

# 9 | *What Is to Be Done: Overcoming Policy Fragmentation in South Africa*

## Introduction

Since the collapse of apartheid, South Africa has adopted a series of policies to enhance people's economic and physical access to food, either through procurement or production. As discussed in Chapter 5, besides the Constitution – which emphatically calls for people's access to adequate food – other policies have been framed to achieve this end. Yet, as noted in Chapter 6, most of these policies aim at enhancing food availability rather than its accessibility. In this sense, despite South Africa's food-secure status, there is deterioration in nutritional intake, inadequate access to basic food basket and widespread malnourishment. There is, therefore, a degree of consensus among scholars, rights activists and their fellow travellers that the percentage of food-insecure households is appallingly high (Nyirenda *et al.*, 2018; Chakona and Shackleton, 2018; Nkrumah, 2019).

It goes without stating that food insecurity is not a temporary condition, but rather a chronic situation threatening the life and health of millions of South Africans (Nkrumah, 2019). While inadequate access to food may be triggered by multidimensional factors, in the case of South Africa it is mainly about (in)direct access to entitlement or cash to buy grains, fruits and vegetables. The plight of the poor has not only been worsened by the high unemployment rate sparked by mass retrenchments, but price hikes in basic services including electricity, petrol and housing which have trickled down to food cost. This trend is not only visible in urban settings, but also in rural areas where larger sections of the population depend on purchased food due to lack of land for own production or small-scale farming. The plight of the rural household is compounded by two challenges. First, the predicament of the 'missing middle' or exclusion of the unemployed able-bodied from (non)state welfare programmes (WPs). Second, the commodification of food produce through the extension of supermarkets and other agri-food supply

chains into remote areas. Even though owners of these businesses may, on the one hand, argue that they have enhanced customers' proximity to food source, these ventures have, on the other hand, adversely altered the food preferences of these individuals. As argued elsewhere, rural residents have, therefore, developed a taste for processed and expensive food, as opposed to locally produced and cheap food commodities from their backyard (Nkrumah, 2016).

On that account, overcoming urban and rural food insecurity requires the adoption of framework legislation, in the form of the Food Security Act (FSA) and complemented with a vibrant institution responsible for ensuring the efficient implementation of this instrument. Yet, given that the predicament of the hungry is often highlighted during political campaigns but not much is done about practical measures to alleviate their plight, the chapter assesses how political will could be mobilised to put brakes on the country's food insecurity. Given that the majority of South Africans are main consumers and not producers of food, the chapter interrogates the establishment of a robust WPs, who should be included and what should be distributed. As WPs come in various forms and shapes, it is recommended that this intervention should emanate in the form of FSA in order to guarantee it the legal status necessary to thrive under the current political climate. On the basis of this theory, the chapter begins with a brief definition and a quick history of WPs, then proceeds to assess some of the (de)merits of WPs and what benchmark should be used to determine individual and/or household eligibility. The chapter concludes with recommendations on how policymakers could act as checks on each other to bring about the adoption of FSA to enhance short-, medium- and long-term food access for the hungry.

### **The Rationale of Social Welfare: In Pursuit of Equity**

WPs may be defined as any free or subsidised commodity(ies) or cash granted by the state to a selected group of people. As its name implies, the objective of WPs is to assist individuals to cope with life's unpleasant situations, particularly those triggered by unemployment, retrenchment or illness. This form of largesse may spring from two sources: public or private. Officially dubbed a public welfare system (PUWS), the first encompass provision of temporal or permanent redistribution of commodities, food or stipend by a non-governmental organisation

(NGO), donor agency or the government to alleviate the plight of a vulnerable group. The current social grant in South Africa and other regimes is a classic illustration of this form of transfer (Nkrumah, 2018). The second source, termed a private welfare system (PWS), is tied to individual charity, remittances and other informal support to the poor in one's society or extended family. In this domain, remittances, charity to neighbours and/or the famous 'black tax' are some of the classic illustrations (Ngwadla, 2018).

WPs may play either promotional or protective roles. As these words imply, whereas the *promotional* WP seeks to improve the living standard of people through micro-credit facility, subsidised employment or sustainable paid work, *protective* WPs are aimed at forestalling severe hardship by handing out food parcels or distress grants when events take an unfavourable turn. Ultimately, while protective WPs are essential for recipients to bridge their short-term consumption deficit, a successful promotional intervention will forestall the continued provision of assistance or subsequent protective WPs.

The provision of WPs may be justified on political or moral grounds. Poor relief may be perceived as political/supplementary intervention if the aim is to win votes by delivering food and other basic commodities during election season. In other words, a specific party may assume power on the basis of a political campaign or manifesto which makes the claim that it will adopt and operationalise positive discrimination as a means of addressing past injustice. This is clearly illustrated in the case of the ruling African National Congress (ANC) which adopted the Broad-Based Black Economic Empowerment (BBBEE) as a means of alleviating black poverty, or say, bring the majority of blacks at par with their white counterparts (Pike *et al.*, 2018).

Morally, the distribution of aid is either to cut down on high levels of poverty, save lives or reduce the suffering of the poor and vulnerable. Intervention under this moral umbrella may also be applicable in cases where food is distributed in response to emergency and/or natural disasters like drought. This form of assistance generally plays four key roles: (i) cutting down on the severity of hunger; (ii) unemployment insurance fund for the retrenched; (iii) pension for the retired; and (iv) social security for the unemployed.

The moral imperative for granting WPs, however, trigger a key question: can South Africa operationalise WPs similar to the English poor law or India's Food Security Act (IFSA)? To some commentators,

akin to its contemporaries in the Global South, South Africa is 'broke' and not well-positioned to assume this responsibility (Lamola, 2019; Mashele, 2019). This assertion may not be entirely true, especially if one contrasts the current figure of hungry people, the high volume of food produced, and the R4.8 billion (\$3.3 million) lost through 'state capture' or irregular contracts awarded to entities doing business with state-owned enterprises (Gevisser, 2019; Pijoo, 2019). In addition, the state has an advanced social security network which could easily absorb the missing middle without having to build a completely new dispensing mechanism. This observation raises a second question: who qualifies for food security intervention?

Determining who needs poor relief induces best practice, such as benchmarks used by previous or existing food security interventions. As discussed in Chapter 8, beneficiaries of the 1597 English Act for the Relief of the Poor were those willing but unable to secure jobs to sustain themselves and/or their families. In contemporary times, however, section 11 of the 2013 Indian FSA calls for the identification of eligible households through targeted mechanisms or those falling below the national poverty line (NPL). In determining who meets the threshold, three phases come to fore, with their distinct (de)merits. The first phase may be classified as self-benchmarking or particular hungry people approaching the government for food assistance (Pfeffermann *et al.*, 2014; Broome and Quirk, 2015). This approach allows the food insecure to select themselves. In stark contrast to the other two procedures, framers of WPs are more inclined to adopt this due to its high accuracy and less costly nature. In an attempt to improve the conditions of the have-nots and limit the exploitation of the mechanism by the haves, two restrictions may be imposed – either stringent eligibility criteria or distribution of meagre relief as a means of discouraging the affluent from partaking. As an illustration, giving that the rich have certain food preferences, a classic positive discrimination in the form of subsidies or zero tax-rating on pro-poor food will suffice. Normally operationalised through existing market systems, food subsidies are a cost-effective intervention in terms of needed infrastructure, cutting down on administrative personnel, and penetration into the most remote places of the country (Besley and Kanbur, 1988). Despite these merits, the approach is riddled with other demerits including exclusion of a significant percentage of the unemployed as they may lack the basic amount of money to purchase the subsidised food. Subsidies, therefore, result in having

minimal impact on the livelihood of the targeted groups as they are still cut off due to financial constraints to access these products. In this sense, state relief for the poor and unemployed must transcend partial to full-scale subsidies in the form of free hot cooked meals, especially where price regulation is weak outside urban centres.

The second phase may be classified as group benchmarking or selecting people based on specific yardsticks such as disadvantaged community, infirmity, gender or age. This approach has two advantages. First, it allows for cheap and timely identification of beneficiaries and disbursement of funds to target groups. Second, it is less vulnerable to deceit, less expensive and less complicated as earmarking hungry individuals on the basis of their gender, age or location is easily discernible. Its simplicity is attached to the allocation of funds based on proxy demonstration of a group's susceptibility to hunger. To this end, eligibility for relief is based on possession of general features as opposed to the assessment of specific individual challenges. It goes without saying that contemporary South Africa relies on this approach in the operationalisation of its social grant programme. Proxy indicators used in social security are grounded on demography, with emphasis on two key traits, age and disability. Accordingly, beneficiaries of cash transfers are the elderly, children and the disabled.

The final category may be termed as individual benchmarking or selecting a person on the basis of level of hunger. While being a costly and complex process to administer, this form of earmarking may be seen as the most precise and impartial. It encompasses contrasting the nutritional status or wage of each applicant to an existing minimum benchmark, specifically a NPL in order to determine their (in)eligibility. In this context, thorough background check of applicants is imperative as some may be dishonest about their economic status or hide the real value of their wages. Thus, any attempt to achieve accuracy will be useful in curbing the affluent's exploitation of PWs, even though it may impact on available funds meant for distribution. For instance, in an attempt to ensure accuracy in the distribution of cash or food stamps, the relevant department may incur unintended high administrative costs such as the hiring of qualified accounting staff, creating a reliable banking system and a good market system to enable beneficiaries to redeem their stamps. For clarity, eligible families in this group may be the extremely poor or those living on less than \$1 per day, those without stable income or whose income are woefully inadequate

to guarantee sufficient food for sustenance. Needless to say, while this form of benchmarking has a demerit of being expensive, it ultimately enhances efficiency and cuts the cost of WPs as it forestalls leakage of benefits. These various classifications prompt one to inquire which one is most suitable for addressing the needs of the food insecure. But before that, a brief summary of current pro-poor interventions suffices. Given that the programmes targeting the ‘impotent poor’, namely the aged, infirm and young have been discussed in Chapter 6, this section will only focus on how to reverse their ineffective implementation at (sub)national levels.

### Recapping Barriers to Food Security

Considering that people’s food access is underpinned by minimum wage and unemployment, any WPs must be multisectoral, and still ensure coherence in policy operationalisation. Policymakers must reflect on this recommendation as the challenges inherent in food production and distribution are not isolated but co-exist. It was in this context that some observers mooted that the *2012 National Development Plan* (NDP) and *2014 National Policy on Food and Nutrition Security* (NPFNS) were adopted to address fragmentation in food security programmes (Hendriks and Olivier, 2015). Indeed, the policies oblige local municipalities to coordinate and align their programmes with provincial and national administration, with emphasis on addressing material poverty and chronic hunger (Nkrumah, 2019). Yet, considering that more than half a decade later, prevalent fragmentation and insufficient collaboration among relevant state institutions persist, one could safely claim that these policies were short-sighted and/or failed to forge a solid framework to overcome existing policy and institutional incoherence. Consequently, it is of little importance to adopt one soft law (policy) to address the challenges of an existing soft law, as a policy can be equated to a political manifesto which a government has the choice to fulfill or not based on its whims and caprices. Also, it could be argued that failure to comply with policies warrants no serious consequence for a government as it bears no legal stamp.

As a doctor cannot achieve different results by applying the same antidote, the state also cannot achieve policy and institutional coherence by adopting similar policies, or merely rebranding existing

policies. The failure of the state in this arena is reflected in the poor collaboration between the Department of Basic Education (DBE) and the Department of Planning, Monitoring and Evaluation resulting in the poor operationalisation of the school feeding programmes. It was in this light that Nkrumah (2017) bemoaned that as a result of fraud occurring in the central procurement unit of the DBE, some pupils have become undernourished, stunted and overweight as a result of the inadequate and non-nutritious food being served. In extreme cases, the government's late and/or non-payment of food suppliers and handlers leads to delivery of inadequately nourishing diets or non-delivery of food leading to some learners going through the day without food (Devereux *et al.*, 2018).

Indeed, this development underscores the urgency for an overarching binding legal framework and institution to perform three primary roles: (i) whip up political will towards prioritising food security; (ii) overcome institutional fragmentation; and (iii) provide a mechanism for redress. A cutting-edge instrument that ticks all these boxes is a Food Security Act (FSA). An Act, akin to other hard laws like conventions or constitutions, is often framed with the participation of key stakeholders from national and grassroots levels. This form of consultation holds the promise of forging an instrument that sets out feasible deliverables, proactive early warning systems, emergency response systems, targeting and registration methodologies, delivery, enforcement and compensation mechanisms. It may entrench other features such as evaluation and monitoring systems, continuous surveillance of operational mechanisms, accountability systems and, ultimately, an appeals body. A casual or detailed reading of existing food-security-related policies such as the NDP and NPFNS shows that these policies omit these cardinal features, thereby making them unattractive documents for donor support or promotion of an entitlement. Further, to ensure timely delivery of assistance to the poor, a prospective FSA must clearly list operational strategy with detailed timeframes, deliverables, expected outputs, outcomes, and appropriate evaluation and monitoring systems.

Yet, given that mere adoption of a legal instrument does not necessarily translate into practice, the FSA must call for the establishment of a specific government department to undertake this task. Circling back to India's Department of Food and Public Distribution, perhaps a similar department will be essential in South Africa. To adequately

reflect its role, this mechanism could be branded as the Department of Food Security (DFS), and with the primary mandate of ensuring effective cash transfer and provision of free staple food to targeted families. Given that the state has already instituted some measures, to be exact the imposition of zero-taxation on fourteen food items, it may undertake the further step of stocking and distributing these items to the unemployed and highly food-insecure households (Mzizi, 2014).<sup>1</sup> The free distribution of these commodities is important as they attract the conventional 14 per cent value-added tax (VAT) the moment they processed, or sold as part of a meal, refreshment or prepared for further sale (Nkrumah, 2017: 152). On account of this, a supplementary cash transfer will help recipients offset any extra charges incurred in their attempt to consume nutritious food or access other things needed in the preparation of food, such as kerosene, electricity or firewood. Even though this suggestion may seem modest, it could significantly improve the nutritional needs of millions who bear the brunt of chronic hunger.

It is worth noting that the call to establish a DFS is not farfetched, considering that virtually all the listed socio-economic rights in the Constitution have their respective Acts backed by operational bodies. As their names connote, the Department of Education is responsible for the Schools Act 84 of 1996, Department of Water Affairs implements the Water Act 36 of 1998, Department of Social Development (DSD) is responsible for the Social Development Act 3 of 2001, and the Department of Health is the operational agency of the Health Act 61 of 2003. The creation of a single food security agency will eliminate waste, ensure coherence and address overlapping roles among many departments with food security mandates. In essence, this objective could be attained by extracting from, and consolidating all the fragmented food security programmes under the various departments into one single umbrella agency, the DFS.

The formation of a DFS will have the added advantage of enhancing efficient and timely distribution of economic entitlements such as food parcels or cash transfer to targeted households. What will distinguish this department from others, such as the DSD is that it will exercise an

<sup>1</sup> These food items are samp, maize meal, dried beans, dried mealies, rice, frozen or fresh vegetables and fruits, edible legumes and pulses, brown bread flour, brown bread, milk, canned or tinned pilchards, eggs (from hens), lentils and cooking oil (excluding olive oil).

additional mandate of assessing food stocks, evaluating and monitoring agricultural production, overseeing the purchase of food supplies for deliveries, and supervising the targeting of families, building of warehouses for stock storage and timely distribution of staple food at centres. Further, to ensure that prices of food commodities are within the reach of ordinary citizens, the DFS must serve as a regulatory body responsible for controlling prices of locally produced or imported commodities, especially given the country's existing neoliberal market policy which has mainly enriched large food companies while impoverishing local farmers and consumers. An instructive illustration worth citing is *Mukaddam v Pioneer Foods (Pty) Ltd and Others*, where three major food producers (Premier Foods, Pioneer Foods and Tiger Brands) were found guilty of price fixing a week before Christmas. For this reason, the coming into operation of the DFS will be instrumental in averting similar cartels or racketeering, mainly by shifting control of food markets and systems from agribusiness back to peasants, smallholders and small food enterprises (CompCom, 2017).

In a nutshell, binding legislation in the form of FSA with an operational body in the shape of DFS is non-negotiable if household food insecurity is to be alleviated. This step will reinforce the government's obligation to ensure that those susceptible to chronic hunger are provided with basic staple food and some form of minimum cash transfer, while fast-tracking legal remedies or compensation for the hungry. Having said this, one could perceive that calling policy makers to demonstrate greater political will is highly unlikely in light of government's indifference to the plight of the food insecure. This begs a pressing question: how can political will be mobilised to stimulate the adoption of the FSA and DFS? In this context, a more strategic approach is needed, based on an understanding of the distinct variables which determine state policy in this political setting. In this respect, the next section interrogates how the political will of decision makers could be galvanised by (non)governmental agencies for this purpose. But before that, what is 'political will'?

### **A Tough Road Ahead: Mobilising Political Will for Food Security**

The notion of political will can simply be perceived as a desired effort or an act expressed by a political player to trigger an expected result (Kapoutsis *et al.*, 2015; Zalmanovitch and Cohen, 2015). Since this concept is rarely invoked except by its absence, one could moot that it is

present only when a specific agency, collection of individuals, designated person or actor has the will to generate/produce a desired/favorable outcome by committing/investing political capital, resources, energy and time. The main, though often not in isolation, political actor in this chapter is the state, and the reform sought is that of measures to avert hunger which affects the physical and mental state of people. The chapter has argued that this objective could be attained through the adoption of a FSA and the establishment of a DFS backed by adequate resources.

In practice, food insecurity remains one of the key threats to human life and health, yet the state has not paid particular attention to this issue as it is perceived as a private problem rather than social crises (Crisp, 2018). Nonetheless, a private issue evolves into or becomes a good candidate for social crises based on the high number of individuals (who might be) affected, the intensity of the problem, and when it attracts the attention of major stakeholders such as the media, opinion leaders and policy actors. For instance, while initially being perceived as a private affair, the HIV/AIDS crises gravitated into a national one in 2007, particularly when it was projected that millions of South Africans were battling with it. To curb the crises, the state resorted to both proactive (condom usage and male circumcision) and reactive measures (large-scale free treatment of HIV/AIDS patients). However, as discussed in Chapter 4 of this book, the role of one policy actor, the Treatment Action Campaign, was instrumental in galvanising political will for patients' access to free antiretroviral drugs.

Policy actor in this chapter covers any relevant (in)formal individual(s) or groups with the objective of influencing social policy formulation or implementation, in particular the FSA.<sup>2</sup> Recognising that policymakers' resort to invited spaces or existing political processes to develop social policies, it is imperative to briefly consider how policy actors within and outside government institutions can trigger a reform. Returning to the 1996 Constitution, chapters 4 to 8

<sup>2</sup> Social policy may be defined as a subset of public policy with focus on addressing specific social needs, including food, human services, health, employment and sanitation. In seeking to bridge the gap between society and the individual, it sets out specific guidelines, timeframes and means of realising a particular social right. Examples of instruments in this regard may include Social Security Act, Housing Act, Education Act and Health Insurance Act.

of the instrument strategically entrenches the dual principles of separation of powers and checks and balances in order to ensure that the three arms of government act as a watchdog on each other or influence the (in)actions of others. Further, to ensure that these organs are amenable to suitable recommendation from other institutions, chapter 9 of the instrument sets out other major policy actors to shape the contents of policies which impact on the lives of people.

While the tripartite division of authority among the executive, legislative and judiciary has the noble intention of protecting abuse of power, it nonetheless poses the challenge of delaying policy framing and implementation. That is to say, the current fragmented policy actors and their overlapping food security mandates may lead to policy gridlock by exacerbating the complexity and difficulty of forging FSA. The next section looks at the prospect of key institutions bringing about a FSA against the backdrop of their respective internal challenges. Emphasis will be placed on the institutional challenges which might threaten the forging of this instrument, particularly as the roles and rules of institutions may have an impact on the content, structure and operationalisation of any legislation.

### *Parliament: Political Stalemate*

The first major hindrance worth citing is the political stalemate or lack of expertise of members of parliament (MPs) on food security issues. South Africa has a two-tier or bicameral parliament – the National Council of Provinces (NCOP) and National Assembly (NA) – with each having its own unique composition and operational style. As the upper house, and similar to the Senate in most countries, the former represents the governments of the provinces with ten delegates drawn from each of the nine provinces (Geisler, 2000). The NCOP has the power to reject, propose amendments to, or consider all national bills. Performing a similar function as the NCOP, the NA however, represents the people rather than provinces and composed of 400 members elected every five years through a party-list proportional-representation system (Ahmed, 2009; Hills, 2015).

Bills introduced into parliament are first referred to relevant portfolio or joint standing committee for consideration. These committees have eclectic influence on the content of bills as they have the mandate to accept, modify or reject them. It may reach any of these conclusions

through an assessment of the merit of such proposed legislation by canvassing for opinions through public hearings and expert advice from bureaucrats, the academic community, think-tanks and major civil society organisations (CSOs). Based on the recommendation of the committee, the NA or NCOP may then proceed to amend or pass a law through two-thirds vote of members present and signed by the president.

While parliament's numerous (sub)committees create a division of labour, thereby, intensifying a speedy assessment of a prospective Food Security Bill (FSB), their composition (ruling and opposition party members) and lack of expertise may either lead to deadlock, undue delay or passage of an Act which fails to capture much-anticipated content. There are two other looming hindrances. First, some of these committee members double as ministers and frequently absent themselves from parliamentary deliberation (Nijzink, 2001). Second, electorates do not have complete control on the conduct or tenure of office of MPs as voters vote for a party and not individuals (Faure, 1997). The loyalty of MPs, for this reason, lies with their parties and/or the agenda of the party leaders who draw up the party list. Given that the ruling party has about two-thirds majority in the NA and has not taken sufficient measures over the last two decades to overcome food insecurity, it is high time pressure is exerted on MPs to forge a FSA. To be exact, focus should be placed on lobbying, writing open letters and launching peaceful campaigns targeted at ANC MPs; in light of their massive number, and they may hardly need the support of opposition parties to pass such a bill.

### *Executive: Lacking Political Will*

A second arena of generating political will is by reminding the executive of the responsibilities they freely assumed, by virtue of accepting appointment or contesting for elections. In stark contrast to several (African) countries where citizens directly vote for their president, in South Africa he is elected by the NA and represents the interests of MPs (Makiva and Ile, 2018). The president then appoints his ministers who are responsible for agenda setting, and policy formulation, adoption and implementation. It is worth noting that previous administrations, to some extent, adopted considerable poverty-alleviation strategies, with notable examples including the Mandela–Mbeki Reconstruction

and Development Programme and Jacob Zuma's free HIV/AIDS treatment (Lyons *et al.*, 2001; Mottiar and Lodge, 2017).

It is worth noting that since the president and his aides are political players, in most instances they owe their allegiance to their electoral stronghold. As in many other African countries, South Africans support and vote for a party on the basis of their culture, traits, identification with the candidate and often on racial grounds.<sup>3</sup> Given that a vast majority of supporters of the ruling party and the 'new kid on the block', Economic Freedom Fighters (EFF) are black South Africans, it would seem an attractive and popular project for the ruling administration to table a FSB for parliamentary deliberation or public comment (Nkrumah, 2019). Arguably, the translation of such a bill into an Act will enhance the political and electoral prospect of the ruling regime or any opposition party with the courage to undertake this initiative. Yet, given that the ANC has majority MPs and the right structures and resources at its disposal, yet has neither adopted nor implemented a FSA, provides an indication of the executive's unwillingness to go down this road. This lack of political will opens the door for the judiciary, human rights institutions and CSOs to mount pressure on the executive to act.

### *Judiciary: Activist Judges*

The third arm of government with the mandate to contribute to this debate is the judiciary. Headed by an eleven-member Constitutional Court, the courts have the last word on the interpretation of social policies. The judiciary may contribute to the adoption of FSA by finding the state in violation of section 27, especially in the face of prevalent hunger. This will call for reimagining the notion of the right to food and declaring exclusion of the 'missing middle' from social assistance programmes unconstitutional (Hendriks and Olivier, 2015). In this context, the courts could use its creative interpretative machinery and call for parliament to amend section 3 of the 2004 Social Assistance Act to include the food insecure. Further, it could oblige the NA to consider formulation of a FSB as they are legally obliged to ensure the wellbeing of their electorates. This recommendation echoes

<sup>3</sup> As discussed in Chapter 5, the vast majority of the food-insecure households are black.

a recent case where the High Court entreated parliament to revise sections 34(1)(b) and (d) of the Immigration Act to ensure that suspected illegal immigrants receive prompt legal assistance (LHR, 2003).

While the judiciary has demonstrated itself to be an activist instrument through its numerous ground-breaking decisions, it could not unilaterally issue directives to the executive or NA without an application. As explored by Nkrumah (2019) elsewhere, the protective role of the court could be utilised only through successful litigation, which could be attained through a well-articulated argument. And for such a decision to be handed down, applicants may need to demonstrate that the exclusion of the missing middle from WPs poses a threat to their survival, especially in the case of pregnant women and unborn babies (Oxford, 2018). The sorry state of affairs was vividly described by a poorer pregnant woman who bemoaned that she often asks for 'help from the neighbours, so that I can get something to eat' (Scorgie *et al.*, 2015: 7). With cases of tertiary students and children with immigrant parents who are in desperate need of food and yet cut off from social assistance, the court may be amenable to handing down a judgement which oblige the executive to frame an overarching FSA to address this glaring state of desperation.

### *Chapter 9 Institutions*

Beyond the mainstream policy actors, section 187(1) of the Constitution calls for the establishment of two important institutions for the advancement and safeguard of gender and human rights. As its name sounds, the Commission for Gender Equality (CGE) is obliged to monitor and evaluate the activities of (non)governmental agencies towards enhancing the development of gender equality in the country. Consequently, it could use its powers to make recommendations to both parliament and the executive on the urgency for the adoption of FSA, for while the state provides some form of WPs to mothers who meet a certain low-income threshold after birth, pregnant women are excluded from this programme. As observed by Abrahams (2017), besides unemployment and partner abuse, one of the major factors to impact the mental health of pregnant women is food insecurity. The food and nutritional needs of pregnant women is urgent as they not only need it for the healthy development of the foetus, but because they are prone to increased appetite and resulting starvation. This assertion

is better illustrated in the statement of twenty-four-year-old unemployed woman who recounted that 'I get hungry all the time . . . I cannot wait to eat later in the day as I used to wait before pregnancy' (Scorgie *et al.*, 2015: 6). The CGE could, accordingly, use its mandate of receiving and adjudicating cases to invite application from CSOs or partner with one in order to lobby or pressure the executive and parliament to frame a comprehensive FSA which prioritises the nutritional needs of expectant mothers as entrenched in the Indian FSA.

The South African Human Rights Commission (SAHRC) is the second institution mandated to investigate, receive complaints and make recommendations on human rights issues, including food security. In particular, section 184(3) of the Constitution obliges it to receive yearly reports from state departments on the steps taken to advance people's civil/political and social/economic rights. This mandate is symmetrical to the state reporting mechanism under the UN Committee on Economic, Social and Cultural Rights (CESCR). Given that the Constitution imposes an obligation of justification on the state, the SAHRC could question the state why it has adopted binding instruments and institutions to promote all the relevant socio-economic rights (water, health, education, land and housing) to the exclusion of food? An unsuitable response to this query could incite legal action or be used as a yardstick to lobby MPs, name and shame the government, mobilise for accountability or be used as a pretext by opposition parties to mount pressure on the ruling administration. Besides these mainstream policy players, the next section takes a look at how informal policy actors could interact with formal policy actors in generating a FSA in the coming years. While different entities may fall within this camp, our emphasis here will be limited to the specific role of non-governmental organisations (NGOs).

### *NGOs: Uneasy Alliances*

South Africa has witnessed a surge in the number of NGOs over the last two decades, and these organisations continue to shape policy in areas of land, healthcare, housing and education. Even though they are neither sponsored by the state nor function as a private venture, they seek to provide public goods and/or services to a target group. The most common strategies used by these organisations span from engaging in advocacy to litigation against (non)state actors for non-compliance with constitutional obligations. For those who are strong proponents

of public action, this camp often resorts to direct lobbying of the executive/MPs or indirect lobbying through grassroots mobilisation or public education campaigns.

While some of these organisations identify themselves as pro-food security organisations, their contribution in this sphere has been minimal. For instance, as discussed in Chapter 4, though an opportunity presented itself in 2015 when the DAFF announced a proposed Food Security Plan for public consultation, the concern of three NGOs – Oxfam, Studies in Poverty and Inequality Institute (SPII) and Ekurhuleni Environmental Organisation – was that they were not adequately consulted during the drafting stage of the policy. Rather than using this new policy as a launching pad in order to press for the adoption of binding FSA, they merely dispatched a handful of staff to present a memorandum to the department urging for a proper consultation in future policies (Tuwani, 2015). This was followed by a silent protest staged by the Food and Allied Workers Union in front of the official residence of the EU Delegation to South Africa calling for a ban on the importation of chicken (Allix, 2016).

Accordingly, in stark contrast to India's vibrant Right to Food Campaign, this development paints a grim picture of the inactiveness of domestic NGOs to coerce or lobby the state to seriously consider a food insecurity agenda. Given that the number of the famished is still unacceptably high, Ramkissoon (2017) agitates that it is high time relevant NGOs revised their strategies and/or drew from their Indian counterpart and pressed for a long-term food strategy. Put differently, in order for NGOs to stay relevant, they must seriously consider these three suggestions: First, partner with academics to conduct independent research on the location and number of households/individuals facing food insecurity. While Statistics South Africa (StatsSA, 2018) occasionally provides this data, an independent survey could be used to complement or contradict official data and/or used as a basis to file applications in court alleging violation of section 27 of the Constitution. Second, these findings could be used to lobby MPs and the executive to urgently respond to the problem as hunger has become a national crisis. Third, the data could also be used to produce radio and television commercials as a means of giving visibility to StatsSA's data which receives minimal debate in the print and electronic media. This campaign could further be used to incite millions of food-insecure households to place their signatures on petitions to be submitted to

parliament, or launch a massive protest against the executive and rally public opinion for food security court applications.

Undoubtedly, public opinion constitutes a key variable in state action, particularly as elected officials seek to forestall public tongue lashing for being indifferent to their constituents' concerns. Bearing in mind that it is the poor who are more prone to hunger, NGOs must involve this group when pushing the FSA agenda. However, with the poor faced with language and in some instances mobility barriers in accessing public spaces, NGOs must endeavour to (i) hold educational campaigns within the poor neighbourhoods; (ii) conduct public dialogue in local languages; (iii) create a conducive environment during public engagement; (iv) appoint outspoken members of this group to join the organisation's leadership position; and (v) create spaces for the poor to directly engage with policymakers or opinion leaders.

## **Conclusion**

This chapter has argued that the prevalent food insecurity may be tied to fragmented, incoherent policies and institutions mandated to address this problem. As it stands now, there are more than five different legislations and institutions all seeking to provide food interventions that often lead to overlap and waste of resources. The chapter argues that because of the absence of a binding food security instrument, the state lacks the political will to adequately address the need of the chronically hungry. It is in this context that the chapter recommends the adoption of an overarching FSA backed by a unified government department – perhaps a DFS to oversee the operationalisation of the Act. Taking into account that the fragmented attempts of the various departments have not addressed the state of hunger, the mandate of the new department will be to extricate food security units in these departments and assemble them under its umbrella.

The chapter then shifted its attention to assess how agents within the (in)formal sector could influence each other to trigger this reform. It argued that since the executive has the necessary logistical support at its disposal and yet failed to comprehensively address the issue of food insecurity, parliament should act by introducing a FSB. But, with the NA turning into a rubber stamp as about two-thirds of its members spring from the ruling ANC party, this might be an uphill battle. The chapter found that in order to mobilise political will, there is the need

for the judiciary to hand down a decision which will call on the executive/parliament to act or safeguard the welfare of the people they have sworn to protect. Nonetheless, given that courts could not, without cause, issue such a declaration or ruling, there is the need for NGOs to file public interest litigation alleging a violation of section 27 right, specifically the right to food. This attempt could be complemented by the effort of the CGE and the SAHRC calling for the state's compliance with this provision. Arguably, with this collective effort, backed by rising public opinion, the ruling ANC party will be coerced to respond in the form of a FSA and backing it with the DFS which will oversee the distribution of staple food and some form of cash transfer, in order to alleviate the plight of the chronically hungry.