



PEOPLE'S COALITION

People's Assembly, 21 April 2020 Food Working Group Proposals on the Right to Food

The Right to Food

The Constitution says:

'Everyone has the right to have access to sufficient food and water.' (Section 27(1)(b).

It also provides stronger rights to children:

'Every child has the right to basic nutrition' (Section 28(1)(c).

The government is responsible to ensure people have adequate access to food. What positive measures is the state is obliged to take? What is the nature of the right, how much food, who should be prioritised?

The current context of the COVID lockdown means that the state has suspended certain freedoms, in terms of the Disaster Act, which materially impacts on many people's ability to make the money with which to buy food. This means that the application would be cast as an application in terms of both S27 and S7, and the requirement of the state to respect, protect, promote and fulfill the right of access to food - and therefore whether measures that prevent people from gaining access to food and fulfilling this right are permitted.

Given the amendment to the regulations on 2nd April to permit food street traders and spaza shops to operate, the priority would be to have other applicants: people who are self-employed or informally employed in the informal sector, or who have insecure employment arrangements, and whose incomes and livelihoods have been curtailed as a direct or indirect result of the lockdown regulations. This could mean involvement of applicants from a range of informal sectors (non-food street traders, waste pickers, many domestic workers, some security guards and others). If the proposed increase to the Child Support Grant is approved, the applicants will need to be in households which do not receive the CSG. It will be necessary to research and document all mitigation measures (increased funding for small-scale farmers, food parcels, food vouchers, and so on), by all spheres of government,

in order to demonstrate that these measures are inadequate, and that there are people who are unable to get any assistance, and who have no access to incomes and therefore facing acute food insecurity.

Remedy

The aim of the application would be a declaration by the court that, in the absence of adequate mitigation measures, the regulations are in breach of the Constitution, with respect to preventing people from realising the right to food. The applicant will ask the court to require the state to:

1. take positive measures to ensure that everyone (not only citizens) has access to adequate food
2. report back to the court, not only on its plan but its actions to give effect to this plan, within a short prescribed period of time.

Applicant and co-applicants

The first applicant should ideally be an organisation.

A large number of co-applicants will be specific people who are unable to access adequate food include a wide range of people in the informal sector, including (non-food) street traders, informal childcare workers, informal food service workers, farm workers, small-scale fishers, waste reclaimers, domestic workers, car guards, construction workers, among others.

Partnerships

A RTF WG includes senior advocates, pro bono lawyers, Section 27, and academics. We are open to broadening this. We are reaching out to the Social Justice Coalition (SJC), Unemployed People's Movement (UPM), Abahlali base Mjondolo and others to engage around the demand for a right to food; identify people who are in a crisis situation with regard to food, who can be interviewed and may consider being co-applicants in the case. We can discuss what kind of support we can give to these people.

- Size & shape of informal employment: Caroline Skinner (WIEGO/ACC, UCT)
- The state of food security in South Africa: Stephen Devereux or Julian May (ISD/COE-FS, UWC)
- Vulnerability of children to hunger: Katharine Hall (Children's Institute, UCT)
- Research Right to Food: Jaap de Visser (Dullah Omar Institute, UWC)
- International jurisprudence on right to food: Section 27

Ruth Hall, PLAAS: rhall@uwc.ac.za People consulted: Geoff Budlender, SC Cape Bar, Adila Hassim, SC Johannesburg Bar, Wim Trengove, SC Johannesburg Bar, Sasha Stevenson, Section 27, Busiso Moyo, PhD candidate, School of Public Health, UWC, Isobel Frye, SPII, Ayanda Kota, Unemployed People's Movement, Makhanda, Axolile Notywala, Social Justice Coalition, Mervyn Abrahams, Pietermaritzburg Economic Justice & Dignity Group, Prof Julian May, director, Centre of Excellence in Food Security, UWC / UP, Prof Jaap de Visser, director, Dullah Omar Institute, UWC