working Group (Agricultural Policy Unit) for The Department of Agriculture and Land Affairs Food Security Policy For South Africa – A Discussion Document November 1997. No longer available on www.nda.agric.za

36 The IFSS-SA is the result of a Cabinet decision during 2000 to “launch an updated national food security strategy to streamline, harmonise and integrate diverse food security sub-programmes in South Africa”. According to the 4th Economic and Social Rights Report, the strategy is also a response to the 2001 World Food Summit resolution mentioned earlier.

37 National Department of Agriculture, protocol response 2003.

- 38 Department: Agriculture Republic of South Africa, *The Integrated Food Security Strategy for South Africa*, Pretoria 17 July 2002. p23
- 39 Ibid., 13
- 40 Some interaction between Government and stakeholders on the IFSS-SA took place in Johannesburg after its release. However, it is not clear whether the national stakeholder workshop to integrate all the comments received from these stakeholders took place in October/November 2003 or not.
- 41 Ibid., 37
- 42 The Presidency, Republic of South Africa, *The Integrated Sustainable Rural Development Strategy*, 17 November 2000 <http://www.gov.za/reports/2000/isrds.pdf> The ISRDS was launched by the President on 7 July 2001 at the Kgalagadi Cross Boundary Municipality, one of 30 nodal points. See <http://www.anc.org.za/ancdocs/history/mbeki/2001/tm0707.html>
- 43 In the past, the development of irrigation infrastructure was mediated through irrigation boards, which were driven by the interests of commercial farmers involved in the irrigation scheme. The State advanced loans to irrigation boards for the construction of irrigation infrastructure, i.e. comparatively low interest loans from the State or the Land Bank, where the State also acted as guarantor in some instances.
- 44 National Department of Agriculture in collaboration with Department of Environmental Affairs and Tourism, Department of Provincial and Local Government, Department of Water Affairs and Forestry, Provincial Departments of Agriculture, Department of Trade and Industry, Department of Land Affairs, Public Works Department, *National Guidelines for Integrated Management of Agricultural Water Use: An Integrated Approach to upliftment and local economic development through the transformation of state support for agricultural water use*, 24 July 2002
- 45 Personal communication Bill Rowston, Manager: Policy & Strategy Co-ordination (Water Resources), Department of Water Affairs and Forestry, 11 February 2004
- 46 While the strategy document is the product of a collaborative effort of many Government Departments and agencies (National Agricultural Marketing Council and Agricultural Research Council) and some NGOs (International Water Management Institute and the Centre for Policy Studies), it does not appear as if the document has been made available for public comment as yet (see Department of Water Affairs and Forestry, *National Guidelines for Integrated Management of Agricultural Water Use*, Presentation to Agriculture MINMEC, 30 October 2003).
- 47 The Committee was established in terms of section 7 of the Marketing of Agricultural Products Act No 47 of 1996.
- 48 National Department of Agriculture, *Terms of Reference for the National Food Price Monitoring Committee* 29 November 2002.
- 49 The Committee was due present its final report to the Minister in November 2003.
- 50 National Department of Agriculture, protocol response 2003.
- 51 Makhudu Sefara, *Relief to the poor in the form of low-cost maize grinds to a halt*, The Star, Thursday 23 January 2003
- 52 See Carol Paton, *Cut-Price Maze*, Financial Mail, 16 May 2003.
- 53 Department of Social Development, *Integrated National Business Plan for the National Food Emergency Scheme (NFES) for the 2003/04 and 2004/05 financial years*
- 54 National Department of Agriculture, *Annual Report 2002/2003*, p60
- 55 Black Economic Empowerment in Agriculture, AgriBEE, Discussion Document, 25 September 2003 can now be downloaded from <http://www.landbou.com/Images/SpecialComponents/20031119150806Agribee.doc>
- 56 National Department of Agriculture *Annual Report 2002/2003*, p36.
- 57 National Department of Agriculture *Annual Report 2002/2003*, page 34.
- 58 Joint Sitting of the Houses of Parliament, *State of the Nation Address by the President of South Africa, Thabo Mbeki*, Cape Town, 8 February 2002.
- 59 Subsequent regulations promulgated by the Minister of Health indicate that food products derived from plant material containing animal nucleic acid(s) or protein(s) derived from a human or from an animal, must be labelled as such.
- 60 Pellagra is caused by a deficiency of niacin (a member of the vitamin B family) and according to the British Medical Association's *Illustrated Medical Dictionary* it is common among poor rural communities where people eat mostly maize. Most of the niacin in maize is unabsorbable unless treated with an alkali like limewater.
- 61 National Department of Agriculture, *Strategic Plan for the Department of Agriculture 2003 to 2006*, March 2003 p17

- 62 By January 2004 the Bill had “been through the cluster committees and comments from stakeholders ... then all of this will still be forwarded to the cabinet” and “would then have to go up for public comment.” see Nicky Smith, *Lack of insurance legislation may scare off more farmers*, Business Report, 8 January 2004. The AgriSA Electronic News Brief 17/04/2003 contains material which is strikingly similar to the National Department of Agriculture’s Annual Report for 2002/2003 <http://www.avocado.co.za/15%202003.doc>.
- 63 National Department of Agriculture, Strategic Plan for the Department of Agriculture 2003 to 2006, March 2003 p16
- 64 National Department of Agriculture Annual Report 2002/2003. Further analysis of this Bill is pending gaining access to a copy.
- 65 National Department of Agriculture, Strategic Plan for the Department of Agriculture 2003 to 2006, March 2003 p67
- 66 National Department of Agriculture website, <http://www.nda.agric.za/docs/Legislation/sustainable.htm>
- 67 National Department of Agriculture, Definitions, National Food Security Draft Bill [June.2002] [Latest Draft] Act Confidential-Not For Publication.
- 68 In January 2002, the consultant in charge of drafting the Bill, put the figure in the account at R1,2 billion. There is also a growing sum of money held in the Agricultural Debt Management Account that results from farm debts being foreclosed. From news reports and other anecdotal evidence it appears that cash or credit flush farmers have purchased this land as opposed to the land being used directly for the land reform programme. Further information is required on the impact of past debt foreclosures and those that will take place in the future.
- 69 Government Notice Department of Labour No R. 1068, August 15 2002 GG No 23732 Basic Conditions of Employment Act 75 of 1997 Sectoral Determination 7: Domestic Worker Sector, South Africa. http://www.lawlibrary.co.za/notice/r1068_2002_domestic_workers.htm
- 70 National Department of Health, *South African National Guidelines on Nutrition for People Living with TB, HIVAIDS and other chronic debilitating conditions*, 2001
- 71 An external review of the programme was completed in 2000 and a report by the National Department of Health was presented to Cabinet (see National Department of Health, Diane Kloka, *Integrated Nutrition Programme - School Feeding*, circa September 2002).
- 72 National Department of Health, *Annual Report 2001/2002*, p27 and National Department of Health, *Annual Report 2002/2003*, p11.
- 73 National Department of Health, *2002/2003 Annual Report*
- 74 National Department of Health, *Annual Report 2001/2002*, p26 and National Department of Health, *Annual Report 2002/2003*, p11.
- 75 KwaZulu-Natal Department of Health Protocol Response 2003.
- 76 National Treasury, *Eastern Cape Department of Health Strategic Plan 2003/2004*, <http://www.treasury.gov.za/documents/budget/2003/provincial/Strategic%2520Plans/EC/EC%2520-%2520Vote%252003%2520-%2520Health.pdf> accessed 06 May 2004.
- 77 North West Department of Health, *Portfolio Report 2002/2003*, <http://www.pmg.org.za/docs/2003/appendices/030416northwest.ppt> accessed 06 May 2004.
- 78 North West Department of Health, *Strategic Plan 2003/2004*,
- 79 Gauteng Department of Health, *Annual Report 2002/2003*, p47.
- 80 NDoH Annual Report 2002/2003, p3.
- 81 NDoH Protocol Response 2003.
- 82 District Health Information System V1.3.0.42A provided by the Health Systems Trust to the South African Human Rights Commission on 15 August 2003
- 83 Data Dictionary, District Health Information System V1.3.0.42A
- 84 According to the National Health Information System “The health sector has so far not been able to enforce common growth monitoring practices despite trying for many years, which in turn has resulted in poor quality data. Children are not weighed every time they visit, only children looking unhealthy/malnourished are weighed (eg. due to high workload), the same child is counted again on follow-up visits, children diagnosed with Marasmus or Kwashiorkor are not counted as weighed – the error list of common errors is quite long. This data element must therefore be used with care.”
- 85 According to the District Health Information System “this data element is a very sensitive “early warning indicator” of looming malnutrition in the community, which unless countered could develop into cases of severe malnutrition, stunting and so forth.”

- 86 According to the District Health Information System this indicators is used for “growth and nutrition monitoring, including identification of possible child abuse”.
- 87 According to a Sunday Times report on 3 November 2002 entitled “Starving urban families forced to eat weeds”, a local food security official is reported to have said that “villagers had become so desperate that even the weeds were fast disappearing as a food source around Mount Frere: “The natural vegetation is just not there anymore. I have seen people boiling water with nothing in it – just hoping for scraps from neighbours.””
- 88 KwaZulu-Natal Department of Health, Annual Report 2002/2003, p38.
- 89 Chantell Witten and David Sanders, *Participatory Research and Advocacy Improve Malnutrition Management and Intersectoral Collaboration for Household Food Security*, presented at the CLC Seminar on the Right to Food, Cape Town, 14 November 2003.
- 90 Cancele Clinic, Dungu Clinic, Lugangeni Clinic, Luyengweni Clinic, Machibini Clinic (Kwabhaca), Mangqamzeni Clinic, Mary Terese Mobile, Matubeni Clinic, Mdyobe Clinic, Mhlotsheni Clinic, Mkemane Clinic, Mnceba Clinic, Mntwana Clinic, Mount Frere PHC Clinic, Mpoza Clinic (Mount Frere), Ntlabeni Clinic, Qaqa Clinic, Sigidi Clinic, Sipeu Hospital, Sipeu Mobile, Sipeu PHC Clinic, Zulu Clinic.
- 91 There were 30 one-month visits and 24 six-month visits.
- 92 Xolani Mbanjwa, *Emergency Food Aid Pours into Eastern Cape*, Daily News, 14 October 2002
- 93 Gauteng Department of Health, *Annual Report 2002/2003*, p47.
- 94 Johanna Nel and Nelia Steyn, *Report on South African Food Consumption Studies Undertaken Among Different Population Groups (1983 – 2000): Average Intakes of Foods Most Commonly Consumed*, 26 May 2002, Funded by the World Health Organisation in collaboration with the Department of Health and Medical Research Council.
- 95 Department of Health, *Annual Report 2002/2003*, p26, 27 and 36.
- 96 Agricultural Research Council Protocol Response 2003.
- 97 National Department of Agriculture, *Strategic Plan for the Department of Agriculture 2003 to 2006*, March 2003 p30
- 98 Republic of South Africa, Financial and Fiscal Commission, *Intergovernmental Fiscal Review*, 2003 p117
- 99 National Department of Agriculture Protocol Response 2003.
- 100 National Department of Agriculture Annual Report 2002/2003 p66.
- 101 Ibid. p68.
- 102 Ibid. p66.
- 103 Section 45 of the Act provides for striking dormant co-operatives of the register after following due process.
- 104 National Department of Agriculture Annual Report 2002/2003 p44.
- 105 For example, the Directorate Financial Services and Co-operative Development in the National Department of Agriculture facilitated a workshop on women's co-operative development in Limpopo.
- 106 National Department of Agriculture Annual Report 2002/2003 p44.
- 107 Ibid p38-39.
- 108 Ibid. p34.
- 109 Ibid. p36
- 110 Eastern Cape Department of Agriculture, protocol response 2002/2003.
- 111 Ibid.
- 112 Ibid.
- 113 Report of the Portfolio Committee on Agriculture, Conservation and Environment, Department of Agriculture Vote 5 www.mpuleg.gov.za/reports/2002/agriculture.html
- 114 Report of the Head of Department, Maureen Sithole, Mpumalanga Provincial Government of Agriculture, Conservation and Environment, Annual Report 2002/2003.
- 115 Ministry of Agriculture and Land Affairs, 2001, *Strategic Plan for South African Agriculture*, Pretoria
- 116 The aim of this strategic intervention is to enhance equitable access to and participate in agricultural opportunities; to deracialise land and enterprises ownership; and to unlock the full entrepreneurial potential in the sector. The focus thereof will be on land reform, start up support packages for new entrants to farming, partnership and promotion of the

sector.

117 The SABMiller *Corporate Accountability Report 2003* states that "A complete audit of the supplier data base is underway to update all records. Among individual initiatives is the Taung barley farm project, a commercial equity partnership with subsistence farmers in the Northern Cape (sic). Beer South Africa, through its subsidiary Southern Associated Maltsters, is working to guarantee barley purchases and provide technical and other assistance to meet required quality standards. In 2002, the number of farmers involved in the scheme doubled to 193, and nearly 10,000 tonnes of barley was purchased." http://www.sabmiller.com/book_index.asp?bookmark=car2003_economic7.asp

118 This strategic goal is aimed at enhancing profitability through sustainable global competitiveness in the agricultural sector's input supply, primary production and agri-tourism industries.

119 The objective of this strategic goal is to enhance farmers' capacities to use resources in a sustainable manner and to ensure the wise use and management of natural resources. This strategic goal included conservation; environmental management and land care programmes.

120 See Western Cape Department of Agriculture, Directorate: Farmers Settlement, *Service Delivery Improvement Programme 2003/2004*

121 Dux Solutions, March 2003, Impendulo Poverty Relief Scheme (Section 21 Company), Pilot Project Feedback Report

122 Limpopo Department of Agriculture *2002/2003 Annual Report*, p13.

123 Please refer to the following document for more details on this programme: Ministry of Foreign Affairs, Finland and Department of Agriculture, Limpopo Province, *Limpopo Agricultural Development Programme (LADEP) (Phase III) Revised Programme Document*, September 2002

124 The Northern Cape Agriculture, Conservation and Environment Annual Report for 2002/2003 was not available to the SAHRC at the time of writing. Unfortunately, the Commission had to rely on the very limited information contained in the Department's protocol response.

125 It should be noted that the Minister's Foreword puts the figure at 17 798. The Public Works Programme suffered some delays after District Municipalities "insisted on giving preference only to projects that were on their Integrated Development Plans (IDPs)". Another problem was the slow submission of claims by District Municipalities.

126 National Department of Health, Annual Report 2001/2002, p27

127 Please note that even this calculation overestimates the amount of resources available to the programme in 2002/2003 since it is based on the entire 2002/2003 Integrated Nutrition Budget of R592 411 000 times by 86% to arrive at an approximate PSNP allocation, divided by 156 days, divided by 4 861 004 learners.

128 Ricardo Jacobs, Surplus People's Project, *2002/03 Land Reform and Agriculture Budget Review "How to get there from here"*, October 2002

129 A range of corrupt practices relating to procurement of goods and services since 2000 were exposed recently. SAFM Radio Interview November 2003.

130 KwaZulu-Natal Department of Health Protocol response 2003.

131 Susan Parnell and Tim Mosdell, *Recognising, explaining and measuring chronic urban poverty in South Africa*, University of Cape Town Paper presented at international conference on "Staying Poor: Chronic Poverty and Development Policy", University of Manchester, 7-9 April 2003, United Kingdom

132 Dr Lucy Stevens, *Chronic poverty in urban informal settlements in South Africa: combining quantitative and qualitative data to monitor the impact of interventions* 5 March 2003 Intermediate Technology Development Group Paper presented at international conference on "Staying Poor: Chronic Poverty and Development Policy", University of Manchester, 7-9 April 2003, United Kingdom

133 Cobus De Swardt, *Unravelling chronic poverty in South Africa: some food for thought*, Paper presented at international conference on "Staying Poor: Chronic Poverty and Development Policy", University of Manchester, 7-9 April 2003, United Kingdom

134 Mpumalanga Department of Agriculture, Conservation and Environment Protocol response 2003.

135 National Department of Health, *2002/2003 Annual Report*

136 Department of Social Development, Integrated National Business Plan for the National Food Emergency Scheme (NFES) for the 2003/04 and 2004/05 financial years

137 Mpumalanga Department of Agriculture, Conservation and Environment Protocol response 2003.

138 See Goedgedacht Forum for Social Reflection *Poverty: A crisis of imagination? Liberating local government and other agencies to experiment with creative solutions* Summary notes from the debate of 7 June 2003 as well as Aliber,

Michael, and Salome Modiselle. 2002. *Pilot Study on Methods to Monitor Household-Level Food Security for the National Department of Agriculture* HSRC. Pretoria.

139 Government allocated resources to address the plight of the most vulnerable with due regard for creating dependency on the State, firstly through targeting and then ensuring growth in the productive capacity of the poor, i.e. agricultural starter packs in addition to food relief.

140 There is a lag of approximately four months between the JSE Food Index (a proxy index of profit rates in large food manufacturing companies) and food price inflation as measured by Statistics South Africa. In the AngloRand *Investment Outlook* of September 2002, Dr Glad Ariovich states that “investigation shows that there is a fairly close correlation of 60% between food inflation and the JSE food index”.

141 A proper assessment of State procurement for the National Food Emergency Scheme and other government departments that procure large volumes of food requires consideration of section 217 of the Constitution which requires organs of state to contract goods and services in accordance with a system which is “fair, equitable, transparent, competitive and cost-effective.”

142 Competition Commission, *Competition Commission Inquiry into Food Price Rises*, Final Report: October 2002

143 Ibid., p35

144 Johan Kirsten, *The Affordability of Food: Monitoring Trends in Food Prices in South Africa*, paper presented at a seminar on “Critical issues in the realisation of the right to food” hosted by the Community Law Centre, University of the Western Cape, Cape Town 14 November 2003.

145 Mail and Guardian, *Samwu to probe pension reduction*, 9 December 2003

146 David Fig, *Corporate Social and Environmental Responsibility in The South African Food And Drink Industries*, Sociology of Work Programme, University of the Witwatersrand, August 2003.

147 World Health Organisation, WHO Multicountry Study on Improving Household Food and Nutrition Security for the Vulnerable, *SOUTH AFRICA A qualitative study on food security and caring patterns of vulnerable young children in South Africa*, 2000 http://www.who.int/nut/documents/south_africa_hfns_vulnerable.pdf

148 By way of comparison, in Costa Rica the prevalence of stunting among Grade 1 school children was reduced from 20,4% in 1979 to 7,5% in 1997. However, Costa Rica only had approximately 86 000 first grade school children in 1997 (see United Nations Administrative Committee on Co-ordination, Sub-Committee on Nutrition (ACC/SCN), *4th Report on The World Nutrition Situation*, January 2000). Honduras is supposedly one example where malnutrition rates have increased, but there are many other countries as well (see United Nations Standing Committee on Nutrition, *5th Report on the World Nutrition Situation: Nutrition for Improved Development Outcomes*, March 2004 <http://www.unsystem.org/scn/Publications/AnnualMeeting/SCN31/SCN5Report.pdf>). South Africa had 1 150 637 first grade school children in 2001 (see Directorate: Information Systems, Department of Education, 2001 SNAP basic tables (final), 21/7/02 http://www.edufound.org.za/Statistical_Learners.htm).

149 The South African Vitamin A Consulting Group (SAVACG), *Children aged 6-71 months in South Africa 1994: their anthropometric, vitamin A, iron and immunisation coverage and status 1995*

150 Labadarios, D (ed). *The National Food Consumption Survey (NFCS): Children aged 1-9 years*, South Africa, 1999. Pretoria: Department of Health; 2000

151 Department of Health, *White Paper for the Transformation of the Health System In South Africa*, 1997 Section 21.3

152 Department of Health Republic of South Africa *Health Goals, Objectives and Indicators 2001-2005* (undated)

153 Statistics South Africa P0309.2, *Causes of death in South Africa 1997 – 2001*, Advance release of recorded causes of death, November 2002

154 Ibid., p9

155 Burden of Disease Research Unit, Medical Research Council, *Initial Burden of Disease Estimates for South Africa*, 2000, March 2003

156 Ibid.,

157 Ashworth, A, Chopra, M, McCoy, D, Sanders, D, Jackson, D, Karaolis, N, Soguala, N and Schofield, C, WHO *Guidelines for Management of Severe Malnutrition in Rural South African Hospitals: Effect on Case Fatality and the Influence of Operational Factors*, The Lancet, Vol 363, April 3, 2004 www.thelancet.com

158 Thabo Mkhize, *166 SA children die from starvation*, Sunday Times, 15 September 2002

159 People’s Budget Campaign 2003/2004, *Position Paper on Food Security*, National Labour and Economic Development Institute prepared for Workshop Participants on 23 October 2002 published in *Food Sector Strategy Resource Book*, July 2003

160 National Department of Health Annual Report 2002/2003 p14

161 KwaZulu-Natal Department of Health Basic Nutrition Protocol Response 2003.

162 See National Department of Health Annual Report 2002/2003 p32

163 The rights in the Bill of Rights are inter-related and mutually supporting. Thus, among other rights in Chapter 2 of the Constitution, the right to food is related to and mutually supportive of land reform and the right to “ecologically sustainable development and use of natural resources while promoting justifiable economic and social development”(see Section 24 (b)(iii) of the Constitution).

164 United Nations Development Programme, South East Asia, HIV and Development Programme, *Plant Diversity, Sustainable Rural Livelihoods and HIV/AIDS Crisis*, June 2004, A Joint UNDP and FAO publication, http://www.hiv-development.org/text/publications/plant_diversity.pdf

165 FIAN International Working Paper by Rolf Künemann, Kofi Yakpo, Sabine Pabst and Martin Wolpold-Bosien Implementing the Right to Food in South Africa: From Legislative Framework to Framework Legislation Right to Food Seminar Johannesburg 7 and 8 March 2003