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"*Economic and Social Rights: Obstacles or Handmaiden of Growth*"

The Right to Food in South Africa: Entitlements, Endowments and the Role of Economic and Social Policy

Issues Note

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The Right to Food in South Africa: Entitlements, Endowments and the Role of Economic and Social Policy

The purpose of this note is to outline key issues and questions for discussion at the UCT seminar on May 30-31, 2012. The paper should be read in conjunction with the Concept Note of 4 April, 2012 which provided a broad introduction to this research project and the seminar, and outlined basic concepts regarding the right to food, food security, and the role of economic and social policies. This note focuses on the current challenges and policy responses in South Africa and outlines some major issues and questions. It presents my personal reflections drawn on the research conducted over the last 2 months. Note that this research is still very much a 'work in progress', and this paper is an issues note for the seminar intended to facilitate debate on policy alternatives. It is written in the form of 'notes' and should not be cited.

1. The right to food paradox

South Africa has strong constitutional guarantees and legal frameworks for the right to food. It is one of just 20 countries in the world with constitutions that recognize the right to food, and of these one of the only two with provisions that are justiciable[1]. Despite these formal legal guarantees, the right to food is far from being realized, and measures of state performance for fulfilling economic and social rights (the SERF Index[2]) show a mediocre score of 61.5 out of 100, ranking 67 out of 99 countries. The right to food score is 61.7. Similarly, South Africa scores 6.4 in the Global Hunger Index for 2011, a bare improvement from 7.0 in 1990. These trends contrast with data for Brazil which started with a higher index in 1990 but achieved a more rapid improvement. (See tables attached.)

The extent of food insecurity and their recent trends are difficult to discern with confidence since there is a multiplicity of surveys using different indicators and measurement methods. For example, the 2011 General Household Survey released this month by Statistics South Africa (2012) shows 13% of the population self-reporting hunger and inadequate access to food, and a significant improvement over the decade. These are based on subjective responses. Anthropomorphic surveys provide a more objective measure of food insecurity but there has not been a consistent series of surveys to provide reliable trend data. Surveys conducted show very high levels of stunting amongst children for example the 2003 DHS survey found 27.4% of children under 5 under-height for age.

Other papers in this seminar will present empirical findings and comment on the datasets available. For the purposes of this note, suffice it to conclude that in spite of the incoherence of data sources, these surveys provide evidence of a significant level of hunger, malnourishment and unstable access to food as well as deteriorating dietary

[1] Randolph and Hertel forthcoming
[2] see www.serfindex.org

intake. Moreover, the evidence of high levels of stunting is particularly serious since it reflects chronic malnutrition resulting from systemic, structural conditions, and has important consequences for health, survival, and potential for full intellectual and physical functioning of the children affected. These are developmental challenges relevant to a broad set of economic and social policies, not just individually focused assistance.

This situation also serves as a stark reminder of Amartya Sen's insistence on the importance of democratic processes, debates and agitation for public action – politics for rights based policies – for rights to be realized, and the limitations of formal legal guarantees. The situation is doubly paradoxical in view of the country's vibrant democratic processes and political commitment to reducing poverty and inequality in addition to the strong legal institutions. Yet these politics have produced growth and economic development but not with equity, rapid poverty reduction and enhanced equity.

2. Human rights as a public policy framework: key concepts

Human rights are codified in national and international law but as Sen points out, these are derived from ethical norms, and as Nussbaum argues, they are urgent claims that should be guaranteed as essential social and political goals of any country. These are entitlements are therefore claims on social institutions including social and economic policies. Human rights serve as a moral compass for making policy choices and a framework to evaluate the design of economic social policies. Such analysis focuses sharply on priorities of human well being, equality and poverty and to processes of participation and empowerment in contrast to policies that are designed according to conventional economic calculus which are more concerned with aggregate national growth and integration into the global economy. Applying a human rights framework – and the associated capabilities approach - to the evaluation of social and economic policies for achieving food security can therefore be useful in challenging prevailing policies and finding alternatives that pursue development more directly responsive to expanding human freedoms.

As explained in the Concept Note of April 4, the key aspects of the right to food have been incorporated into the international consensus definition of food security. The features of these framework that are particularly relevant to policy design include:

- Focus on economic and physical access of individuals to food; the normative content of the right to right to food is defined in the following way: "The right to adequate food is realized when every man, woman and child, alone or in community with others, has the physical and economic access at all times to adequate food or means for its procurement." (CESR General Comment 12).

- Four key dimensions of policy efforts for ensuring food security/human rights obligations of states: *availability* (improving production); *accessibility* (enhancing economic and physical means and conditions for procuring food); *adequacy* (ensuring, nutritional quality, safety and cultural appropriateness) *and utilisation* (ensuring consumption that provides for health and human flourishing

including education).

- Inter-connectedness with other dimensions of well being/economic and social rights: food and nutrition are both essential conditions for, and are affected by, health, survival, education, employment and social conditions.

The concept of food security focused on individual access to food is closely related to the work of Amartya Sen. In his path-breaking work, Sen demonstrated that famine and hunger are caused not by supply shortages but by the structure of access and distribution. Hunger results when individuals and households lose 'entitlements' to food, which are the legal means by which a food can be obtained and depends on endowments.

3. Drivers of hunger: entitlement failures and policy responses

Sen's entitlement framework is particularly relevant in South Africa where there are no supply shortages while the central challenge is access. There is little disagreement over hunger as part of the problem of poverty and a structural issue related to the distribution of economic opportunities, and high unemployment. The framework helps understand the drivers of hunger and exploring policy responses.

Access to food depends on three types of entitlements:

- *exchange entitlements* to purchase food using wage income or labour;
- *social transfer entitlements* to be given food on the basis of citizenship or membership in a community;
- *own production entitlements* which depends on use of land and other means of production.

(i) Exchange entitlements

The conventional wisdom on hunger in South Africa identifies exchanage entitlement failures as the principal cause of hunger. High levels of income poverty and unemployment severely limit households capacity to purchase food.

There is also consensus on two key policy responses to address structural causes of hunger:

- *expanding employment opportunities* as the principal remedy to addressing the structural causes of hunger; and

- *strengthening market competition* such as by enforcing competition policy and expanding government procurement from small-scale suppliers in food retailing to ensure prices do not rise excessively.

Questions about economic policy choices:

- Are current government initiatives aimed at employment creation benefitting the hungry who are likely to be the poorest of the poor? What has been the experience of the Expanded Public Works Programme – are they targeted at the food insecure populations? What are the distributional consequences of the infrastructure programme and other major initiatives? Do they create jobs for the unskilled and the poorest/most food insecure households? Are the food insecure employable?

- What other policy approaches are there to stabilizing market prices and ensuring competitive retail prices? Some countries have used food stocks to respond to sharp fluctuations in supply and prices, banning of exports in times of global market price spikes. Are these worth considering?

- Does employment lead to food security? This is mediated by several dynamics: the allocation of income on food and food choices amongst many competing consumption demands; the intra-household distribution of food by age and gender; and the structures of households that shape decision making including the role of women, and the role of migrants and remittances. Do we know enough about the intra-household dynamics, especially gender issues?

(ii) Social transfer entitlements

There is an implicit consensus that social transfers must necessarily be the principal solutions to food insecurity. Studies have begun to document evidence of the positive impact that social grants have had on reducing hunger over the last two decades. There are debates about the level and coverage of social grants in meeting household needs including food and the need to increase levels and coverage.

Questions about social policy choices:

- What is known about the dynamics of social transfers translating into improved food security? As with employment, what do we know about intra-household allocation of incomes and distribution of food and choices about diets?
- What should be the role of more direct food security measures such as school feeding or food stamps?
- What is the appropriate design of cash transfer policies and the role of complementary social policy interventions that would enhance utilization of food including improvements in the diet, education, health, water?

(iii) Own production

In contrast to the widespread consensus on exchange and transfer entitlements as the key challenges and policy responses, there are diverse views and arguments about the potential role of own production, coupled with inadequate information on this activity. Although production shortages are not a driver of hunger at the level of national aggregate, production by households who are food insecure for their own consumption or for sale to earn incomes could contribute to increasing the volume and reliability of

consumption, dietary quality, or increase household incomes.

Many argue that in South Africa own production cannot be a significant solution to food security because agriculture is not only a marginal sector of the economy and also marginal to rural livelihoods. Traditional agriculture has been declining for decades but the decline appears to be acceleration with increased migration and people less and less willing to engage in production. Own production is only a supplementary source of household food consumption and at best, it can be a 'coping strategy' for food insecure households.

Against these arguments, others point out that agricultural production is still an important sector for the economy in terms of people; though on the decline, a significant portion of the population live in rural areas with significant engagement in agriculture and moreover households straddle the urban/rural divide and are interconnected; more people are employed in agriculture than other sectors such as mining and manufacturing; food production is an important part of rural livelihoods. Whether part time or marginal, own small scale production can be a significant source of food supply for households and markets in both rural and urban areas. Own food production is widely practiced; according to the most recent General Household Survey (2011) released this month, nearly a quarter (23%) of all South African households are engaged in food production for own consumption, predominantly (86%) for the purpose of obtaining extra source of food. Moreover, selling surplus food was reported to be one of the pathways out of poverty according to the National Income Dynamics Survey (NIDS) wave 2 results released this month. For these reasons, for the purposes of improving food security subsistence production is a significant activity that cannot be neglected as a component of a strategy for food security.

There is no consistent policy response to own production entitlement failures. In the context of the agricultural sector in South Africa, this activity can be categorized as falling into the 'traditional' sector rather than the 'commercial sector', or into the 'subsistence' and to some extent 'small holder' as opposed to 'large-scale commercial' sector . The 2002 Integrated Food Security Strategy[3] identifies inadequate and unstable household food production as one of the five major challenges and priority policy areas. However, agricultural programs and strategies focus on other sectors (commercial and small-scale) and objectives (aggregate production, competitiveness, land reform). It is also widely acknowledged that while efforts are being made to strengthen agricultural support services, they remain very weak. For instance, the 2011 General Household Survey found 'only 12.3% of households involved in agriculture reported getting any agricultural-related support from the government during the year preceding the survey.'[4]

Unequal distribution of land is commonly identified as a key structural source of food insecurity around the world. South Africa's land distribution is highly skewed, yet there is no consensus on lack of access to land as a main constraint to food security. The land reform program and associated support to emerging farmers is a major thrust of

[3] Department of Agriculture, Republic of South Africa, 17 July, 2002
[4] Statistics South Africa, General Household Survey (2011), May 2012

government policy related to production-based entitlement. However, food security is arguably not the main objective of these programs. Nor can we assume that they would benefit food insecure households who are likely to be the poorest of the poor. These are important initiatives intended to be part of the transformation agenda for restitution of historing wrongs and pursuit of social justice. The socio-economic objective aims to promote the 'emergence' of small scale farmers in the mould of the commercial farmer and unlikely to benefit households who are food insecure because the land reform program requires financial commitments by the beneficiary. There are controversies about whether land is the constraint to enhancing production amongst the rural poor and food insecure; some report that there is land available and accessible but people do not wish to farm while others report that institutional constraints limit access by those who wish to increase production activities. Thus it would appear that subsistence production has been left marginalized and apart from some rhetorical references in policy framework documents, do not figure amongst government agricultural investment priorities.

Questions:

- What do we know about own-production based entitlement failures – do we know whether the food insecure are engaged in own-production and whether they face constraints to improving productivity?
- What do we know about the subsistence sector - its nature, importance, constraints and potential?
- What has been the experience of efforts to improve the productivity of these activities as part of a rural livelihood enhancement strategy.
- What are the effective constraints to household production activities – labour (due to HIV/AIDS mortality?), land, or institutional such as land tenure, credit, input supply (for example studies[5] of GM maize adoption by small scale farmers find credit and seed supply to be the main constraints), or market outlet for surplus.
- Is the effective policy and institutional environment for agriculture as a whole – research and development, extension, credit, investments in infrastructure, international policies in trade and intellectual property – a constraint to improving the productivity of the 'subsistence' sector?

4. Misalignments: Food security paradigms and organizational structures

The broad, individual access focused, multi-sectoral paradigm of food security reflected in the international consensus definition of food security has been adopted by the South African government. Yet official adoption is not aligned with the organizational structure of government services which are sectoralized. Organizations and their programs follow missions, and food security is the core mission of none – or at best competes with other missions.

The organizations that are the principal stakeholders for food security follow the traditional, narrower paradigms of production and nutrition with important implications for the way that policies are designed. The table below contrasts these paradigms in the

[5] See studies by Manus Gouse, University of Pretoria.

way that challenges are identified and analysed and key objectives are defined.

Comparing Food Security Paradigms

	Right to food	**International consensus definition of food security**	**Production approach**	**Nutritional approach**	**Poverty**
Unit of analysis/focus of attention	Individual	Individual	National aggregate	Individual	Household
Main objective	Access (economic and physical) at all times to adequate (nutritionally, culturally) food	Access (economic and physical) at all times to adequate (nutritionally, culturally) food	Availability – adequate supply of food for the population without relying on imports	Adequacy and utilization - dietary needs of individuals	Access, utilization
Main outcome indicators	Household hunger, nutritional status – and *who* Food consumption – distribution; quality	Household hunger, nutritional status – and *who* Food consumption – distribution; quality	National food balance Food production – national output, imports	Nutritional status – nutritional status	Household hunger Correlate social indicators
Focus of policy attention	Long term structural causes (Poverty and inequality)	Emergency shortages Long term structural causes (Poverty and inequality)	Long term and short term shortages Production and productivity National market conditions	Individual consumption behaviour Local market conditions	The most vulnerable and deprived
Important drivers of insecurity	'entitlement failures'/access (income poverty, own production, social transfers) market conditions (high prices, inadequate quality)	'entitlement failures'/access (income poverty, own production, social transfers) market conditions (high prices, inadequate quality)	Inadequate supply Production constraints and fluctuations Instability in global markets – prices, access	Inappropriate consumption Lack of income Local market conditions Lack of knowledge	Economic and social conditions
Important policy responses	Address entitlement failures (employment, own production, social transfer, land) Requires pro-poor growth strategies	Address entitlement failures (employment, own production, social transfer, land) Requires pro-poor growth strategies	Production Access to supply Storage	Targetted nutritional interventions (eduction, school feeding, food vouchers, safety nets for vulnerable population, etc)	Social transfers and other social welfare measures

Despite the rhetorical consensus amongst the key stakeholders on the broad, human focused definition of food security, priorities of the poorest and the hungry are not the focus of key programs of Ministries of Agriculture, Land, Health as already discussed. It is not surprising that the most significant policy response has been in the form of social grants led by the Ministry of Social Development whose priority concern is the well being of poor people and households. Coordination is perhaps the most important element of an effective food security strategy to ensure that the objective of eliminating hunger does not fall between organizational and programmatic agendas that are driven by other priorities.

The lack of coherence is manifest in the data generated and used by different stakeholders who form epistemic communities. One set of data relies on self-reporting of subjectively defined 'hunger' and is widely used by government and the Department Agriculture and agricultural economists. The data is collected by Statistics South Africa. Another set of data focus on anthropomorphic data, notably underweight and underheight as well as micronutrient deficiencies. These are the focus of nutritionists and health professionals and surveys collected by academic and government institutions in that sector. They are also collected in income and consumption surveys conducted by economists in universities and government who are interested in poverty measurement. Most studies use only one source of data and neglect even the existence of other data sets. Food security data are thus collected by and used for sectorally driven analyses, not broad-based food security.

These contrasting perspectives are not necessarily contradictory but are important in driving policy priorities.

Questions:

- institutional gaps: food security requires coordinated input from multiple departments across sectors (agriculture, health, rural development, social development, among others). Does food security have an institutional champion in government, civil society or academia driven by the broad paradigm? Is there a sufficiently strong coordinating mechanism amongst institutions across sectors and across levels of government from national to local? Can data collection be more coordinated?

- Where are complementarities between priorities for production and competitiveness vs. priorities for food security in agricultural policy? Can a supportive policy environment that enhances incentives for producers to increase production be selective in benefitting only the traditional/small scale sector leaving out the commercial sector?

- Where are the trade offs between objectives of promoting competitiveness and exports as against food security defined by enhanced access by the food insecure households.

5. The role of the state in fulfilling the right to food in a market economy

States have obligations to fulfill the right to food, which international law conceptualizes as taking 'all appropriate measures' (ICESCR Article 2) encompassing both legal and socio-economic policy instruments which in turn could take a wide range of forms in different countries. As succinctly explained by Randolph and Hertel (paper presented in this seminar), "Some states opt for a robust set of social welfare guarantees in the constitution and a correspondingly dense network of institutions, policies and programs aimed at undergirding state-sponsored social welfare delivery. Other states emphasize a minimalist approach in which the market principally determines the allocation of food and only the most marginalized people are directly provided for by government."

What has been the role of the state in South Africa? In the spectrum of minimalist to robust, I would place it near the minimalist end as far as the right to food is concerned, though the approach is more robust for other economic and social rights. Though country has opted for a robust set of constitutional guarantees, its economic and social policies have focused on cash transfers and public provisioning to support consumption of the most marginalized and vulnerable (children, aged and the disabled) and provision of public goods (housing, water, education, and health). But post-apartheid South Africa has also opted for a minimalist approach to supporting production and employment generation, as part of an economic management strategy focusing on stabilization and integration into the global economy, that has resulted in growth without jobs and adequate impact on poverty and inequality. Indeed, the SERF Index scores are weakest for work, food and health and stronger for education and housing. This minimalist role of the state is particularly apparent in the case of the right to food, in contrast to other economic and social rights, because its fulfillment relies on economic policies and cannot be met through public provisioning when the level of food insecurity widespread and its nature systemic. South Africa has strong legal institutions and practices, and social policies that support public provisioning, but has adopted a minimalist approach in regulating market prices and supporting own production and employment.

Recalling the definition of the right to food, it is important to emphasize that the role of the state in the fulfillment of the right to food should not be construed as limited to the direct provisioning of food, nor to situations of emergencies, but is broader and must address the wide range of constraints to the enjoyment of the right including facilitating production as explicitly stated in the ICESR Article 11(2): the state shall take steps to "improve measures of production, conservation and distribution of food by making full use of technical and scientific knowledge and by developing or reforming agrarian systems", protection from harmful practices such as dumping of unsafe foods, as well as direct provisioning (Eide in FAO 1998). Furthermore, the state has a role in building consensus on defining important social objectives; they can craft "values and directives that can at best be the goal for social policy but they are to be implemented by non-state actors or through international measures" (Osiatynski 2007, 56-57 quoted in Randolph and Hertel presented to this seminar).

There is a range of policy choices that can be considered in facilitating the fulfillment of

right to food, each with a particular type of state intervention. These measures are widely practiced in market economies. With respect to employment and job creation a range of policies have been adopted by many countries in the context of market economies, such as labour market policies in Brazil and other Latin American countries that have achieved reductions in income inequality.

With respect to promotion of production and increase in producer incomes, the role of the state has been substantial in all leading countries, and continues to be. Trade protectionism has been an important instrument that has now been abandoned. But beyond that, US, Canada, EU and countries of Asia that have successfully reduced rural poverty all have large public investments in agricultural research and development, extension and farm education services, credit, investments in rural infrastructure including roads, storage, irrigation and drainage, soil and water conservation, etc; subsidies for inputs; subsidies for output price support; national food security stocks for emergency supplies and for regulation of prices; export restrictions in times of high global prices. While interventions in the forms of subsidies for inputs, outputs and credit have been dismantled in south Africa, they remain – notoriously – in the US, EU and elsewhere. While such practices have less strong justification for economic efficiency or social justice in those countries, there is arguably more basis for interventions in countries with high levels of rural poverty where farmer poverty is a driver of national food insecurity. In the case of Malawi, the government introduced fertilizer subsidies against international advice; the resulting increase in production and reduction in rural poverty has led to it being considered 'best practice' in international debates. In the case of India, the government has taken a strong stand on protecting agriculture as a poverty reduction measure in WTO negotiations. They also imposed export restrictions in times of price spikes in global food markets.

The minimalist approach to supporting agricultural production is understandable in the historical context of a move away from the apartheid era protection and support to the benefit of commercial white owned farms, and the imperatives of integration into global markets. But this effectively leaves all farming unattractive, most of all for the under-resourced traditional sector whose need for research, extension, credit and investments cannot be met through the market. The radical liberalisation of the South Africa's agricultural policy has followed the international trends but has taken the form of dismantling rather than reforming and reorienting the support structures as other countries have done. South Africa's public investments in the agricultural sector, such as in research, have declined progressively and relative to the size of its GDP, is low in comparison with the high income OECD countries as well as a number of middle income countries. The non-interventionist approach to both production and to food markets can be distributionally regressive.

Questions:

- What kind of support to agricultural production can be distributionally positive in favour of small scale producers and expanding their incomes, and availability of more nutritious local foods for food insecure households?

Seminar

The objective of the seminar is to explore the issues raised above and address some of the questions posed in using the human rights framework to analyse food security challenges and policy responses. While each session would consider different areas of challenges and policy options, all are intended to be framed in the context of two broad questions:

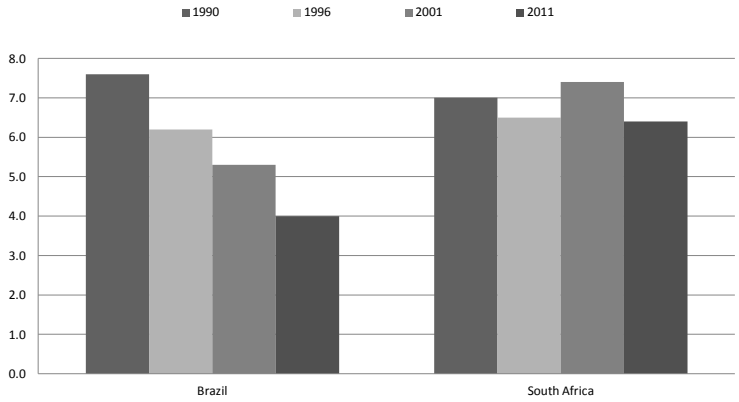
- *What should be the role of the state in fulfilling the right to food in a market economy and what are the economic and social policy choices?*
- *Is there a contradiction between the principles of a market economy and policy choices that support producers and consumers, targeting those who are food insecure?*

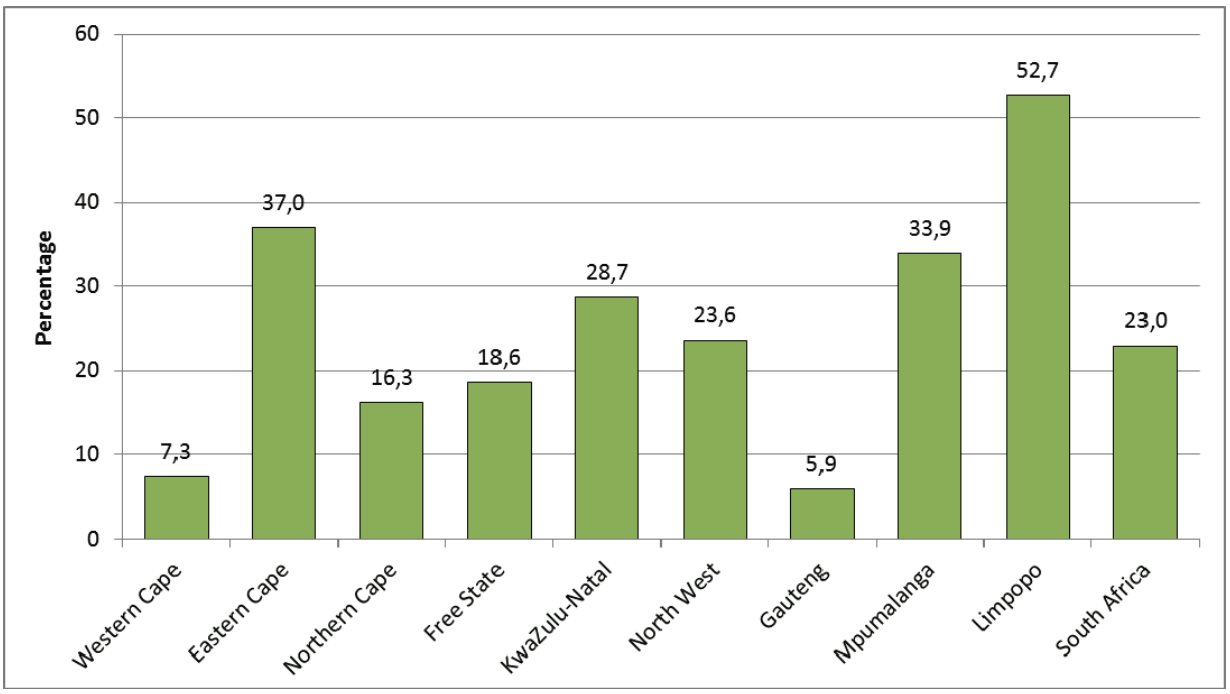
State performance in fulfilling economic and social rights – SERF Index (scores for 99 countries)

Rank	Country	Composite	Food	Health	Education	Housing	Work	Income (PPP 2008)
13	Brazil	87.4	91.1	90.1	94.8	75.8	83.6	9,559
40	China	79.7	90.4	94.8	83.6	65.8	64	5,712
38	Ghana	72	85.6	60.0	78.7	52.3	82.2	1,351
67	South Africa	61.5	61.7	57.6	71.4	70.2	46.6	9,604
87	India	56.1	32.7	74.7	82.8	62.6	27.9	2,796
96	Nigeria	42.5	47.7	33.4	66.7	43.3	21.5	1,939

Source: www.serfindex.org; South Africa added from own calculation

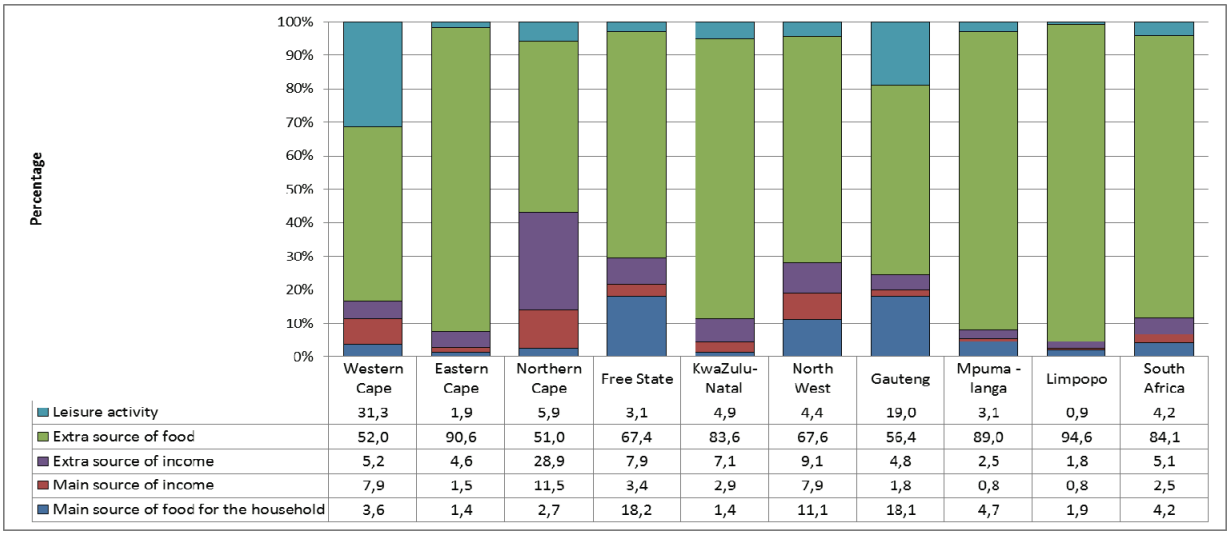
International comparison: IFPRI Global Hunger Index





Statistics South Africa, General Household Survey, July 2011

Figure 41: Main reason for agricultural involvement by province, 2011



	Western Cape	Eastern Cape	Northern Cape	Free State	KwaZulu-Natal	North West	Gauteng	Mpuma-langa	Limpopo	South Africa
Leisure activity	31,3	1,9	5,9	3,1	4,9	4,4	19,0	3,1	0,9	4,2
Extra source of food	52,0	90,6	51,0	67,4	83,6	67,6	56,4	89,0	94,6	84,1
Extra source of income	5,2	4,6	28,9	7,9	7,1	9,1	4,8	2,5	1,8	5,1
Main source of income	7,9	1,5	11,5	3,4	2,9	7,9	1,8	0,8	0,8	2,5
Main source of food for the household	3,6	1,4	2,7	18,2	1,4	11,1	18,1	4,7	1,9	4,2