THE LINK BETWEEN GENDER INEQUALITY AND FOOD SECURITY AMONG FEMALE STUDENTS AT TERTIARY INSTITUTIONS IN SOUTH AFRICA

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DECLARATION

I declare that this work: **The Link Between Gender Inequality and Food Security Among Female Students at Tertiary Institutions in South Africa** is original, and that it has never been presented to any other university or institution. Where the works of others have been used, full references have been provided and in some cases, quotations made. It is in this regard that I declare this work as my own.

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ABSTRACT

This study explores the nexus between gender inequality and food security through the lens of female students at tertiary institutions in South Africa. It aims to highlight the gendered dimensions of the political, socio-economic and cultural structures contributing to South Africa's national food crisis. In so doing, it argues that legislation on the right to food with specific gender considerations is essential for ensuring food security for female students on campuses in particular and women in general.

Therefore, it takes a rights-based approach to conceptualise the right to food and then investigates the unique socio-economic challenges faced by many female students in South Africa struggling to fulfil this right as they are mostly unemployed, dependent on financial support and find no recourse in social protection. It also probes into feminist food politics and the gendered divisions of labour. Furthermore, it critiques South Africa's current food system by analysing the capitalist food market monopolisation; scattered accountability mechanisms across various governmental departments; and insufficient gender considerations in relation to food security policies.

To this end, it illustrates gaps that require urgent policy and coordinated legislative development as South Africa's current legal framework on the right to food is inadequate and many marginalised populations are still vulnerable to food insecurity every day.

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KEYWORDS

Food security, gender equality, feminist legal theory, socio-economic rights, female students, tertiary institutions, South Africa

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ACRONYMS AND ABBREVIATIONS

CSO	Civil Society Organisation
FAO	Food and Agriculture Organisation
HIV	Human-Immunodeficiency Virus
ICESCR	International Convention on Economic Social and Cultural Rights
NPFNS	National Policy on Food and Nutrition Security
NSFAS	National Student Financial Aid Scheme
SADC	Southern African Development Community
SAHRC	South African Human Rights Commission
SASSA	South African Social Security Agency
SDGs	Sustainable Development Goals
UN	United Nations
UDHR	Universal Declaration of Human Rights
WFP	World Food Programme

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TABLE OF CONTENTS

Declaration ii
Acknowledgments iii
Abstract iv
Acronyms and Abbreviations v
Table of Contents vi

CHAPTER ONE: INTRODUCTION AND OVERVIEW 1
1.1 Introduction 1
1.2 Background to the study 3
1.3 Problem statement 8
1.4 Research questions 12
1.5 Preliminary literature review 13
1.6 Research methodology 17
1.7 Limitations of study 18
1.8 Research objectives/aims 18
1.9 Chapter synopsis 19

CHAPTER TWO: THE FEMINIST THEORETICAL FRAMEWORK UNDERPINNING THIS STUDY 22
2.1 Introduction 22
2.2 Definitions and concepts 22
2.2.1 Sex and gender distinction of 'women' 22
2.2.2 Gender equality 26
2.2.3 Feminist food politics 29
2.3 Private dimensions of women's experiences of food 31
2.3.1 Identity 31
2.3.2 Pleasure 33
2.3.3 Agency 35
2.4 Feminist legal theories 35
2.5 Conclusion 40

UNIVERSITY of the WESTERN CAPE

http://etd.uwc.ac.za/

CHAPTER THREE: THE DEFINITION OF THE RIGHT TO FOOD IN THE NORMATIVE LEGAL FRAMEWORK AND THE GENDERED DIMENSIONS 42

3.1 Introduction 42

3.2 The right to food 43

3.2.1 International and regional framework 44

3.2.2 Domestic framework 47

3.3 Food policies and gender considerations 48

3.4 Jurisprudential framework 53

3.4.1 International and regional decisions 54

3.4.2 Domestic decisions 55

3.5 South Africa's current food system and its gender dimensions 57

3.6 Conclusion 61

CHAPTER FOUR: THE LINK BETWEEN GENDER INEQUALITY AND FOOD SECURITY AMONG FEMALE STUDENTS AT TERTIARY INSTITUTIONS IN SOUTH AFRICA 64

4.1 Introduction 64

4.1.1 The problem in tertiary institutions 65

4.1.2 Effects of food insecurity on students 67

4.2 How female students are disproportionately affected in having limited access to the food system 68

4.2.1 Gendered divisions of labour and unemployment 69

4.2.2 Lack of social protection 71

4.3 Coping methods and the effects on female students 73

4.4 A transformative food system in institutions 74

4.5 Conclusion 75

CHAPTER FIVE: THE EXTENT OF RESPONSIBILITIES AND OBLIGATIONS OF GOVERNMENT AND NON-STATE ACTORS 76

5.1 Introduction 76

5.2 Specific challenges 76

5.3 Government 77

5.3.1 All organs of state 77

5.3.2 Coordination of government departments 79

5.4 Tertiary institutions 81

5.5 Private sector 82

UNIVERSITY of the WESTERN CAPE

http://etd.uwc.ac.za/

5.6 Conclusion 82

CHAPTER SIX: CONCLUDING REMARKS AND RECOMMENDATIONS....84

6.1 Introduction 84

6.2 A coordinated national legislative framework 85

6.2.1 Considerations within the national framework 87

6.3 Multi-pronged strategy approach 88

6.4 A feminist food sovereignty model in South Africa..... 90

6.5 Conclusion 91

BIBLIOGRAPHY **93**

http://etd.uwc.ac.za/

CHAPTER ONE

INTRODUCTION AND OVERVIEW

If wealth was the inevitable result of hard work and
enterprise, every woman in Africa would be a millionaire.[1]

1.1 Introduction

Gender Equality and Zero Hunger are arguably the two biggest Sustainable Development Goals (SDGs) on the current global agenda and have gained considerable recognition in recent years.[2] Food security concerns have re-emerged with greater urgency due to an increasing human population, climate change and worsening economic conditions.[3] Although South Africa is making strides in achieving the aforementioned SDGs, a global report on food insecurity indicated that in 2015, one in four people was undernourished in sub-Saharan Africa, the highest rate in the world.[4] Though this highlights the magnitude of the national food crisis, this study aims to explore the gendered dimensions of food security in South Africa. It argues that achieving gender equality is essential for ensuring food security for all. Therefore, it uses a feminist analysis to examine the link between gender inequality and food security through the lens of female students at tertiary institutions in South Africa. For the purposes of this study, 'female students' includes women who

[1] Monbiot G 'The Self-Attribution Fallacy' (2011) available at http://www.monbiot.com/2011/11/07/the-self-attribution-fallacy/ (accessed on 3 July 2019).

[2] Sustainable Development Goals of 2015 resolution 70/1 the 2030 Agenda. [Hereafter SDGs]. A list of 17 Sustainable Development Goals adopted by all United Nations Member States in 2015. Zero Hunger and Gender Equality are noted as SDG 2 and SDG 5 respectively.

[3] South African Market Insights 'South Africa's Food Security as measured by Statistics South Africa' (2019) available at https://www.southafricanmi.com/south-africas-food-security-30mar2019.html (accessed on 13 May 2019).

[4] Food and Agriculture Organisation of the United Nations (FAO), International Fund for Agricultural Development (IFAD) and the World Food Programme (WFP) 'The State of Food Insecurity in the World' in *Meeting the 2015 international hunger targets: taking stock of uneven progress* (2015) 12.

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are enrolled at a tertiary institution for higher learning in South Africa, from 18 to 25 years of age.

The issue of food insecurity in tertiary institutions is a contested one as most students are seen to be elitist, and there is an assumption that if they can afford to study, they must be able to afford other necessities. However, tertiary education in South Africa has become more accessible to students from low-income households due to the public pressure of making tertiary education available to all – this gained international attention with the #FeesMustFall 2015 student protest movement.[5] The reality is that nearly a third of students at universities across the country are food insecure.[6] There are many reasons for this, notably, it is because many students have left home but are still unemployed, and therefore are dependent on financial support from family, friends and/or bursaries, mostly from the National Student Financial Aid Scheme (NSFAS). There is also no social protection available to tertiary students (with the exception of child grants and disability grants where applicable)[7] as South Africa does not have a basic income grant and so unemployed people aged 18 to 59 years old find no recourse in social security. Looking at these factors, this study will highlight how female students are further disadvantaged by exploring the social reality of sexism, racism and classism that limits accessibility to food security.[8]

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[5] This refers to the #FeesMustFall 2015 student protest movement aimed at stopping increases in fees as well as increasing government funding of universities.

[6] Devereux S Keynote Address at National Colloquium on Access to Food for Students in South African Tertiary Institutions 'South Africa's university students face a crisis: nearly a third go hungry' (2018) available at https://foodsecurity.ac.za/news/south-africas-university-students-face-a-crisis-nearly-a-third-go-hungry/ (accessed on 28 June 2019). [Hereafter Devereux].

[7] The Department of Social Development is responsible for implementing social development services and social security mechanisms to enable and empower the poor, vulnerable and those with special needs. This includes social grants were applicable.

[8] Akala M 'Challenging Gender Equality in South African Transformation Policies – a Case of the White Paper: A Programme for the Transformation of Higher Education' (2018) 32 *South African Journal of Higher Education* 3 226 available at http://dx.doi.org/10.20853/32-3-1521 (accessed on 4 July 2019). [Hereafter Akala].

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It analyses the patriarchal structures and practices in South Africa that make female students more likely to be affected by food insecurity on campuses. Hence, this study will use feminist legal theory to highlight the gendered dimensions of the political, socio-economic and cultural barriers affecting South Africa's national food crisis. By analysing the food security paradigm through an exploration of the difference and dominance debate within feminist scholarship, this study will investigate the specific challenges female students face in achieving food security.[9]

1.2 Background to the study

The right to food is a basic human right recognised explicitly and implicitly in a number of international[10] and regional[11] instruments. It is also recognised at a domestic[12] level within the Constitution of the Republic of South Africa (hereafter the Constitution) which reads in Section 27[13]:

> (1) Everyone has the right to have access to
> (b) sufficient food and water and
> (c) social security, including, if they are unable to support themselves and their dependents, appropriate social assistance.

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[9] MacKinnon C *Feminism Unmodified: Discourses on Life and Law* (1987) 32. This study examines MacKinnon's sameness and difference theory of sex inequality and highlights sex discrimination in law, policy and social settings.

[10] Universal Declaration of Human Rights,1948 resolution 217 A and entered into force 10 December 1948. [Hereafter UDHR]. International Covenant on Economic, Social and Cultural Rights, 1966 UNTS 993 and entered into force 3 January 1976. [Hereafter ICESCR]. Convention on the Elimination of All Forms of Discrimination Against Women, 1979 UNTS 1249 and entered into force 3 September 1981. [Hereafter CEDAW].

[11] African Charter on Human and People's Rights,1981 CAB/LEG/67/3 resolution 5 21 I.L.M. 58 and entered into force 21 October 1986. [Hereafter the African Charter]. Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2003. [Hereafter the Maputo Protocol]. See also the case of *Social and Economic Rights Action Centre (SERAC) and Another v Nigeria* (2001) AHRLR 60.

[12] Section 27 of Constitution of the Republic of South Africa, 1996. [Hereafter the Constitution].

[13] Although this is the principal provision on the right to food, other provisions of the Constitution that also recognise the right to food are Section 28 and Section 35 respectively.

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(2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.

Therefore, the state has a direct obligation to promote, respect, protect and fulfil the right to access to sufficient food. It is accountable for efforts to enact legislation, develop policies, and to ensure social security measures toward progressively realising the right to food. Historically, the Constitution was developed to undo the deep-rooted injustices of the apartheid past which successfully created social, economic and cultural barriers through a division of race and class - particularly visible in the context of socio-economic rights. To this end, the Constitution was created on the principles of dignity, equality, freedom and non-sexism. In understanding that all rights are interdependent, during constitutional development the late Nelson Mandela asserted, 'we do not want freedom without bread, nor do we want bread without freedom'.[14] Although the Constitution is recognised globally for its inclusive and progressive nature, it cannot be separated from the reality on the ground. There is a huge disparity in South Africa's laws versus the lived reality of its citizens, largely due to poor implementation and accountability mechanisms. At present, twenty five years into its democracy, South Africa is the most unequal country in the world.[15]

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While the state is primarily responsible for achieving food security, this study views it to be a shared responsibility with tertiary institutions and other non-state actors in addressing the food security needs of students. Alike the views of the United Nations General Assembly, institutions are integral partners in achieving the SDGs in ending poverty; achieving food security and improved

[14] Mandela N (1993) 'Address by Nelson Mandela at Investiture as Doctor of Laws Soochow University Taiwan' available at http://www.mandela.gov.a/mandela_speeches/1993/930801_taiwan.htm (accessed on 28 June 2019).

[15] Statistics South Africa 'Millennium Development Goals 1: Eradicate Extreme Poverty and Hunger 2015 World Bank GINI Index' (2015) available at http://data.worldbank.org/indicator/SI.POV.GINI (accessed on 29 June 2019).

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nutrition; and ensuring inclusive and quality education for all.[16] Although South Africa recognises and protects the right to education, its tertiary institutions often lack the resources and services needed to support its advancement and aim of increasing national development by reducing poverty and inequality.[17]

Within the context of reducing poverty, food security has been defined by various experts. The World Food Summit of 1996 stated that food security 'exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life'.[18] This definition is broad enough to recognise that the right to food is influenced by many factors, such as financial access and the nutritional necessity of eating the appropriate food.

In 2009, the World Summit on Food Security established the four pillars of food security as availability, access, utilisation, and stability to measure food security in different contexts.[19] Availability looks at the amount of food resources for production - largely where the gendered dimensions of food security have been researched. However, accessibility as the second pillar is the focus of this study, looking at the physical, economic, and sustainable access to food. Economic access to rights is often the determining factor of whether a socio-economic right is realised or not. This study will demonstrate how female students have little to no remedy in achieving economic access for food security. Utilisation relates to the use of food resources, particularly at a

[16] SGDs.

[17] Teferra D and Altbach P 'African Higher Education: Challenges for the 21st century' (2004) 47 *Higher Education* 21 available at https://doi.org/10.1023/B:HIGH.0000009822.49980.30 (accessed on 3 July 2019). [Hereafter Teferra and Altbach].

[18] FAO *Rome Declaration on Food Security and World Food Summit Plan of Action* (1996) 43. The FAO called the summit due to global starvation and a huge concern about the capacity of the agricultural sector. The summit produced two important documents, namely, the Rome Declaration on World Food Security, this called for the members of the United Nations to halve the number of starving people by 2015 and the World Food Summit Plan of Action which set a number of targets for organisations for achieving food security. [Hereafter FAO].

[19] FAO *World Food Summit on Food Security* (2009) 2. [Hereafter FAO World Food Summit].

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household level where women are mostly responsible for food preparation and dietary diversification. However, due to many patriarchal African traditions, they are often the last to eat or sometimes give up their food so other members of the household can eat. Stability as the fourth pillar is the management of the three pillars to maintain food security over time. This scope of this study is largely limited to the pillar of accessibility, which is scrutinised in the chapters to follow.

Consideration will be given to South Africa's food system and whether the development of policies with a feminist rhetoric in relation to food security could improve this system. Women's empowerment should not be seen as a developmental goal but rather an 'intrinsic human right'[20] necessary for shaping social structures. It is certain that until women are acknowledged and compensated in their role as providers, food and nutritional insecurity will continue to exist. De Schutter stated that 'society urgently needs the full potential of women's contribution'.[21]

Interestingly, South Africa is considered food secure at a national level as the country produces enough food to feed its current population, and yet, an alarming 13 million people are vulnerable to food insecurity.[22] This indicates that South Africa's food crisis is not simply the lack of food resources but rather that these resources are restricted and inaccessible. Andy du Plessis, in looking at South Africa's unique food crisis noted that 'poverty and unemployment are two leading factors and they are both complex to unpack and understand, much less address. This is further affected by housing

[20] De Schutter O 'Gender Equality and Food Security Women's Empowerment as a Tool against Hunger' (2013) available at https://reliefweb.int/report/world/gender-equality-and-food-security-%E2%80%93-women%E2%80%99-empowerment-tool-against-hunger (accessed on 11 May 2019). [Hereafter De Schutter].

[21] De Schutter (2013).

[22] OxFam 'Hidden Hunger in South Africa: the faces of hunger and malnutrition in a food-secure nation' (2014) available at http://www.oxfam.org/grow (accessed on 12 May 2019). [Hereafter Oxfam].

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issues…education…we are not seeing any big wins anywhere'.[23] There is a myriad of socio-economic factors contributing to the food security crisis. Therefore, this study takes the nuanced approach of highlighting the social inequalities of accessing the food system through the lens of female students and their challenges in achieving food security.

In analysing the gendered dimensions of food security, it is necessary to define who constitutes 'female students' in this study. In applying a radical socialist approach, this study recognises difference to mean that every perspective is socially situated. The purpose of this view is to account for the intersectional experiences of female students in South Africa, who alike have difficulties in realising their right to food, but conversely faces an array of individual challenges resulting from sexist, racist and classist realities. To this end, it argues for an inclusive definition of 'female students' including those who identify with the female gender.

To elaborate on 'gender' it is defined as a social construct of what a man or woman is and then what their interests and experiences should be based on this distinction.[24] The dismantling of gender inequality is at the very core of this research. It asks for equality, not in the narrow sense of women being equal to men, but rather, the removal of all discriminatory barriers that prevent anyone from living a full life. Fraser has argued that 'the problem of inequality is one of discrimination, and by removing discriminatory barriers these talented, individual women can go as high as men'.[25] In understanding the multiplicity of vulnerabilities experienced by women, this study

[23] Oxford T 'The Complex Insecurity of Hunger in South Africa' (2018) available at https://mg.co.za/article/2018-10-26-00-the-complex-insecurity-of-hunger-in-south-africa (accessed on 11 May 2019).

[24] The use of the word gender and 'women' in this thesis comprises of those who are biologically female and those who identify with the female gender in the broad sense, understanding gender to be a societal construct.

[25] Schickert C 'Feminism in Neoliberal Times: An Interview with Nancy Fraser' (2019) Global Dialogue, Magazine of the International Sociological Association' available at http://globaldialogue.isa-sociology.org/feminism-in-neoliberal-times-an-interview-with-nancy-fraser/ (accessed on 27 April 2019). [Hereafter Schickert].

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demonstrates the limited capacity of formal equality through a gendered lens. It suggests that substantive equality is necessary in recognising the apartheid and patriarchal structures that have manifested into sexiest, racist and classist inequality that many women are subjected to. For this reason, this study employs radical feminism, particularly the socialist tenets in recognising difference and inequality.

As this study aims to promote gender equality, South Africa's National Policy Framework for Women's Empowerment and Gender Equality (Gender Policy Framework) should be integrated into any policy or programme aimed at promoting gender equality, including policies targeting poverty and food insecurity. While the Gender Policy Framework has been incorporated into many government initiatives including school feeding schemes; increasing child support grants; supporting pregnant women; providing access to water; and community food gardens, no consideration has been given to female students and their food security concerns within institutions.

1.3 Problem statement

Although there is no explicit report or research indicating the specific struggle that female students at tertiary institutions in South Africa face in accessing food security, there is a body of research indicating the link between gender equality and food security and this study wishes to analyse these findings in relation to female students.[26] It identifies the problems women face in trying to access food on campuses and indicates how women are disproportionately affected in comparison to their male counterpart.

As there is no national legislative framework on the right to food, this creates a lack of responsibility and poor oversight mechanisms. A national integrated

[26] While there has yet to be research conducted on the specific gendered dimensions of food security at tertiary institutions in South Africa, studies have identified the link between gender equality and food insecurity. This study is aimed at highlighting these links and addressing the gaps identified.

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response is necessary for stipulating how the right to food is to be progressively realised, which governmental departments are accountable and to what extent other non-state actors are mutually responsible. There have been numerous policies and programmes aimed at reducing food insecurity which have been almost wholly inefficient.[27] One of the biggest hindrances has been that accessing food security is directly influenced by the realisation of other socio-economic rights and systems. As such, it requires a coordinated response from all spheres of government, human rights institutions, tertiary institutions, the private sector and civil society. It is clear that the multifaceted issue of food security requires a concerted effort in gathering the information and expertise necessary to provide long term sustainable solutions. This was identified as this first crucial step in addressing food insecurity needs of marginalised communities.[28]

While unemployment is rife across South Africa, women are often met with a harsher reality when trying to gain economic freedom as gendered divisions of labour are still at the core of many social structures and cultural practices in South Africa.[29] Women are still seen as mostly responsible for the care of others and where women do find employment, it is often disproportionate to their male counterpart in terms of recognition and remuneration.[30] Many women still find employment in the informal sector where labour is often exploited or unfairly compensated.[31] For female students who are not yet able to find employment, they are at a higher risk of not completing their studies due to a lack of basic resources, and as such, poverty is a perpetuating cycle.

[27] This includes the National Food Security and Nutrition Policy of 2014, the Integrated Food Security Strategy of 2002, the National Development Plan 2030, Zero Hunger Programme of 2012 and the Fetsa Tlala Production Plan of 2013.

[28] National Colloquium on Access to Food for Students in South African Tertiary Institutions (2018) hosted by the Dullah Omar Institute at the University of the Western Cape.

[29] South African Human Rights Commission *Research Brief on Gender and Equality in South Africa 2013-2017* (2017) 14. [Hereafter SAHRC Research Brief].

[30] Goldblatt B 'Gender, Poverty and the Development of the Right to Social Security' 10 (2014) *International Journal of Law in Context* 4 460. [Hereafter Goldblatt].

[31] Goldblatt (2014) 471.

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Succinctly stated by Adeniyi, 'what use is an education on an empty stomach? And how does one guarantee a full stomach in the future without an education? The two are not mutually exclusive'.[32]

Another concern is the lack of employment opportunities. Currently, there are 6.1 million unemployed youth (age 15 to 34) in South Africa.[33] This situation is worsening as unemployment is on the rise. In their most recent report, Statistics South Africa (hereafter Stats SA) noted the alarmingly high rate of unemployment currently sits at 29.1 percent, the highest it has been since it started measuring unemployment statistics in 2008.[34] Interestingly, the unemployment rate for women sits at 29.5 percent compared to 23.5 percent for men – since 2011 the rate of unemployed women has consistently outweighed the rate of unemployed men.[35]

As many students are unemployed and are from low-income households, they are mostly reliant on support from NSFAS. Studies show that NSFAS has many internal challenges such as resource and capacity concerns, often resulting in delayed payment to students.[36] It is also evident that while NSFAS covers most of the students' tuition and accommodation, little to no money is subsidised for living expenses.[37] Therefore, students receiving financial aid

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[32] Adeniyi O 'Food insecurity among students a lingering affect-effect of apartheid' (2018) available at https://www.iol.co.za/capetimes/opinion/food-insecurity-among-students-a-lingering-after-effect-of-apartheid-16057030 (accessed on 4 July 2019). [Hereafter Adeniyi].

[33] Omarjee L 'SA's unemployment crisis in numbers' (2018) available at https://www.fin24.com/Economy/Labour/News/sas-unemployment-crisis-in-numbers-20181001 (accessed on 15 May 2019). [Hereafter Omarjee].

[34] Statistics South Africa 'Discouragement decreases and unemployment increases in the second quarter of 2019' (2019) available at http://www.statssa.gov.za/?p=12376 (accessed on 30 October 2019).

[35] Omarjee (2018). Another interesting statistic is the demographic within the category of women. An astounding 45.9% of black female youth are unemployed, by far the highest among all population groups but equally alarming is the 36.3% of unemployed Asian/Indian female youth and 36.1% of coloured female youth.

[36] Sabi S et al 'Complexities of Food Insecurity at the University of KwaZulu-Natal, South Africa: a Review' (2018) available at http://www.researchgate.net/publication/329239794 (accessed on 2 November 2019). [Hereafter Sabi et al].

[37] Sabi et al (2018).

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are still unable to meet their food security needs. Another study also shows that even when students do receive bursaries the funds are often used to support their families. Many students' guardians also live on social grants in South Africa, where a portion is used for tuition or other expenses, leaving nothing for food.[38]

However, the reality is that even after completing tertiary education, South Africa still lacks the infrastructure to provide everybody with a decent paying job, leaving many still reliant on social assistance. There is a gap in social security mechanisms for unemployed students. As mentioned above, the Department of Social Development does not provide social protection for unemployed people from 18 to 59 years of age. There have been rumours of a basic income grant since the development of the Constitution but nothing has come to fruition. This study will highlight the need for better social protection mechanisms, particularly for students. One of the critical challenges also identified is the number of the female students with children who are dependent on a financial aid through NSFAS and child grants. The percentage estimated as drawn from one of the studies is 22.8 percent.[39]

In dealing with food insecurity, unique coping mechanisms were found to be used by female students. This includes jointly contributing towards monthly groceries and students buying food storage items and stoves together.[40] A more concerning coping mechanism are reports of transactional sex for financial and/or material gain. A report indicated that 3 percent of students have resorted to these measures, however, there are many reservations

[38] Sabi et al (2018).

[39] South African Higher Education Colloquium: Food Insecurity (2015) hosted by the University of the Free State.

[40] National Colloquium on Access to Food for Students in South African Tertiary Institutions (2018) hosted by the Dullah Omar Institute at the University of the Western Cape. The Commission on Gender Equality noted that it has gained considerable insight into the dynamics of food insecurity at tertiary institutions and welcomed further investigations into this issue.

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regarding this finding due to the lack of sufficient evidence.[41] While there is some contention, it cannot be disputed that female students who are food insecure and must find other ways to make ends meet are more susceptible to dangers such as sexual abuse, unwanted pregnancy and gender-based violence.

At present, reports show that the strongest indicator of food insecurity in tertiary institutions is race - a recent study reported that at the University of the Free State, 24 percent of white students in comparison to 79 percent of black African students were found to be food insecure in 2013.[42] While this indicates the racial dimensions of food insecurity at tertiary institutions, it is necessary for similar research to identify the gendered dimensions of food insecurity experienced by female students in order to address their specific needs.

It is clear that hunger in South Africa's tertiary institutions is an 'invisible crisis'[43] and should be regarded as a national concern seeking urgent attention. Even more invisible and concerning are the gendered dimensions of food insecurity experienced by female students who are provided insufficient protection and access in achieving food security, this poses the following questions.

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1.4 Research questions

The following research questions are necessary in fulfilling the aims of the study:

i. What is the link between gender inequality and access to food for female students in tertiary institutions?

[41] Dullah Omar Institute 'The Challenges of Hunger Among Students in Higher Education in South Africa' (2018) available at https://dullahomarinstitute.org.za/news/nsfas-at-the-helm-of-student-hunger-at-universities (accessed on 2 July 2019).

[42] Devereux (2018).

[43] Devereux (2018).

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ii. Can a gendered approach to the development of food security policies help address the food crisis in South African tertiary institutions?

iii. Does South African law sufficiently protect the right to food of female students in tertiary institutions?

iv. What obligation does the state have in realising the right to food of female students at tertiary institutions?

1.5 Preliminary literature review

In reviewing relevant literature it is evident that very little research has been conducted on food insecurity at tertiary institutions, much less the experiences of female students. The concept of what the right to food entails is still being conceptualised and so this allows for much interpretation of the literature conducted on food systems, policies, and practices. As this study uses a feminist critique, it highlights the complexities in achieving food security for marginalised communities. It chews over gaps in literature where the link between gender inequality and food security has been made, but where issues relevant to female students' access to food in South Africa has not been adequately addressed.

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WESTERN CAPE

Much of the research on gender in relation to food security has looked at women's roles in relation to agriculture and production. This displays the role women play in the availability of food resources. While this research is necessary, it offers very little recourse in addressing the social inequalities that limit women's ability to access to food. Lewis notes that it is a 'predictable irony' that more knowledge has been generated on prioritising agricultural production in a globalised food system as opposed to uncovering the deep-rooted injustices created by the system.[44] A similar view is observed by Fraser who elaborates on neo-liberalism as 'assaulting social welfare' suggesting that

[44] Lewis D 'Gender, feminism and food studies' (2015) 24 *African Security Review* 4 3 available at http://dx.doi.org/10.1080/10246029.2015.1090115 (accessed on 17 March 2019). [Hereafter Lewis].

http://etd.uwc.ac.za/

not accessing the system is not the problem; but rather the entire system is the problem.[45] This view is central to the analysis of this study.

Therefore, it looks to delve into the political, socio-economic and cultural systemic structures preventing female students from accessing the right to food and by effect their equal participation and contribution to society. By exploring the tenets of radical socialist feminism, this study will highlight gaps in the gendered dimensions of food security studies. It does not merely seek to identify female students as a marginalised group but rather to address how and why they bear the brunt of South Africa's food crisis.

Collins, in observing black feminism has noted the importance of understanding social realities from the perspective of the people; she recognised this as 'seeing from below'.[46] This view is applicable in the South African context, while all women experience some level of discrimination; there are also intersecting inequalities often resulting in some women being more marginalised than others. Therefore, in looking at female students and their specific challenges, this will allow for relative and effective policy solutions. Similarly, Hudson has observed that a feminist perspective on social justice and security allows for an 'inclusive bottom up approach' that addresses the structural causes of insecurity.[47] While this acknowledges the importance of meaningful engagement with those affected by policy redress, this has proven difficult to achieve. For this reason, this study aims to identify the unique experiences and barriers faced by female students in accessing the South African food system in an attempt to arouse conversations and actions on this matter, leading to possible solutions aimed at addressing gender inequality and food insecurity issues.

[45] Schickert (2019).

[46] Collins P *Black feminist thought: knowledge consciousness, and the politics of empowerment* 2 ed (2000) 251.

[47] Hudson H 'Doing Security as Though Humans Matter: A Feminist Perspective on Gender and the Politics of Human Security' (2005) 36 *Security Dialogue* 2 155. [Hereafter Hudson].

http://etd.uwc.ac.za/

Central responses to the food system highlight inequalities such as the unequal distribution of input resources; power relations between traditional authorities and local citizens; and the working conditions for women as food producers and consumers. However, little consideration has been given to the deepening dangers of a neo-liberal capitalist system and the effects on women's food security. The system directly contributes to the development of poverty, racism and sexism as free market capitalism only benefits those who have access to the market - mostly excluding black, poor women.[48] Mthethwa (Gogo Qho) critiques the entire food system and claims that 'it is governed by imperatives other than the person consuming it'.[49]

Interestingly, Fraser reviewed the development of feminism in neo-liberal times, specifically looking at ideologies on redistribution versus recognition. She brilliantly draws parallels between the development of feminism and capitalism simultaneously. Fraser outright calls for a 'course correction' of the feminist agenda and controversially criticises liberal feminist thinking for colluding with capitalist and essentially patriarchal structures.[50]

While this research recognises that the structure of the capitalist system will not be undone, it contributes to the call for a different economic system where its accessibility is not dependent on gender, race or class. A first in South Africa, the Food Sovereignty Campaign calls for the transformation of the current food system whereby it asks the state to 'reposition the constitutional right to food'.[51] This invites attention to power and resource distribution looking at who is accountable for food security and who can access the food system. Looking at female students, they are receiving a disproportionate

[48] Mupotsa D 'Agenda Empowering women for gender equity, Food challenges: Feminist theory, Revolutionary Practice' (2016) available at http://doi.org/10.1080/10130950.2017.1350528 (accessed on 12 March 2019). [Hereafter Mupotsa].

[49] Mupotsa (2016).

[50] Schickert (2019).

[51] Lewis (2015) 7 .

http://etd.uwc.ac.za/

amount of economic resources in relation to the food system they are trying to access. As a largely, poor, unemployed group with limited food resources, they are reliant on supermarkets and private food companies on campuses for food where corporate monopolisation allows for exorbitant food prices and poor food choices. Alike to Sachs who argues for a feminist food sovereignty model, this study will observe the social and individual effects of the current food system through the lens of female students and argue for the transformation of the current food system.[52]

Similarly, Reddy observed the social dimensions of food security in highlighting how, where and when food is prepared in South Africa.[53] He demonstrated the intersectional effects of gender, race and class on food security. While this aptly broadened the scope of social factors contributing to the food system, this study wishes to examine how female students deal with these social factors in trying to attain food security.

Though tertiary institutions certainly have a role to play in providing food security for its students, 'financially-strapped universities'[54] face many capacity and resource constraints and so their participation is only part of the solution. There have been many initiatives created by institutions in an effort to reduce food insecurity, mostly in the form of food gardens or food banks. While these short-term solutions are commendable, they do not address the underlying factors of food insecurity. The Gender Equity Unit at the University of the Western Cape, in an effort to address gender and other injustices on campuses, also runs a food donation programme. While this will not end food insecurity among students at tertiary institutions, this

[52] Sachs C (2013) 'Feminist Food Sovereignty: Crafting a New Vision' Agrarian & Environmental Justice, Food Sovereignty – A Critical Dialogue Conference Papers available at https://www.tni.org/en/briefing/feminist-food-sovereignty-crafting-new-vision (accessed on 1 November 2019). [Hereafter Sachs].

[53] Reddy V 'Agenda Empowering women for gender equity, Food challenges: Feminist theory, Revolutionary Practice, Masculine Foodways in two South African cookbooks: *Springbok Kitchen* (2012) and *Braai* (2013)' (2016) available at http://doi.org/10.1080/10130950.2017.1304624 (accessed on 12 March 2019).

[54] Adeniyi (2018).

http://etd.uwc.ac.za/

programme also educates students on the broader socio-economic inequalities of the food system and the responsibilities of the government and non-state actors on realising the right to food.

The private sector as being bound by the Constitution, has to respect human rights, and certainly has a role to play in relation to their social responsibility, considering the weight they carry in the food system. It was noted that 'they are the end beneficiaries of the majority of graduates'[55] and as such have a role to play. However, their interests are often profit driven and while their contribution is necessary, it is also only part of this solution.

The development of feminist security studies has provided a different dimension into the relationship between social security and politics in looking at who is mutually responsible. In relation to the right to food security, this study highlights the shortcomings of social protection and reinforces the idea that security and politics are meant to serve 'citizens rather than governments, corporations, or politicians'.[56] Hudson correctly observed that 'human security coexists uneasily with national security'.[57] Consequently, this study aims to further develop and contribute to feminist food security studies.

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To this end, after examining the relevant literature, this study argues that although there has been some contribution to the development of the gendered dimensions of food security, no real consideration has been given to the experiences of female students at tertiary institutions in South Africa. Therefore, this study aims to address this much needed area of research in South Africa's food security discourse.

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[55] Adeniyi (2018).

[56] Martin J et al 'Feminist Security Theorizing' (2018) available at https://oxfordre.com/internationalstudies/view/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-437 (accessed on 28 June 2019).

[57] Hudson (2005) 155.

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1.6 Research methodology

This study will be in the form of a desk-top literature review. It will analyse primary sources such as international and regional instruments and South Africa's domestic laws and policies. Due consideration will be given to the extent of gender sensitive approaches and feminist perspectives within the legislation and policies, aimed at promoting gender equality and food security in South Africa.

In addition, this study will observe secondary sources including but not limited to books, journal articles, reports and internet sources in expanding research in areas of feminist theories in relation to the gendered dimensions of food security studies.

1.7 Limitations of study

In highlighting gender inequality, this study narrowly looks at female students' access to food and therefore, does not account for the male student experience. It also looks at the conceptualisation of food as a right; the lack of food related legislation and effective policies; the lack of responsible actors; and the gaps in the gendered dimensions of policymaking in South Africa. Therefore, it could be said that this research is limited to the conceptual interpretations of our current food system and exposing South Africa's insufficient accountability and protective mechanisms, instead of providing practical findings on how to increase the productivity and availability of food. This study is also lacking empirical data as food insecurity at tertiary institutions is severely under researched. Lastly, the right to food as a justiciable right is still in its infancy as it is the only socio-economic right yet to be litigated on in the South African courts. Therefore, there is limited jurisprudence on this right and so this study will look at how other jurisdictions have dealt with the right to food and how domestic courts have interpreted food related and other socio-economic rights related cases.

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1.8 Research objectives/aims

The aim of this study is to emphasise the important link between gender inequality and food security in reviewing whether female students right to access to food is sufficiently protected under South African law. It will also indicate that there has been too much focus on agricultural production and scientific advancements and insufficient research on analysing the structural power imbalances and inequalities – as dominant contributing factors of food insecurity. It will apply a feminist perspective in looking at the factors that make it difficult for female students to access the current food system.

The strategic objective of this study is to make meaningful, progressive and realisable recommendations to government, institutions and other stakeholders in demonstrating that a better understanding of the gendered dimensions of food can be used to achieve gender equality and food security through appropriate policy implementation.[58] It argues that food insecurity will persist until the specific needs of all marginalised groups are addressed. It suggests ways of improving state accountability and argues that it is the collective responsibility of institutions, industries and individuals in transforming our current food system. South Africa is unlikely to achieve the ambitious SDG goal 2 - reducing poverty and achieving zero hunger, unless food security is made a priority through the development of national legislation, backed by effective policy, necessary budgetary allocation and the political will.

1.9 Chapter synopsis

This study will contain six chapters.

[58] FAO Discussion paper SP5 *Food Security, sustaining peace and gender equality: conceptual framework and future directions* (2017).

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Chapter one - will include the proposal for this study. It will introduce the topic, research problem and limitations as such. This chapter provides an explanation of the research claims and the unique contribution of this study.

Chapter two - aims to conceptualise the use of feminist legal theory underpinning this study. It will engage with radical feminist theory which is centred on recognising difference and dominance between women and men. It will also explore the socialist branch of radical feminism, which focuses on economic and cultural structures perpetuating women's oppression. This chapter will also examine postmodern theory, focusing on its tenets of intersectionality and non-essentialism in understanding the varying needs of women in accessing their right to food. Much attention will be paid to patriarchal power structures, unequal distribution of resources and neo-liberal practices. Lastly, it will briefly explore the private dimensions of women's experiences of food, specifically identity and pleasure, in better understanding how access to food affects women's agency.

Chapter three - will elaborate on the development of the normative legal framework on the right to food in general and women's access to food in particular. It will analyse the extent of protection afforded by international and regional instruments and how it has translated into domestic legislation and policy, arguing that it has been wholly inefficient in realising the right to food. It will critically analyse the extent of gendered considerations within the relevant legislation and policies and address the gaps as such. Moreover, it will also look at how the right to food has been litigated on in other jurisdictions and the application of food related and other socio-economic rights cases in the South African courts. Finally, this chapter will interrogate the current food system within the broader economy, its gendered dimensions and the movement toward a food sovereignty model.

Chapter four - will delve into the link between gender inequality and food security by exploring female students' access to food and economic resources available to them. It will also highlight the specific issues of how food

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insecurity disproportionately affects women and the unique challenges they face by looking at the dangers and implications of trying to make ends meet. It will then explore the potential of a transformative food system in tertiary institutions.

Chapter five - will highlight the extent of government responsibility and the obligations and roles of other non-state actors in realising the right to food in South Africa. This chapter will highlight the complexity of achieving food security and the importance of a national coordinated approach from all stakeholders.

Chapter six – to conclude, this chapter will provide useful recommendations and remarks on the way forward in achieving gender equality and food security in South Africa.

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CHAPTER TWO

THE FEMINIST THEORETICAL FRAMEWORK UNDERPINNING THIS STUDY

The world's most pervasive manifestation of discrimination affects fully half of humankind: women and girls.[59]

2.1 Introduction

This study is looking at the link between gender inequality and food security among female students at tertiary institutions in South Africa. It suggests that a gendered approach to the development of food security policies could help address the food crisis on campuses and larger society. This chapter aims to conceptualise the use of feminist legal theory underpinning this study. It will explore the triple layers of sexist, racist and classist discrimination that South African women face. Moreover, it will highlight how this discrimination disproportionately affects women's agency in relation to accessing food systems, ultimately making them more vulnerable to food insecurity.

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This study is framed within an overarching feminist critique. It will engage with concepts of radical feminist theory, centred on recognising difference and dominance between women and men. Taking a radical socialist approach, it examines economic and class structures such as capitalism and neo-liberalism as patriarchal, which directly limits accessibility to the food system and its resources, thus perpetuating women's oppression and increasing gender inequality.[60] This chapter will also observe difference through the postmodern principles of intersectionality and non-essentialism, in examining

[59] United Nations Secretary-General Guterres A Opening Speech at the 2019 #UNGA General Debate.

[60] Fraser N 'Feminism, Capitalism, and the Cunning of History' 56 (2009) *New Left Review* 100. [Hereafter Fraser].

http://etd.uwc.ac.za/

the intersection between gender and other categories of difference in relation to women's particular needs in accessing food security.

This study argues that food security studies have been mostly insufficient in identifying the nuances of the food security paradigm in South Africa due to ignoring the experiences and needs of the most important food provider – women. Subsequently, food policies lack gendered considerations of the social, economic and cultural influences of the food system and fail to provide sufficient protection to those most vulnerable to food insecurity. To this end, this feminist critique allows for an assessment of food policies, practices, systems and structures through the lens of female students at tertiary institutions, displaying the need for alternative approaches to addressing the food crisis and the particular needs of women.

2.2 Definitions and concepts

As this study considers the gendered dynamics of food security studies, it is necessary to define who constitutes 'female students' and elaborate on what 'gender' means. It will also justify the use of feminist perspective applied in this study. The term 'female students' includes women who are enrolled at a tertiary institution of higher learning in South Africa, from 18 to 25 years of age. It argues for an inclusive definition of 'women' including all people who identify with the female gender, which is elaborated on below.

2.2.1 Sex and gender distinction of 'women'

The sex and gender distinction is relevant for two reasons. First, to understand that this study promotes inclusivity of all of those who identify with the female gender when referring to women and female students; then secondly, to indicate how understanding this distinction and subsequent gender stereotypes have permeated every facet of daily life. As such, feminism has developed in relation to addressing these gendered inequalities and stereotypes.

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Feminism can holistically be understood as 'reassessing all facets of existence from the perspective of women'.[61] Chinnian says this notion is particularly important when looking at institutions and systems and how women were historically excluded from their development.[62] However, in the current patriarchal society, feminism is most commonly understood to be a movement to end women's oppression.[63]

While liberating women from oppression is a shared view amongst feminists, many have understood the term 'women' differently; either as the female 'sex' which is based on biological factors and reproductive organs or the female 'gender' which is used to define women through social and cultural constructions such as appearance, behaviour and identity. While sex and gender are terms often used interchangeably, the distinction was created for various reasons, primarily, to reject the idea of biological determinants.[64] Biological determinism views behavioural differences as strictly biological where many feminists have argued that differences are rather socially and culturally constructed. Relevant here is the idea that women are biologically responsible for providing food and other nurturing capacities as they have the unique ability to give birth and breastfeed. The existentialist de Beauvoir claimed that 'one is not born, but rather becomes a woman' and that 'social discrimination produces in women moral and intellectual effects so profound that they appear to be caused by nature'.[65] In making this distinction, it allows for the argument that since these differences are socially constructed, they can then be deconstructed. Similarly, Nicholson noted that if the

[61] Chinnian K 'Gender Persecution as a Ground for Asylum in South Africa and Canada: Reconceptualising a Theoretical Framework for Assessing Refugee Claims by Women' (Unpublished thesis, UWC, 2014). Chinnian comparatively defines feminism in a gender neutral sense and then in a male-centred society. [Hereafter Chinnian].

[62] Chinnian (2014).

[63] Stanford Encyclopedia of Philosophy 'Feminist Perspectives on Sex and Gender' (2017) available at https://plato.stanford.edu/entries/feminism-gender/ (accessed on 17 September 2019). [Hereafter Feminist Perspectives on Sex and Gender].

[64] Feminist Perspectives on Sex and Gender (2017).

[65] De Beauvoir S *The Second Sex* (1949 originally and translated in 1972) 18.

http://etd.uwc.ac.za/

biological idea of sex always underpins gender, it would mean that differences between men and women are entrenched in sex, making this distinction irreversible.[66] It is evident that this is not the case and therefore this study supports the distinction of sex and gender constructions.

Rubin also emphasises that the distinction is useful in highlighting the nature of the differences attached to genders, which are often oppressive and discriminatory toward women.[67] Lloyd argues that oppositional genders and terms result in one term always being superior to the other and the devalued term is usually associated with women.[68] In addressing social and cultural differences perpetuating women's oppression, the distinction is also critical when seeking justice and redressing gender discrimination.

While the sex and gender debate is highly contested, for the purposes of this study, the category of women and female students is inclusive of those with female sex organs as well as those identify with the female gender. All of whom are susceptible to women's gendered stereotypes and subsequently, gender inequality. Although this study is cautious of essentialising the experiences of 'women' it recognises the need to identify who this research is regarding. Alcoff notes that some 'feminists aim to speak … in the name of women, at the same time rejecting the idea that there is a unified category of women'.[69] In taking a feminist approach to law reform and gender-sensitive policies, it highlights how this differentiation and discrimination ultimately leads to women having less access to their rights and less opportunity to equally participate in society.

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[66] Nicholson L 'Interpreting Gender' (1994) 20 *Journal of Women in Culture and Society* 1 81.

[67] Rubin G 'The Traffic in Women: Notes on the "Political Economy" of Sex' in Reiter R *Toward an Anthropology of Women* (1975).

[68] Lloyd G (ed) 'The Man of Reason: 'Male' and 'Female" in *Western Philosophy* 2 ed (1993).

[69] Alcoff L *Visible Identities* (2006) 152.

http://etd.uwc.ac.za/

2.2.2 Gender equality

In establishing a link between gender inequality and food security, this study argues that developing transformative feminist considerations to food policies will help alleviate the food crisis and well as achieving gender equality. Therefore, it is necessary to define 'gender equality' in this context. The Constitution was created on the principle of equality, amongst others as an attempt to redress its historically divided past which witnessed gross violations of human rights on the basis of sex, race and class in the apartheid system.[70] It criminalises all forms of discrimination by explicitly stating in Section 9[71]:

> 1) Everyone is equal before the law and has the right to equal protection and benefit of the law.
> 3) The state may not unfairly discriminate directly or indirectly against anyone on one or more of the following grounds, including race, gender, sex, pregnancy marital status, ethnic or social origin, colour, sexual orientation, age, disability religion, conscience, belief, culture, language and birth.

Relevant here are the grounds of sex and gender. This provision suggests that any legislation, policy or state practice should not directly or indirectly discriminate against someone on the grounds of sex and gender. Legislation was largely created from a male perspective and has only in recent decades begun development toward inclusivity appearing to be gender neutral. MacKinnon cautions against provisions that appear to be gender neutral and objective as they often still fail to recognise the specific needs of women as neutral is often actually the male 'norm'.[72] Many of these 'gender neutral' policies are still ineffective in reducing inequality as they still fail to address specific challenges and difference amongst women. For that reason, this study is aimed at recognising the particular needs and experiences of female students at tertiary institutions in South Africa, who are in need of targeted

[70] The Constitution.

[71] Section 9 of the Constitution.

[72] MacKinnon C 'Feminism, Marxism, Method and the State: Toward Feminist Jurisprudence' (1983) 8 *The University of Chicago Press* 4 640 available at https://www.jstor.org/stable/3173687 (accessed on 13 May 2019). [Hereafter MacKinnon].

http://etd.uwc.ac.za/

redress policies aimed at alleviating the triple burden of sexism, racism and classism in promoting gender equality.[73] In South Africa and Africa at large, when looking at women's struggles, it is necessary to understand the historical context of their development. African feminism was created by African women aimed at addressing the specific needs and conditions of African women. While it does not seek to 'essentialise' African women as a collective, it is aimed at reflecting on the experiences of African women whose struggles are different to those of white western women. Nkealah argues that African feminism 'strives to create a new, liberal, productive and self-reliant African woman within the heterogeneous cultures of Africa'.[74] Ultimately, it is aimed at becoming an 'instrument for the empowerment of African women'.[75] While the critical race theory is not formally engaged with in this study, the underlying framework of examining race, law and power in relation to social and economic structures is used to highlight the extent of inequality in South Africa.

In understanding the application of 'equality' in this study, Rawls conceptualises equality in a two-principle approach, the first principle being that people are equal, and as such should enjoy equal opportunities (formal equality), and the second principle, equity, is based on individual differences resulting in inequality and requiring specific redress (substantive equality).[76] In suggesting a unique approach, this study states that equity should be viewed as the vehicle used to achieve equality. It recognises that throughout history certain categories of people, including women, have been previously disadvantaged and so mechanisms should be put in place to level the playing field so they can also have the equal opportunity to participate in everyday

[73] Akala (2018) 226.

[74] Nkealah N 'Conceptualising Feminism(s) in Africa: The Challenges Facing African Women Writers and Critics' English Academy Review (2006) 23 *A Journal of English Studies* 134 available at http://doi.org/10.1080/10131750608540431 (accessed on 27 November 2019). [Hereafter Nkealah].

[75] Nkealah (2006) 135.

[76] Rawls J *Theory of Justice* (2009) 85. In Theory of Justice Rawls does not use the term 'gender', though there is a mention about the category of 'distinctions based on sex'.

http://etd.uwc.ac.za/

life. When looking at the future of Africa's development, Annan claimed that 'gender equality is more than a goal in itself. It is a precondition for meeting the challenge of reducing poverty, promoting sustainable development and building good governance'.[77]

In looking at the domestic court's interpretation of gender equality, it has proven to be a complex term with varying applications and considerations of the sex and gender distinction and gender stereotypes. The case of *President of the Republic of South Africa and Another v Hugo* dealt with the issue of sex and gender discrimination, and also looked at the interpretation of gender stereotypes.[78] It was regarding then that the late Nelson Mandela decided to grant a special remission of sentence to mothers of young children on the basis of them being regarded as caregivers. The respondent applied to the High Court and eventually the Constitutional Court to have the Presidential Act declared unconstitutional as it unfairly discriminated on the grounds of sex against him as a father, and caregiver, of a young child. The court held that the Presidential Act was unconstitutional and gave ex-President Mandela six months to correct the Act.

Goldstone J's judgment supported this view that men are also caregivers of young children. He also went on to state that '[t]he result of being responsible for children makes it more difficult for women to compete in the labour market and is one of the causes of the deep inequalities experienced by women in employment'.[79] Kriegler J disagreed on the basis of how the majority applied the equality clause to the facts of the case but also criticised the Presidents release of only mothers of young children, reinforcing the gender stereotype that women are to be regarded as the caregivers.
He claimed that:

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[77] Annan K at the Conference on African Women and Economic Development in Addis Ababa (1998). He emphasised women's important role in building a new Africa.

[78] *President of the Republic of South Africa and Another v Hugo* (CCT11/96) [1997] ZACC 4; 1997(6) BCLR 708; 1997 (4) SA 1(CC). [Hereafter Hugo case].

[79] Hugo case para 38.

http://etd.uwc.ac.za/

> It is both a result and a cause of prejudice: a societal attitude which relegates women to a subservient, occupationally inferior yet unceasingly onerous role. It is a relic and a feature of the patriarchy which the Constitution so vehemently condemns. Section 8 and the other provisions mentioned above outlawing gender or sex discrimination were designed to undermine and not to perpetuate patterns of discrimination of this kind… Reliance on the generalisation that women are the primary care givers is harmful in its tendency to cramp and stunt the efforts of both men and women to form their identities freely.[80]

Therefore, the judgment failed to address the social reality of the duties placed on women. O'Regan J remarked 'to determine whether the discrimination is unfair it is necessary to recognise that although the long-term goal of our constitutional order is equal treatment, insisting upon equal treatment in circumstances of established inequality may well result in the entrenchment of that inequality'.[81] It is clear how even amongst legal experts and the late Mandela, well versed in the notion of equality - gender inequalities and gender stereotypes are completely ingrained into our views of society and women's roles as nurturers. To this end, this study aims to strike a balance between recognising women as food providers without reinforcing this stereotype.

2.2.3 Feminist food politics

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It is logical then why some feminist scholars steer away from food as a feminist debate, mostly on the basis of it enforcing gendered roles of women as nurturers. Their argument is that recognising women as central players in food systems leads to essentialising women and overstressing their nurturing capacities.[82] While it is necessary not to blindly reinforce this stereotype, this study argues that the recognition of women's roles in the food system is crucial in achieving security and ending hunger. Sensitive to the issue of essentialising women, it is common knowledge that women have been and are still mostly responsible for food preparation and feeding others. Conran

[80] Hugo case para 80.

[81] Hugo case para 112.

[82] Van Esterik P 'Gender and Sustainable Food Systems: A Feminist Critique' in *For Hunger-proof Cities: Sustainable Urban Food Systems* (1999) 157. [Hereafter Van Esterik].

http://etd.uwc.ac.za/

suggested that the 'kitchen mirrors more effectively than any other room in the house the great social changes that have taken place in the last hundred years'.[83] It is clear that not much social change have occurred then. However, in understanding that this role has been culturally constructed and that it is not a 'natural division' of labour, this is the point of departure for this study. Therefore, this study is centred on rejecting the stereotype that the female gender are 'naturally' nurturers when it is in fact a gendered construction.

In balancing the recognition of women's importance in the food system and the construction of their nurturing capacities, it is important to understand their social realities from their perspectives. Lewis noted that feminist human security seeks to 'interrupt dominant bodies of knowledge' and that 'the givens of our world are defined by the vantage points of those who do the defining'.[84] This research aims to highlight the contextual importance of women's experiences from their perspectives. In looking at women's relationship with food, it is necessary to understand what hunger means from their point of view, the challenges they face in achieving food security, and then to create and implement policies and measures specifically designed to address these issues.

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2.3 Private dimensions of women's experiences of food

In broadening the scope of feminist food security, this study briefly examines the private dimensions of women's experiences of food. It encourages a holistic understanding of food beyond consumption for nutrition looking at the connection between food and identity; the relationship between food and

[83] Meah A 'Reconceptualising power and gendered subjectivities in domestic cooking spaces' (2014) 38 *Progress in Human Geography* 5 680 available at http://doi.org/10.1177/0309132513501401 (accessed on 2 November 2019).

[84] Lewis (2015) 7-10. She goes on to define these vantage points as 'peripheral traditions of knowing can be thought about as oppositional and dynamic bodies of knowledge that contest changing local patriarchal authorities, elite driven economic policies and practices, and global commodity capitalism. Exploring and analysing local bodies of knowledge, especially those developed by women, would allow us to understand the complex livelihoods and food acquisition strategies that certain groups and individuals develop – despite their apparent entrapment in deprivation and poverty'.

http://etd.uwc.ac.za/

pleasure; and how women's access to food affects their agency and continued struggle in food politics. It looks at how women's' intersecting differences overlap with their food experiences.[85] In other words, this study will explore the effects of 'control and access to resources and around the representation and ascription of identities'.[86]

Lewis suggests that local knowledge systems, particularly those of women, are important sources of intervention, as they 'disrupt the hegemony of capitalist, state-driven, elite and often patriarchal knowledge…as they are not driven from above'.[87] It also provides insight into the use of resources within local environments, unique coping mechanisms and specific needs of marginalised communities. As feminist food studies are emerging with a more holistic, sensual rhetoric, this paves the way for food to be understood beyond its nutritional value, and also the larger impact it has on human behaviour, identities and pleasures.

2.3.1 Identity

Food has long been associated with culture and identity, where you find different societies with their preferred meals and methods of cooking. Food experiences vary according to circumstances. Sachs shows that recent feminist food studies confront varying struggles which are multifaceted and include 'certain middle-class food consumers' efforts to eat well, women farmers' resistance to corporate monopolisation…resistance to food in the form of anorexia or bulimia…representations of 'good food', and 'cooking' in struggles for individual…autonomy'.[88] This highlights the many identities and

[85] Cho et al 'Toward a Field of Intersectionality Studies: Theory, Applications and Praxis' (2013) 38 *Theorising Power, Empowering Theory* 3 787. [Hereafter Cho et al].

[86] Hayes-Conroy A and Hayes-Conroy J 'Visceral Difference, Feelings and Social Boundaries in Slow Food' in Hayes A *Bodily geographies of 'slow' food: food activism and visceral politics* (2009) 462. [Hereafter Hayes-Conroy and Hayes-Conroy].

[87] Lewis (2015) 8.

[88] Sachs (2013).

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different relationships within the food system. She notes that these struggles should be crucial to an analysis that avoids stereotyping 'victims' in current food systems.[89] It is also important to consider how people's beliefs are linked to their everyday experiences of food. Patel observes these differences to be 'symptoms of a single system'.[90] Who eats or overeats is dependent on power relations, the kind of food they are eating, and many other variables.[91] There is also the less researched area of literal hunger versus emotional hunger within food studies, where food is often used to fulfil a void or 'space' in place of other needs. This highlights the direct link between eating and the social, psychological and emotional needs of human beings, indicating that food has a much larger role to play in societies than providing nutritional content.[92]

Food also has such a big role in communities, where it marks certain rituals. In looking at identities within the South African context, in the Western Cape, Baderoon conducted a study on food and cooking amongst Muslims. She looked at the way in which Muslim cuisine has been interpreted to be 'Malay' and how Muslim women challenged this false identity and created cookbooks displaying their own knowledge and the cultural relations with certain foods.[93]

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2.3.2 Pleasure

In taking a visceral approach to food studies and the everyday experiences women have with food, this includes their ideologies on food choices, the sensory pleasures of eating food, and the effects food has on their wellbeing.[94]

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[89] Sachs (2013).

[90] Patel R 'Food Sovereignty: Power, Gender, and the Right to Food' (2012) 9 *PLos Med* 6 available at http://doi:10.1371/journal.pmed.1001223 (accessed on 15 October 2019). [Hereafter Patel].

[91] Patel (2012) 6.

[92] Lewis D 'Bodies, Matter, and Feminist Freedoms: Revisiting the Politics of Food' (2016) available at http://doi.org/10.1080/10130950.2017.1328807 (accessed on 20 October 2019). [Hereafter Lewis].

[93] Baderoon G (ed) *Regarding Muslims* (2014).

[94] Hayes-Conroy and Hayes-Conroy (2009) 462

http://etd.uwc.ac.za/

This study argues that preparing and eating food is a sensual and visceral act, in allowing for a broader understanding of 'identity, difference and power'.[95] Therefore, to what extent should food politics and food pleasure overlap?

The regulation of what can or should be ingested is not new; however, the 'policing of pleasure' has mushroomed into the prohibition of many private acts including certain foods considered to be 'medicinal' or 'illegal'.[96] While this research is not concerned with the legalities of certain foods, it looks rather to what extent food is considered a form of pleasure and then further to how closely this act should be interfered with and restricted by politics, essentially by the state, in trying to regulate food activities.

Reinarman, in exploring the 'policing of pleasure' uses Huxley's exploration of hallucinogens to examine the appetite of the soul, the idea that human beings consume different substances for a purely pleasurable escape.[97] Reinarman connects Huxley's experience between the consumption of food and drugs as both pleasurable experiences, and notes that 'pleasure is something for which all humans have an appetite'.[98] He highlights the ways in which things simultaneously taste good and feel good and are sometimes enjoyed for reasons beyond nutritional sustenance.[99] Therefore, regarding women having less access to food, not only are they denied the nutritional value of food but also the experimentation of eating for pleasure. This highlights the link between food, dignity and freedom through self-exploration and consumption.

[95] Hayes-Conroy and Hayes-Conroy (2009) 463.

[96] Reinarman C 'Policing Pleasure: Food, Drugs and the Politics of Ingestion' (2007) 7 *Gastronomics* 3 53 available at http://www.jstor.org/stable/10.1525/gfc.2007/7.3.53 (accessed on 19 October 2019). [Hereafter Reinarman].

[97] Reinarman (2007) 55.

[98] Reinarman (2007) 57.

[99] Reinarman (2007) 58.

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Van Esterik argues that a woman's sense of self is directly linked to their ability to feed their families and in times of social change.[100] She notes that 'if culture inscribes bodies, it is food that leaves the clearest mark, and that mark is most often read on women's bodies'.[101] Women are also faced with external influences of what their pleasurable experiences of food should be. In a 1988 study of women's relationship with food, women suggested that women often desired food for pleasure and comfort but denied themselves because of the unacceptable weight gain that might result if they indulged.[102]

There are some feminists who have also made the connection between eating and sexuality as sensory pleasurable experiences. Probyn suggests that both eating and sexuality practices 'open ourselves into a multitude of surfaces that tingle and move' into parts 'that relate to each other following different logics'.[103] Consuming food and engaging in sexual activity are both very intimate acts, with the potential to satisfy a human need. As both acts involve the person, mind and body, everyone should be able to engage with these practices in whichever way they see fit, for nourishment, for survival or for pleasure. This holistic understanding of food should reflect in a progressive feminist food policy, as it encompasses women's ability as autonomous beings with agency and freedom.

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2.3.3 Agency

At the core of any feminist argument is the element of women's voice and autonomy. This means having complete control over their bodies, including what goes inside it. Women should know what food they are eating, what the ingredients are, where the ingredients come from, the effects it has on their bodies and then have the freedom to choose. In being denied access to food,

[100] Van Esterik (1999) 157.

[101] Van Esterik (1999) 158.

[102] Charles N and Kerr M *Women, food and families* (1988).

[103] Probyn E *Carnal Appetites: Food, Sex, Identities* (2000) 73.

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it is also clear how women are also denied the pleasure of enjoying in food. This argument supports one of the central tenets in feminism, which maintains that women's bodies are not just for reproduction and the enjoyment of others - it is recognising that women's bodies are for their own indulging too, fully capable of partaking in politics and pleasure.

In examining the extent to which access to food and the enjoyment thereof relates to women's agency, it is difficult to find an aspect of human activity not advanced through food security. Lewis, in writing about her own mother's exercise of her agency through food stated that her cooking was essentially epistemological in that it translated what she knew as passion and knowledge, and communicated it through sensory pleasure, which she had become known for, and passed on to those around her.[104] This also demonstrates the far-reaching effects of food, beyond individual experience, into greater society. A feminist analysis allows for the interrogation of acts considered to be private but political, and this parallel is no more evident than in feminist food studies.

2.4 Feminist legal theories

Many disciplines have challenged the nature of legal systems and social structures. Similarly, feminism has developed into looking at the impact laws have on women's agency from the perspective of women. Moreover, feminist theories highlight the multitude of ways in which women are discriminated against. In this study, feminist theories are used to accentuate how women are more vulnerable in realising their socio-economic rights in general and the right to food in particular. This study will observe two overarching ideologies in feminism, namely; dominance and difference as power relations between women and men; and non-essentialism and intersectionality in recognising difference within the category of women, using radical, social and postmodern feminist paradigms where applicable.

[104] Lewis (2016).

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Cain observes that 'what makes any theory particularly feminist is that it is derived from female experience, from a point of view contrary to the dominant male perception of reality'.[105] Feminist legal theory in turn uses feminist methods to analyse various legal systems, laws and regulations, to identify gendered discriminations and to offer remedies to redress inequalities and advocate for legal reform. Adopting a feminist approach in law means that there must be an analysis of how legal systems, social realities, economies and politics are created and gendered and how further developments should be sensitive to these gender dynamics. The dominance theory identifies the entire legal system and by extension the economy to be patriarchal, which intentionally favours power distribution toward men's empowerment and furthers gender inequality to the disadvantage of women.[106]

Radical socialist feminism focuses on the economic and classist structures based on the gendered divisions of labour, which is the focus of this study. It understands every perspective to be socially situated as history has indicated. Historically, women were always in charge of the food supply and agricultural resources. Eating was recognised as the most important human function as no other activity could occur without it.[107] Eventually societal developments led the food gathering period toward the food producing period, where women were responsible for much of the invention and innovation.[108] Men had more free time than women, which allowed them to further women's contributions. Eventually this led to a revolution of the food system, and more importantly the social system, where there was a reversal of economic and social leadership of the sexes. Thus the gendered division of labour was created, which divided agricultural labour (as unskilled women's work) and industrial

[105] Cain P 'Feminist Jurisprudence: Grounding the Theories' (1990) 4 *Berkeley Women's Law Journal* 197.

[106] MacKinnon C (ed) 'Dominance and Difference: On Sex Discrimination' in *Feminism Unmodified: Discourses on Life and Law* (1987) 35.

[107] Reed E 'The Myth of Women's Inferiority' (1954) 15 *Fourth International* 2 3. [Hereafter Reed].

[108] Reed (1954) 13.

http://etd.uwc.ac.za/

labour (as men's skilled work). These conditions emancipated men and enslaved women, driving them back to their biological function of reproduction and nurturing.[109] This social system eventually led to a class system and then the modern day capitalist system. Both women and men contributed to society but unequally and as such, developed unequally.[110] Reed noted that 'women [were] biologically endowed by nature then men [were] socially endowed by women'.[111] She speaks to this false phenomenon that men are viewed as naturally superior when it is only due to men 'winning their social supremacy in struggle against and conquest over women'.[112]

The development of our economic system has reinforced the gendered divisions of labour and women's roles as nurturers. Today in the capitalist system, women still find themselves largely in the agricultural sector or other unskilled labour markets, where they are often exploited and severely underpaid, resulting in women have extremely limited access to financial security and by extension food security. Therefore, radical socialist feminism recognises capitalist neo-liberalism as directly contributing to classism, racism and sexism. Sachs suggests that feminist interventions to food security need to include a 'feminist analysis of neo-liberalism, social reproduction and care, intersectionality, feminist political ecology…'[113] as these are all contributing factors to women's limited autonomy and also 'undermine collective struggles'.[114] Weber suggests that current forms of feminism and neo-liberalism both privilege entrepreneurship and individual agency as the key to solving major social issues.[115]

[109] Reed (1954) 17.

[110] Reed (1954) 1.

[111] Reed (1954) 1.

[112] Reed (1954) 1.

[113] Sachs (2013).

[114] Sachs (2013).

[115] Weber B 'Teaching Popular Culture through Gender Studies: Feminist Pedagogy in a Postfeminist and Neoliberal Academy?' (2010) 20 *Feminist Teacher* 2.

http://etd.uwc.ac.za/

In looking at justice in relation to capitalist and neo-liberal structures, Fraser argues that justice can be understood in two separate related ways, first, that distributive justice suggests the equitable distribution of resources, and secondly, that the justice of recognition suggests the equal recognition of different identities within a society.[116] Fraser then argues that there are two corresponding forms of injustice, namely mal-distribution and misrecognition.[117] She criticised many second wave feminist movements which argued for recognition on the basis of race, gender, sexuality, and ethnicity, and that this overemphasis on identity politics, what she calls 'misrecognition' has eclipsed the importance of larger systemic problems of mal-distribution due to neo-liberal capitalism.[118]

Fraser correctly observes that feminism is not simply a matter of getting a 'few individual women into positions of power and privilege' within existing social structures, it is about overcoming those structures.[119] Which requires challenging the structural sources of gender discrimination in capitalist society and what she argues as the 'institutionalised separation of two…kinds of activity, on the one hand, so-called "productive" labour, historically associated with men and…wages, [and] on the other hand, "caring" activities, often historically unpaid and still performed mainly by women'.[120] This gendered division of labour is a defining structure of a capitalist society. Fraser claims that there can be no 'emancipation of women'[121] with this

[116] Fraser N et al 'The battle for neoliberal hegemony: an interview with Nancy Fraser' (2016) Open Democracy available at https: //www.opendemocracy.net/roque-urbieta-hernandez-fabiola-navarro-nancy-fraser/battle-for-neoliberal-hegemony (accessed on 12 August 2019). [Hereafter Fraser].

[117] Fraser (2016).

[118] Fraser (2016).

[119] Fraser N 'A Feminism Where "Lean In" Means Leaning On Others' (2015) Interview in the New York Times available at http://opinionator.blogs.nytimes.com/author/nancy-fraser/?_r=0 (accessed on 13 August 2019). [Hereafter Fraser].

[120] Fraser (2015).

[121] Fraser (2015).

http://etd.uwc.ac.za/

gendered division of labour intact. Alike to Fraser's argument, this study views capitalism as the largest structure asserting dominance over women. It also critiques Fraser's argument in suggesting that identity politics are necessary when analysing the various impacts that capitalism has on different marginalised groups with intersecting differences, particularly among women.

A postmodern feminist paradigm better analyses these intersecting differences, through the concept of intersectionality. The term was coined by Crenshaw who accurately identified that within the marginalised group of women, the 'intersectionality of race, class and gender accentuates the complicated system of oppression that black, poor women experience'.[122] This argument is particularly relevant for this study which looks at the many forms of discrimination female students at tertiary institutions face in relation to economic access of food systems and vulnerability to food security. Lewis argues that intersectionality highlights 'the entanglement of multiple identities in everyday struggles…'.[123]

This study contends that intersectionality understands that gender is always related to other social identities and is interested the space where these 'conflicting dynamics of race, gender, class, sexuality, nation, and other inequalities' intersect.[124] However, in looking at issues of food security, it is less interested in identities overlapping each other and more focused on how these intersecting differences overlap with larger social structural inequalities.[125]

[122] Crenshaw K 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' (1989) *University of Chicago Legal Forum* 151.

[123] Lewis (2015) 12.

[124] Lykke N 'Intersectional Analysis: Black Box or Useful Critical Feminist Thinking Technology' in Lutz, Herrera Vivar, and Supik *Framing Intersectionality: Debates on a Multifaceted Concept in Gender Studies* (2011) 210.

[125] Cho et al (2013).

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2.5 Conclusion

This chapter has conceptualised the feminist legal theory underpinning this study and the reason for a feminist analysis. It highlighted the triple burden of discrimination of sexism, racism and classism that many South African women are subjected to. A feminist perspective highlights the strategies that marginalised communities perform daily to 'enable livelihoods, access food and create meaningful lives'.[126] Moreover, it looked at how this discrimination under the umbrella of gender inequality is linked to food security, ultimately disproportionately limiting their ability to access food systems, making them more vulnerable to food insecurity.

It engaged with concepts of radical feminist thought, centred on the dominance and difference debate with particular focus on inequality. This study will further engage with tenets of radical feminism in the following chapters when investigating the gendered considerations of legislation and policies by examining the construction of these legal instruments, who they were created by, and who they intend to protect.

However, this study is mostly aligned with the socialist branch of radical feminism and as such, uses this paradigm to conduct much of its analysis. It examines various social and economic structures within the capitalist neo-liberal system throughout. Therefore, a feminist paradigm provides sufficient tools to observe women's access to the current food system; to critique the patriarchal structure of a capitalist economy; and to highlight the gendered implications as such. It has the transformative power to recognise vulnerabilities among women and the importance of developing effective and relative policies socially suited to their specific needs. Moreover, it briefly looked at the private dimensions of women's access to food and the

[126] Davies F 'Lusaka's local food geographies: A gendered reading of everyday food insecurity in Mtendere, Lusaka' (2016) available at http://repository.uwc.ac.za/xmlui/handle/10566/4530 (accessed on 12 June 2019).

http://etd.uwc.ac.za/

relationship between food, identity and pleasure in broadening the scope of feminist food studies.

Where this study delves further into the particular experiences of female students at tertiary institutions in South Africa, it will observe these categories of difference through the postmodern principles of intersectionality and non-essentialism as this paradigm aptly encapsulates the multiple forms of discrimination intersecting with gender inequality. To this end, this chapter highlighted the importance of social differences of people's experiences of food and wider food systems in order to develop effective addressing the food crisis and realising the right to food for all.

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CHAPTER 3

THE DEFINTION OF THE RIGHT TO FOOD IN THE NORMATIVE LEGAL FRAMEWORK AND THE GENDERED DIMENSIONS

> Had Feuerbach not been eclipsed by Marx, perhaps Gastronomy rather than political economy would have become the organising principle of radical thought in capitalist societies.[127]

3.1 Introduction

In understanding the right to food, the context of circumstances and food systems is crucial. As the term 'food security' is still being conceptualised by various experts, it is open to interpretation. The World Food Summit 1996 defined food security to mean 'when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life'.[128] The World Summit on Food Security 2009 also established four pillars of food security which are availability, accessibility, utilisation, and stability - to measure food security in different contexts.[129] This chapter is aimed at contextualising the right to food within the normative legal framework, and then in the South African context. It will then analyse the extent of protection afforded by international and regional instruments and how it has translated into domestic legislation.[130]

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[127] Turner B 'More on the Government of the Body: A Reply to Naomi Aronson' (1985) 36 *The British Journal of Sociology* 2 151.

[128] FAO (1996). The FAO called the summit due to global starvation and a huge concern about the capacity of the agricultural sector. The summit produced two important documents, namely, the Rome Declaration on World Food Security, this called for the members of the United Nations to halve the number of starving people by 2015 and the World Food Summit Plan of Action which set a number of targets for organisations for achieving food security.

[129] FAO World Food Summit (2009).

[130] South Africa is bound by various international and regional instruments and the extent of food insecurity is not limited to the national borders. Sub-Saharan Africa remains the region with the highest prevalence of hunger, with the rate increasing from 20.7 percent in 2014 to 23.2 percent in 2017 - in numbers, the amount of undernourished people in Sub-Saharan Africa increased from 195 million in 2014 to 237 million in 2017

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It will also look at the development of food security policies and programmes and the extent to which gender considerations have been made. Using a radical socialist feminist lens, this study is particularly concerned with the unique food crisis in South Africa where food is available but inaccessible. It argues that food policies have been wholly inefficient in realising the right to food for women in general and female students in particular. In addition, this chapter will look at how other jurisdictions have dealt with the right to food or food-related and other socio-economic rights issues. Lastly, it will explore South Africa's current food system within the wider economic structure and the gendered dimensions as such. This chapter aims to draw attention to the lack of a feminist agenda, and the complete lack of gender sensitive approaches to food security policies within the institutional framework.

3.2 The right to food

The right to food is often confused with the idea of the right to be given food. In looking at the international definition of food security, it is actually the right for people to be able to feed themselves in dignity either with the opportunity to produce or buy food. In analysing food security studies, it becomes clear that all human rights are interdependent and indivisible. While all human rights are important, food and water are essential for human functioning, allowing all other human activities to continue, and making every other human right dependent on its fulfilment, including civil, political and other socio-economic rights. Most importantly though, is the interconnectedness of the right to food to that of freedom, dignity, and equality. These are not only rights, but foundational principles of the Constitution and the vision for South Africa's future. In looking specifically at the link between gender inequality and food security, the nexus between first generation rights and second generation rights is greatly explored. In doing so, this study aims to highlight that human rights should be understood as a

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collective body of rights, all linked and necessary to 'improve the quality of life of all citizens and free the potential of each person'.[131]

3.2.1 International and regional framework

The right to food was first recognised in the Universal Declaration of Human Rights (UDHR) noting that 'everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family including food…' where the language itself indicates who this provision was intended to protect.[132] This eventually led to the development of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the most important international instrument regarding socio-economic rights, which also protects the right to food in stating that 'everyone has the right to a standard of living including food…'.[133] This international instrument guided the development of many other international food related policies and countries' constitutional provisions on the right to food, including South Africa. As South Africa has ratified the ICESCR, it has the obligation to respect, protect and fulfil the right to food. This includes the state adopting and implementing a national legislative framework on food security and making the necessary budgetary and resource allocations where necessary. In 2011 the Special Rapporteur on the right to food expressed concerns about 'how the scarce public resources and human capacity can be used to maximise its effectiveness' in South Africa.[134] This view is in line with the constitutional obligation placed on the state to use its maximum available resources to progressively realise the Bill of Rights.[135]

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[131] Preamble of the Constitution.

[132] UDHR (1948) Article 15.

[133] ICESCR (1966) Article 11.

[134] De Schutter O Special Rapporteur on the right to food reporting back from his mission to South Africa (2011).

[135] ICESCR (1966) Article 2.

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This highlights that while the ICESCR has been a guideline for the development of many constitutions and as such has led to the realisation of many fundamental human rights, the ICESCR was created with the idea that everybody was working and part of the labour force, and as such earned a decent income, where part could be used for these basic needs – it has become evident that due to the exploitation of many developing countries who are growing at a slower pace, many of the rights protected in the ICESCR are still distant goals.[136]

In looking at the contextual development of the World Food Summit, 1996 definition of food security, it originated in a time where the focus was on countries abilities to be self-sufficient in order to 'decrease reliance on the international food market'.[137] Pereira argues that this 'productionist' view developed with the increase of human population and concern for food production levels, resulting in many policies being centred on the agricultural sector.[138] However, even with the focus on agricultural production, food insecurity was still rife and increasing in many developing parts of the world, particularly Africa. Recognising this problem, there was a shift from self-sufficiency to self-reliance. Eventually, the last and current shift saw the focus of self-reliant food security at a national level to an individual level, where a person's access to food became the focal point of food security policies and programmes.[139]

After recognising food security needs at an individual level, the World Food Summit later called for clarification on what the right to adequate food means, leading to the development of General Comment No. 12 (GC 12) on the right

[136] Planck M 'The Right to Food as a Justiciable Right: Challenges and Strategies' (2007) 11 *Yearbook of United Nations Law* 317.

[137] Pereira L *The Future of South Africa's Food System: What is research telling us?* (2014) Southern African Food Lab 3. [Hereafter Pereira].

[138] Pereira (2014) 3.

[139] Pereira (2014) 4.

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to adequate food issued by the UN Committee on Economic, Social and Cultural Rights (UN CESCR).[140] The right to adequate food means the right of people to feed themselves in dignity, that sufficient food is available, accessible, and that it adequately meets the individual's dietary needs.[141] Adequacy means that food should meet nutritional needs, safe and culturally acceptable diets.[142] There was also recognition that accessibility includes sustainable access, meaning that food should be physically and economically accessible 'at all times' - sufficient to satisfy the dietary needs of the individuals', and should also be free from adverse substances. GC 12 goes even further to state that the right to adequate food shall therefore not be interpreted in a narrow or restrictive sense, which equates it with a 'minimum package of calories, proteins and other specific nutrients'.[143] The right to adequate food also imposes three levels of obligations on states, to respect, protect and fulfil this right. States should provide alternative ways for people to meet their dietary needs where for reasons beyond their control, are unable to do so themselves.

In 2004 the Food Agriculture Organisation of the United Nations (FAO) adopted the Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security.[144] The Voluntary Guidelines asked states to adopt a legal and domestic policy framework and corresponding policies on the right to food based on their international and regional obligations.

[140] United Nations Committee on Economic, Social and Cultural Rights, 1999 General Comment 12. [Hereafter General Comment 12].

[141] General Comment 12 6 .

[142] General Comment 12 6.

[143] General Comment 12 6-7.

[144] FAO 'Voluntary Guidelines on the Right to Food' (2004) available at http://www.fao.org/right-to-food/resources/resources-detail/en/c93437/ (accessed on 1 April 2019).

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3.2.2 Domestic framework

Despite the democratic transformation and economic growth that South Africa has undergone since 1994, the country is still plagued by poverty, unemployment and increasing inequality. Many South Africans are still struggling to meet their basic needs such as food security, despite there being enough food available. This stems from the realisation that even when food is available in markets, it may not be accessible to specific households. 'Access' has been defined as a household's ability to acquire enough food of sufficient quality to have all of its members meet their nutritional requirements and lead productive lives.[145] While there have been some strides made, this research indicates that an appropriate definition of the term 'food insecurity' and measures that are suited to the unique South African landscape must urgently be developed and implemented.[146] In the case of *Grootboom*, the courts highlighted the importance of contextualising socio-economic rights, taking into consideration the 'setting, as well as the historical and social context of the particular right' as socio-economic rights are often dependent on various factors within each state, and therefore its realisation and the protections afforded need to be appropriate and relevant.[147]

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As abovementioned, the right to food is constitutionally protected in section 27 (1) (b) stating that 'everyone has the right to have access to sufficient food and water'.[148] The Constitution then further acknowledges the right to food for two other marginalised groups in society, in section 28 (1) (c) stating that 'every

[145] Bulletin of the World Health Organisation 'Food Survey in South Africa: A Review of National Surveys' (2011) available at https://www.who.int/bulletin/volumes/89/12/11-089243/en/ (accessed on 19 July 2019). [Hereafter Food Survey in South Africa].

[146] Food Survey in South Africa (2011).

[147] *Government of the Republic of South Africa and Others v Grootboom* and Others (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169.

[148] Section 27(1)(b) of the Constitution.

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child has a right to basic nutrition'[149] and in section 35 (2) (e) which states that 'every detained person and prisoner has a right to adequate nutrition'.[150]

Therefore, the state also has the constitutional responsibility and obligation to promote, respect, protect and fulfil the right to access to sufficient food, access to adequate food, and access to adequate nutrition-depending on the vulnerable group. It is accountable for efforts to enact legislation, develop policies, and to ensure social security as measures toward progressively realising the right to food. However, food is an immediate need and so there needs to be appropriate, urgent and timely interventions in place. There are also various levels and forms of food insecurity and so the state also has the political and legal obligation to recognise and reduce all forms of hunger, malnutrition and starvation. However, there are still many gaps in the legal and institutional framework on what the right to food entails and there is still much room for further clarification. For this reason, this chapter will critique the attempts made by the state to create a national legislative framework with due consideration to the food security policies, as well as the extent of gendered considerations within the food security policies.

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3.3 Food policies and gender considerations

Gender is a fundamental principle that determines the roles, rights, expectations, obligations, responsibilities and entitlements in social spheres and has permeated formal institutions including legal systems and institutions. Therefore, there is a need for active 'gender mainstreaming' as a strategy toward achieving gender equality.[151] In recent years there has been an emergence of gendered considerations in relation to food studies at an international level, aimed at providing further protection to women's right to food and promoting gender equality. The international community, through

[149] Section 28(1)(c) of the Constitution.

[150] Section 35(2)(e) of the Constitution.

[151] The African Women's Development and Communication Network FEMNET *Gender Transformative Budgeting: A guide for Pan African Parliamentarians* (2019).

http://etd.uwc.ac.za/

the World Food Programme (WFP), is recognising that SDG 5, achieving Gender Equality and women's empowerment by removing discriminatory barriers that restrict access, is necessary to fulfil SDG 2, Zero Hunger.[152] To realise food and nutrition security for all, the WFP notes that 'food assistance policies and programmes create conditions that advance, rather than undermine, gender equality and women's empowerment'.[153] The WFP suggests that zero hunger can only be achieved when everyone has 'equal opportunities, equal access to resources, and equal voice in the decisions that shape their households, communities and societies'.[154]

Therefore, the WFP Gender Policy (2015-2020) set out four objectives as guidelines for national policy development and implementation. First that food assistance programmes and policies should be adapted to different needs in recognising the different capacities between women and men. Secondly, that there is equal participation between women and men in the creation, implementation and evaluation of gender-transformative food security policies. Thirdly, women are empowered to make decisions regarding food society within their households and larger society. And lastly, food assistance programmes and policies should not harm the safety, dignity and integrity of any person, and it should be provided in a way that respects and protects all other rights. The right to food for vulnerable groups, including women, is also protected in various other instruments including the Convention of the Elimination of all forms of Discrimination Against Women (CEDAW)[155]; the African Charter on the Rights and Welfare of the Child[156]; and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women

[152] SDGs.

[153] WFP Gender Policy 2015-2020.

[154] WFP Gender Policy 2015-2020.

[155] CEDAW (1979) Article 14.

[156] African Charter on the Rights and Welfare of the Child, 1990 CAB/LEG/24.9/49 and entered into force 29 November 1999 Article 14. [Hereafter ACRWC].

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in Africa.[157] However, while policies have acknowledged the relationship between gender and food, no specific instrument solely protects women's right to food and nutrition security.

At a domestic level, the Gender Policy Framework is meant to provide a framework for policy developments in relation to women and gender equality. While there have been considerable achievements, it has not yet permeated into any national food policy targeting food security. As such, it has ignored the specific experiences and needs of half of society. There needs to be explicit recognition of women's experiences and challenges in relation to food security. It is not an exaggeration to state that South Africa's food policies are not in line with the needs and social realities of its people, and thus have been largely insufficient in addressing the food crisis. In looking at the previous and current attempts of the state to protect and enforce the right to food, it becomes apparent why many women have not yet had this right realised.

While there have been many attempts by the state in trying to achieve food security, to date, the policies and programmes have been wholly insufficient in realising the right to food.[158] Therefore, this research will not analyse the various policies and their shortcomings but will provide an in-depth analysis of the most recent policy and the extent of gender considerations as such.

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The National Policy on Food and Nutrition Security 2014 (NPFNP) is the most recent attempt by the state to realise the right to food. The policy defines food security as 'access to and control over the physical, social and economic means to ensure sufficient, safe, and nutritious food at all times, for all South Africans, in order to meet the dietary requirements for a healthy life'.[159] It is

[157] Maputo Protocol (2003) Article 15.

[158] Among others, the main policy attempts by the South African state include the Reconstruction and Development Programme 1994; The Integrated Food Security Strategy 2002; Measurable Performance and Accountability Delivery, Outputs and Measures Outcome 7: Vibrant, equitable, sustainable rural communities contributing toward food security 2010; The Household Strategy on Food and Nutrition Security 2013, and the Fetsa Tlala Production Plan 2013.

[159] The National Policy on Food and Nutrition Security 2014. [Hereafter NFNSP].

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a response to the failure of the previous attempts and identifies three main issues in relation to the food crisis in South Africa.[160] First, is the need for a common definition and scope of responsibilities related to food and nutrition security as previous policies are quite scattered in this regard. Secondly, the state recognises that food security is a complex issue that requires a coordinated response and a national legal framework to oversee its implementation. Thirdly, as a member of the Southern African Development Community (SADC), South Africa needs to contribute to overall food and nutrition security of the region. The NPFNP recognises that the problem is multifaceted and requires 'well-managed inter-sectoral co-ordination and the genuine integration of existing policies and programmes in health, education, environmental protection, as well as in agrarian reform and agricultural development'.[161] A centralised food system is necessary but the issue is that currently, different departments and actors are responsible for different tasks through the implementation of various regulations enacted by different pieces of legislation.

The NFNSP recognises the biggest food challenges to be; inadequate safety nets and food emergency management systems; citizens having inadequate access to knowledge and resources to make good food choices; land that is available but not used for food production, various inputs; limited access to processing facilities or markets; climate change; and inadequate and relevant information on food security.[162]

The latest policy is aligned with the constitutional mandate and aims to provide a broad framework for achieving the constitutional protection of the right to access to food. The NFNSP reinforces the constitutional obligation is on all organs of state to ensure that the rights in the Bill of Rights are

[160] NFNSP (2014).

[161] NFNSP (2014).

[162] NFNSP (2014).

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protected, promoted and respected.[163] It notes that the strategic mandate is part of the National Development Plan which aims to eliminate poverty and reduce inequality by 2030.[164] The strategic goals provides a platform for; increased and better targeted public spending in social programmes which impact on food security; efforts to increase food production and distribution, including increased access to production inputs for the agricultural sector; using government procurement to support community-based food production initiatives; and the strategic use of market interventions and trade to promote food security.[165]

The NFNSP also identifies the various departments, institutionalised bodies and other stakeholders involved including but not limited to; Department of Tourism, Department of local government, Department of Energy, Department of Mineral Resources, financial institutions, the land bank, farmer organisations, and the Competition Commission.[166] However, although there is recognition of women as a vulnerable group, there is nothing regarding partnership with the Commission on Gender Equality.

The NFNSP also mentions numerous outcomes going forward; this research considers the gendered implications relevant to this study. While it recognises evidence-based decision-making for policy monitoring and evaluation, due consideration should be given to sex and gender in measurement and indicators. It is difficult to analyse the extent of the problem, specifically the prevalence of women's food insecurity, without the correct and correlating data. The NFNSP calls for the active participation of civil society and private sector organisations in public policy implementation.[167] However, the SAHRC

[163] Nkwana H 'The Implementation of the National Food and Nutrition Security Policy in South Africa, Strategies for Multisectoral Coordination' (2015) 23 *Administratio Publica* 4 272. [Hereafter Nkwana].

[164] National Development Plan 2030. [Hereafter NDP].

[165] NFNSP (2014).

[166] NFNSP (2014).

[167] NFNSP (2014).

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reported that there was little to no engagement with NFSNP and that inadequate engagement and a lack of consultation, does not result in appropriate responses to practical realities. Going forward, the state should ensure meaningful engagement from civil society and the private sector, particularly in the interests of marginalised groups, including women. The NFNSP also lists various economic programmes but much of the focus is still on productive inputs, looking at food production intervention, land reform and agro-processing.[168]

While these inputs are important, this study suggests that more consideration be given to why certain people cannot access the food system and alternatives to it. While it does consider markets, value chains, expanding social protection, and scaling up nutrition interventions targeting women among other marginalised groups, it is very evident that there are very little gendered considerations and a complete lack of feminist perspective throughout.[169] Further research and information is necessary in the development of food policies, particular attention should be paid to where the policies and programmes should be targeted and how the specific needs of people are being addressed.

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3.4 Jurisprudential framework

The right to food presents many challenges as a justiciable right. It demands an understanding of the progressive realisation and available resources of a country. While there have only been few cases on the right to food internationally and regionally, there is much to learn from their efforts. At a domestic level, there have been cases related to food, but there has yet to be a case litigated on the right to food specifically. However, the judiciary have demonstrated that they are willing to enforce socio-economic rights claims

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[168] Department of Agriculture, Forestry and Fisheries *National Policy on Food and Nutrition Security for RSA, Commemorating the International Year of Pulses -2016* (2016). [Hereafter DAFF].

[169] DAFF (2016).

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and are capable of scrutinising government actions and inaction, social policies and laws. In interpreting these rights, the courts have developed the standard against which we can measure if government is fulfilling the right to adequate food. In determining this, the key elements are; comprehensive and coordinated measures; responsiveness of the measure to urgent needs; transparency and openness. The legal forum also provides group and individual relief; although to date, the right to food has yet to be litigated on and so there is no specific case law clarifying the meaning of the right to food in South Africa.

3.4.1 International and regional decisions

In the case of *People's Union for Civil Liberties vs Union of India & Others* the Indian Supreme Court held that the failure to address hunger and malnutrition was a violation for the right to life.[170] While the right to food was not explicitly guaranteed in the constitution, people came together, bringing their expertise to litigate. Thus, they decided to link the right to food to the right to life. They asked to receive sufficient grain to live above the poverty line. They used mostly practical methods at grassroots level, publicly shamed the government, and used the media to put more pressure on the government. Durojaye and Chilemba conducted a study which compared South Africa's progress in relation to India's where civil society successfully held the Indian government accountable to guarantee the right to food for all citizens. Durojaye questioned 'why are we not seeing litigation challenging [our] government on its failure to achieve access to food for all, given that the Constitution explicitly protects the right to food?'[171] The study looked at how the right to food is protected in South Africa, and what government and civil society organisations are doing to ensure that nutritious food is available to

[170] *People's Union for Civil Liberties vs Union of India & Others,* Writ Petition 196 of 2001.

[171] Durojaye E and Chilemba E 'Accountability and the right to food: A comparative study of India and South Africa' (2018) Food Security SA Working Paper Series South Africa available at http://hdl.handle.net/10566/5032 (accessed on 12 June 2019). [Hereafter Durojaye and Chilemba].

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all. Durojaye notes that 'the laws, policies and programmes to ensure access to food are all in place, but poor implementation has stopped these interventions from being effective'.[172]

At a regional level the African Charter on Human and People's Rights does not expressly recognise the right to adequate food[173]. However, albeit a long process that took many years, the African Commission made a monumental decision in the case of *Social and Economic Rights Action Centre (SERAC) and Another v Nigeria,* when concluding that the right to food is 'inextricably linked to the dignity of human beings and is therefore essential for the enjoyment and fulfilment of such other rights such as health, education, work and political participation'.[174] This case is still the point of reference for many right to food issues and other socio-economic rights cases.

3.4.2 Domestic decisions

While there has yet to be a domestic case on the right to food directly, there have been a few food related cases and other socio-economic rights cases in South Africa. In the case of *Kenneth George and Others vs. the Minister of Environmental Affairs and Tourism* the government had failed to provide adequate access to fishing rights which resulted in the violation of a number of basic socio-economic rights, including the right to food among others.[175] In other socio-economic cases, some involved a lot of advocacy and research but needed the courts to force the hand of government, such as the *Treatment Action Campaign* case, where the courts took the opportunity to progressively

[172] Durojaye and Chilemba (2018).

[173] The African Charter (1981).

[174] *Social and Economic Rights Action Centre (SERAC) and Another v Nigeria* (2001) AHRLR 60.

[175] *Kenneth George and Others vs. The Minister of Environmental Affairs and Tourism* 2005 (6) SA 297 (EqC).

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protect the right to health.[176] This case demonstrated the independent power of the judiciary and the enforcement of the constitutional socio-economic rights as justiciable. The *Mazibuko* case dealt with the right to sufficient water, where the courts also showed the same commitment to the realisation of socio-economic rights. Interestingly, the right to water is found in the same constitutional provision as the right to food.[177] The court acknowledged that 'water is life' and that human beings need water to drink, to cook, to wash and to grow food.[178] However, the right to food was not explicitly considered. The courts have also showed a willingness to develop laws where necessary such as in the *City of Johannesburg* case concerning electricity, which unlike the right to food, is not an explicit right in the Constitution, but the court's developed it as such.[179] To this end, it is clear that the courts are capable and willing to develop laws in protecting and enforcing constitutional socio-economic rights.

This asks the question then, why has the right to food not yet been litigated on? While there are many reasons that will be highlighted in the following chapters, relevant here is the fact that all the above mentioned cases had other pieces of legislation to refer to. While there are many food policies and strategies, there is no national food act or any legislation to indicate what this right actually entails.

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Sections 38 and 172 (1) (b) of the Constitution set out the creative judicial remedies that could be applicable to the right to food. While it looks at effectives remedies for 'appropriate relief' there is a lack of consideration for the justiciability of socio-economic rights. Since there is no judicial precedent on the right to food, perhaps clarification on the nature and extent of this

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[176] *Minister of Health and Others v Treatment Action Campaign and Others* (No.1) (CCT9/02) [2002] ZACC 16; 2002 (5) SA 703; 2002 (10) BCLR 1075.
[177] Section 27(1)(b) of the Constitution.

[178] *Mazibuko and Others v City of Johannesburg and Others* (CCT 39/09) [2009] ZACC 28; 2010 (3) BCLR 239 (CC); 2010 (4) SA 1 (CC).

[179] *Joseph and Others v City of Johannesburg and Others* (CCT 43/09) [2009] ZACC 30; 2010 (3) BCLR 212 (CC); 2010 (4) SA 55 (CC).

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right may be a useful first step. However, even with more information, there needs to be guidelines on the practical implementation of how to realise this right.[180]

3.5 South Africa's current food system and its gender dimensions

Since its democracy, the state has doctrinally committed to the eradication of poverty and economic inequality. However, previously, this economic redistribution would have been achieved in a capitalist system, where 'market realities' and neo-liberal ideology was aimed at attracting much needed foreign investment.[181] Balancing the realisation of socio-economic rights in a developing country, while maintaining it's relatively developed capitalist economy could be a large contributing factor for the increasing inequality and poverty, where South Africa remains the most unequal country in the world. This dichotomy is nowhere more evident than in the South African food system, where it has one of the highest prevalence rates for food insecurity and yet, has equally alarming rates of food wastage. As a developing country with a relatively advanced capitalist neo-liberal economy, the food system is characterised by an increasing market and expansion in agricultural production. This results in all forms of abuse against natural resources and simultaneously perpetuates violence against vulnerable groups including women. Lewis argues that in South Africa there is an extremely unique food system influenced by the 'geographical spaces, subjectivities and lifestyles, with poor, unemployed people being unable to live off the land' and remaining wholly dependent on supermarkets and shops for their food needs, all of which perpetuate gender inequality and food insecurity.[182]

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[180] Stevens C and Ntlama N 'An overview of South Africa's institutional framework in promoting women's right to development' (2016) 20 *Law, Democracy and Development* available at http://dx.doi.org/10.4314/ldd.v20i1.3 (accessed on 5 November 2019).

[181] Posel D 'Races to consume: revisiting South Africa's history of race, consumption and the struggle for freedom' (2010) 33 *Ethnic and Racial Studies* 2 160 available at http://doi/org/10.1080/01419870903428505 (accessed on 4 November 2019).

[182] Lewis (2015) 7.

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Using a radical socialist lens, achieving gender equality in the South African food system is not about simply removing discriminatory barriers to allow women access to economic markets and industrial agriculture structures, it is also the movement toward a new food sovereignty system where women can control the way they produce, sell and consume food. This includes participating in all levels of markets, the recognition of informal and often unpaid work such as cooking and cleaning, and the implementation of effective infrastructure to support this system. In looking at the sustainable access to food security, there needs to be a more holistic and conscious approach to agriculture and agro-ecology. Looking through the eco-feminist paradigm, where more environmentally sustainable methods of agriculture are implemented, women are less dependent and are more in control from production to consumption, this allows for improvement in their 'working conditions, financial agency and soil fertility'.[183] Moreover, it promotes a sustainable, healthy, and diverse food system. Guerra argues that it is a government's job to recognise and support women's movements aimed at furthering their advancement.[184] She notes that women are agents of their own development and empowerment, if they would be 'ensured respect and equal opportunities to fully unleash their potential'.[185]

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Olowu argues that 'the slow-pace response to gender-based food security efforts reflects the intricacy of the nexus between the two'.[186] Food security in its broader definition, results from the availability of adequate food at a national level, access to food at a household and individual level, effective consumption and adequate nutrition outcomes. It becomes clear that these are all linked with a women's multiple roles expressed in their productive,

[183] Guerra A 'Why Feminism Matters for Food Security and Nutrition' (2017) available at https://www.actionaidusa.org/blog/feminism-matters-food-security-nutrition (accessed on 6 November 2019). [Hereafter Guerra].

[184] Guerra (2017).

[185] Guerra (2017).

[186] Olowu D 'Gendered aspects of food security in Lesotho: implications for an integrative rights-based approach' (2013) 11 *Gender Dialogue* 2 5381. [Hereafter Olowu].

http://etd.uwc.ac.za/

reproductive and caring functions[187]. Olowu observes that even focused efforts aimed at resolving the problems faced by women in performing one or more of their 'roles' may fail to produce adequate results as the issues underlying each function and their interconnectedness is not fully understood.[188]

In 2017 the Portfolio Committee on Agriculture, Forestry and Fisheries received an inter-departmental presentation on the National Food and Nutrition Security Plan for South Africa 2017-2022. The presentation focused on; the national policy framework; people at risk of food insecurity; government interventions; consultations with key stakeholders; and the progress and implementation of each strategic objective.[189]

In acknowledging the ineffective implementation of the NFNSP 2014 they identified the following areas of concern; need for visible impacts; key findings of the evaluation of nutrition interventions; good policies, poor implementation; in comparison to similar developing countries, South Africa does not yet have a single coherent strategy, regulatory system to realise the right to food as set out in the constitution, and there is still no coordinating body.[190]

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The persistent focus throughout the presentation highlights the priority of children's access to food. While children as a vulnerable group should have this explicit and special protection, their access to food security is almost inextricably linked to women's access to food security. This research is sensitive to grouping women and children as a marginalised group and the

[187] Olowu (2013) 5381.

[188] Olowu (2013) 5381.

[189] Ngomane T 'National Food and Nutrition Security Plan for South Africa 2017-2022' (2017) Inter-departmental presentation to the Portfolio Committee on Agriculture, Forestry, and Fisheries available at http://pmg.org.za/files/171114dpme.pptx (accessed on 25 October 2019). [Hereafter Ngomane].

[190] Ngomane (2017).

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stereotyping women's reproductive role as caregivers, but it is evident that women play an enormous role in the food security of children. It also argues that women, as a marginalised group on their own, should be acknowledged as needing further protection on the right to food and this was overlooked in this presentation. While the technical working group consists of a category of 'women' as key stakeholders, this is insufficient in recognising the multiple roles women have throughout the food system and the reality of their experiences of food insecurity in terms of what mechanisms should be put in place to address their specific needs.[191] It is evident that the 'food economy has been both gender-blind and male-biased in terms of undervaluing women's roles in land use, production, processing, distribution, market access, trade, [and] investment…'.[192]

Women are carrying the heaviest burdens in the food crisis. For example, they are the most challenged to feed their families in the face of high food prices and lack of available services for the poor - this has been reported throughout Southern Africa.[193] They are also the first to sacrifice their food intake to ensure the nutrition of their children and male 'head of household' when food is unavailable or scarce.

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Another concern regarding policy development has been the response of understanding women as a homogenous group. Within the broad category of women, girls and particularly young women of 18-34 years of age, are often more vulnerable and face particular challenges associated with their position in society and their challenges often go unheard and do not make it into policy agendas. In South Africa, they are the 'neglected majority' as they make up 51 percent of the youths who comprise 70 percent of the population.[194] To

[191] Ngomane (2017).

[192] Center for Women's Global Leadership Meeting Report *The Right to Food, Gender Equality and Economic Policy* (2011). [Hereafter Center for Women's Global Leadership].

[193] Center for Women's Global Leadership (2011) 6.

[194] Iskie C 'Neglecting the 'majority': an overview of the economic plight of young females in KwaZulu- Natal, South Africa' (2016) 14 *Gender & Behaviour* 2 7439. [Hereafter Iskie].

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this end, this study aims to identify the specific challenges that these young women (as female students) face in trying to access the food system. In understanding these challenges, it promotes legislative and policy developments relevant to their needs. Desai argues that 'the identities of the poor matter in thinking about poverty reduction'.[195] Who the poor people are and their experiences matter - there is a clear need for a national legislative framework and policies to be developed to address the specific social circumstances and needs of marginalised groups of people.[196]

3.6 Conclusion

This chapter has shown that there are many gaps in the national legislative framework on the right to food. It identifies the lack of a dedicated or responsible department to oversee activities relating to the right to food as one of the biggest policy setbacks on the right to food. There is also the lack of implementation of existing policies and programmes. Lastly, there is a need for judicial authority to set out the nature and scope of the right to food under the Constitution and how to address the increasing poverty in South Africa.

In trying to better contextualise the extreme levels of poverty and inequality in South Africa, Stats SA and the South African Labour and Research Development Unit recently produced an inequality trends report highlighting the gross monetary inequality in South Africa. It reported that the top 1% of south African earners take home almost 20 percent of all income in the country while the top 10 percent take home 65 percent of income - leaving the remaining 90 percent of South African earners with only 35 percent of

[195] Ruiters M and Wildschutt A 'Food Insecurity in South Africa: Where does gender matter?' (2010) 24 *Agenda: Empowering Women for Gender Equity* 86 17 available at http://doi.org/10.1080/10130950.2010.10540516 (accessed on 10 September 2019). [Hereafter Ruiters and Wildschutt].

[196] Ruiters and Wildschutt (2010) 9.

http://etd.uwc.ac.za/

total income.[197] According to this report, the inequality exists and remains on racial, gendered and spatial lines. However, the most shocking outcome of the report showed that the wages of the bottom 10 percent of earners shrank by a quarter between 2011 and 2015; the country median shrank by 15 percent; and conversely, the top 2 percent grew by almost 15 percent over that period and the top 1 percent saw their earnings skyrocket by a staggering 48 percent.[198]

However, poverty is not just the lack of income and resources; it is an embodiment of all that makes a person unhappy - vulnerability, dependency, stress, inaccessibility to food, clothing, shelter, health care and education.[199] It is the inability to exercise freedoms and choices, increases poor self-esteem and a sense of insecurity. This is the reality of many poor people in South Africa, especially women.[200] Women experience poverty in very particular ways of the gendered divisions of labour; the lack of protection from government; the responsibility of caring for the family; and their limited access to resources.[201] While poverty is a major influence of food insecurity, the two are not always linked. Poor households headed by women have shown to be more successful in providing more nutritional food than households headed by men. This highlights the importance of gendered knowledge and roles regarding food security.[202]

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Moletsane notes 'sound policies alone are not enough. It is when they are implemented and when this is followed by positive changes in the lives of girls that we can hail government's efforts as successful'.[203] Therefore, there is a

[197] Webster D 'Why South Africa is the world's most unequal society' (2019) available at http://mg.co.za/article/2019-11-19-why-sa-is-the-worlds-most-unequal-society (accessed on 22 November 2019). [Hereafter Webster].

[198] Webster (2019).

[199] Iskie (2016) 7443.

[200] Iskie (2016) 7443.

[201] Ruiters and Wildschutt (2010) 10.

[203] Iskie (2016) 7441.

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need for legislative changes, enforcement and implementation - but also these processes need to be accompanied by a social revolution to change South Africa's societal attitudes toward women.[204]

[204] Ruiters and Wildschutt (2010) 9.

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CHAPTER 4

THE LINK BETWEEN GENDER INEQUALITY AND FOOD SECURITY AMONG FEMALE STUDENTS AT TERTIARY INSTITUTIONS IN SOUTH AFRICA

> College women are typically given to declaring for one or the other (in my day, for marriage; now, generally, for careers), and only later finding to their surprise that they must cope with both – while their men may be trying to figure out how to get out of doing both.[205]

4.1 Introduction

This chapter explores the link between gender inequality and food security through the lens of female students at tertiary institutions in South Africa. It conceptualises the problem of food insecurity at tertiary institutions and the subsequent effects on students. At the first South African Higher Education Colloquium on food insecurity held in 2015, it was stated that food insecurity at institutions is not a new phenomenon, but the limitation is that it is not openly discussed especially at an institutional leadership level.[206] In the past two years there has been increasing interest in the area of food security research. However, it is not surprising that the experiences and challenges of female students are not top of the research list. Munro argues that education institutions are largely to blame for the gender discrimination within their structure and even academia has been silent about black women's experiences.[207] This study uses a feminist lens to highlight how female students are disproportionately affected in trying to achieve food security, but

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[205] Martin J *Common Courtesy: In Which Miss Manners Solves the Problem That Baffled Mr. Jefferson* (1985).

[206] South African Higher Education Colloquium: Food Insecurity (2015) hosted by the University of the Free State.

[207] Munro N et al 'Hunger for knowledge: Food insecurity amongst students at the University of KwaZulu-Natal' (2013) available at http://www.researchgate.net/publication/277291353_Hunger_for_Knowledge_Food_insecurity_among_students_at_the_University_of_KwaZulu-Natalq (accessed on 6 November 2019). [Hereafter Munro et al].

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focuses on their economic limitations in accessing food systems. It will also consider the various coping mechanisms female students use in securing food and the dangerous effects as such. Lastly, this chapter will explore the suitability and potential of a transformative food system model within tertiary institutions. It is necessary to ask the questions, who do institutions cater to? What is their primary resource?

4.1.1 The problem in tertiary institutions

One of the biggest problems on campuses is that food insecurity is an 'invisible crisis' and there is limited knowledge on specific issues resulting in limited interventions.[208] Students at tertiary institutions are one of the most vulnerable groups regarding food security. They are often unemployed, and therefore dependent on other sources of income from other family members/friends or from bursaries and loans, mostly NSFAS. The result is that students receive a disproportionate amount of economic resources in relation to the food system they are trying to access.

Students from low-income households already have limited resources and often need to assist financially at home. There is also the issue of unhealthy but affordable food on campuses versus expensive healthy food. The right to food must be free from adverse substances, must not be harmful to body and must support growth. This is a concern regarding students and their wellbeing as food on campus is often expensive or conversely, cheap, but lacking nutritional value. The reality is that many people do not have the luxury of choice. Sen highlighted the reality of the food system and stated that a person endowed with resources can produce food, or by selling their labour, or they can get a wage to buy commodities, including food. Alternatively, they can grow cash crops and sell to buy food and other commodities, which he described as the exchange entitlement of endowment.[209]

[208] Munro et al (2013).

[209] Sen A *Poverty and Famines: An Essay on Entitlement and Deprivation* (1981).

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Another big problem is acquiring this healthy and nutritious food on campus. Within the last two decades, most institutions have abandoned the catering model where food was provided through dining hall services. Students also lack cooking skills and facilities; therefore having catered food services on campuses offering healthy and affordable food options will definitely help reduce the crisis as convenience is a primary food motivation for students'.[210]

Despite the reported high food insecurity rates and interventions, there are very few studies that examine the students' perceptions of food insecurity.[211] The NPFNP led to the development of the National School Nutritional Programme (NSNP), which is aimed at 'alleviating hunger, enhancing the learners' active learning capacity and addressing micro-nutrient deficiencies'.[212] This highlights the importance of food for academic performance and learning for school going students but the same consideration is not given to tertiary students. NSFAS is responsible for the needs of students at tertiary institutions who are economically disadvantaged. They are required to pass the NSFAS means test which assesses their family's ability to pay something towards their studies. It is no secret that it usually is just enough to cover accommodation and tuition. Many students have to try and get jobs and this often leads to them having to drop out.[213]

Other factors contributing toward food insecurity in tertiary institutions in South Africa are social and economic structures. The South African government realises the importance of education which should mean that students are engaged in academic activities and graduate accordingly, in order for them to contribute to the labour market and national development.

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[210] Van der Berg L 'Food insecurity among students at the University of the Free State, South Africa' (2015) available at http://www.researchgate.net/publication/292162437 (accessed on 14 September 2019). [Hereafter Van der Berg].

[211] Sabi et al (2018).

[212] Sabi et al (2018).

[213] Sabi et al (2018).

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However, a big concern is lack of income and financial management offered a tertiary institutions. Research has shown that financial risk behaviour is also a contributing factor to food insecurity where students who have financial autonomy often spend their money on luxurious items rather than valuable items due to lack of financial experience and management skills.[214] Education is required on financial management, proper dietary habits, health maintenance and the link to academic performance.

4.1.2 Effects of food insecurity on students

While this is a under researched area of food security studies, some reports provide alarming statistics of the current landscape of tertiary institutions in South Africa. At present, only 15 percent of students complete their degrees on time.[215] Another report indicated that only 50 percent of students actually graduate from South African tertiary institutions.[216] While there are various reasons for students not completing their studies, it is often due to students not having the sufficient finances and support, and having to drop out to find employment.

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Poor nutrition, hunger and food insecurity have negative effects on students and academic performance. It results in stress, health issues, higher dropout rates, limitations of future potential, and perpetuating inter-generational poverty and inequality. Research also shows that the effects will be worse for black students, those from low-income households, and those who are the first generation in tertiary education and are most vulnerable to food poverty.[217]

[214] Sabi et al (2018).

[215] Sabi et al (2018).

[216] Van der Berg L (2015).

[217] Sabi et al (2018).

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Food poverty could be understood as occurrence of food insecurity, or the extent to which an individual lives without basic resources to live and maintain a standard of living. A study revealed that anxiety about the availability of food affected a person's mental wellbeing, creates feelings of irritability and depression. This is worsened by the marginalisation and stigma attached to food insecurity. A big issue is students have reported not wanting to discuss their situation with their friends. The University of KwaZulu-Natal Student Counselling Centre, reported that one of the major challenges was that students did not admit that they were food insecure, which made it harder for the counselling staff to assist them. The University Free State also reported that some students were so ashamed of exposing their impoverished lifestyle that when their peers offered to assist with food, that felt as if they were burdening them by not having anything to give back in return.[218] This study illustrates how female students even more susceptible to food insecurity and the detrimental effects as such.

4.2 How female students are disproportionately affected in having limited access to the food system

The experiences of women are often reduced to a group who are 'objects of charity [and] not bearers of rights' where the reasons for their position is society and factors such as gendered divisions of labour, unemployment, lack of social protection and their deepen vulnerability to rights violations and ignored.[219]

According to Zembe, few studies consider the influence of issues affecting women in South Africa such as 'gendered power inequities and sexual risk

[218] Sabi et al (2018).

[219] Govender P 'Gendered Impact of Food System' (2015) available at https://www.sahrc.org.za/index.php/sahrc-media/opinion-pieces/item/383-gendered-impact-of-food-system (accessed on 10 September 2019). [Hereafter Govender].

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taking on women's roles as providers and consumers of food'.[220] Zembe explores the food security strategies of unemployed women in rural and peri-urban settings in South Africa, and examines the context within which particular food security strategies are selected by these women looking at the extent to which the strategies are framed by agency, and gendered vulnerabilities and opportunities.[221] She noted that 'through this research, we want to explore how gender power inequities in the sexual partnerships of unemployed women, shape their access [to]; provision, preparation and consumption of food'.[222]

4.2.1 Gendered divisions of labour and unemployment

In the case of *Roberts and Others v Minister for Social Development and Others*[223], the following relevant argument was raised; 'black women were denied the opportunities to build decent lives for themselves during the apartheid years, as they were forced to live off the land in the rural areas'.[224] Although the legal restrictions on equal opportunities have been removed, there has not been enough effort given to ensure equal access to these opportunities and policy measures aimed at addressing social and economic inequalities have been largely inefficient, leaving many black women still suffering under the legacy of poverty.

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The unemployment rate amongst women is higher than men, this trend can be observed throughout economic crises. This has great significance for how

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[220] Makwela M 'How gendered power inequities shape food security strategies for women' (2018) available at https://foodsecurity.ac.za/news/how-gendered-power-inequities-shape-food-security-strategies-of-women/ (accessed on 4 November 2019). [Hereafter Makwela].

[221] Makwela (2018).

[222] Makwela (2018).

[223] Heleba S 'Mootness and the Approach to costs awards in Constitutional Litigation: A Review of Christian Roberts v Minister Of Social Development CASE NO 32838/05 (2010) (TPD)' [2012] PER 62' (2012) available at http://www.saflii.org/za/journals/PER/2012/62.html (accessed on 4 November 2019). [Hereafter Heleba].

[224] Heleba (2012).

http://etd.uwc.ac.za/

the income within a household is shared as 'people who bring income into a household are likely to have more decision making power than other members over how the money is used.[225] Because women are less likely to be employed than men, and tend to earn less than men when they are employed, women are likely to have less control over how the money is used.

Economic crises and the policy responses put in place impact men and women differently, and yet the effects of the measures on women are rarely considered. Globally, women are more vulnerable to these economic shocks. Particularly in low income countries, women and girls are more likely to be taken out of education, are the first to reduce the quantity or quality of food they eat and are more likely to sell sex in order to survive. This has the potential to undo the progress made in the area of women's health and education if the problem continues to persist, there needs to be development of sustainable investment in this area.[226]

Economic impoverishment can also reaffirm gender inequalities by increasing women's financial dependence on men. This can increase men's decision making and the power within households; increasing the risk of intimate partner violence, and unsafe sexual practices.[227] A study in South Africa showed the role of romantic attachments with men in the everyday survival of women and girls; looking at multiple concurrent partnerships (and the spread of HIV) increasingly being entered into to fulfil their daily needs of food and shelter.[228]

[225] UNAIDS Discussion Paper *Impact on the global economic crisis on women, girls and gender equality* (2012). [Hereafter UNAIDS].

[226] UNAIDS (2012) 2.

[227] UNAIDS (2012) 3.

[228] UNAIDS (2012) 5-7.

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4.2.2 Lack of social protection

The right to social protection is guaranteed in the constitution, it states that 'everyone' has the right of access to social security, if they are unable to support themselves and/or their dependants.[229] The state is obligated to take all reasonable legislative and other measures to achieve the progressive realisation of the right to access to social assistance.[230] South African social security is divided into two branches, namely social insurance and social assistance. The latter being the focus of this research. Social assistance in South Africa is administered by the state and payable to selected categories of persons in need of income support. Social protection in South Africa is protected by the South African Social Security Agency (SASSA), giving effect to the Social Assistance Act 13 of 2004[231] and the South African Social Security act 9 of 2004[232]. A study indicated that home food production is a very small contributor to nutrition, even in difficult times. Therefore, there is great reliance on a range of income sources, namely wage income, remittances and social grants.[233]

Internationally, CEDAW also makes provision for equal social security rights in cases of unemployment.[234] At a regional level both the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa[235] and the Southern African Development Community Protocol on

[229] Section 27(1)(c) of the Constitution.

[230] Section 27(2) of the Constitution.

[231] Social Assistance Act 13 of 2004.

[232] South African Social Security Act 9 of 2004.

[233] Cross C and Altman M 'For us women, working is an unfulfilled dream: Women's wage work and food security' (2010) *Agenda: Empowering Women for Gender Equity, Gender, food and nutrition security in the context of the global economic crisis* 86 27 available at http://www.jstor.org/stable/41321380 (accessed on 24 October 2019).

[234] CEDAW (1979).

[235] Maputo Protocol (2003).

http://etd.uwc.ac.za/

Gender and Development[236] contain various provisions which require State Parties to take cognisance of women's role as care-givers, and to enact specific social security measures to assist women with their duties.

While the Constitution recognises the need for social security, no social protection is available to tertiary students (with the exception of child grants and disability grants where applicable)[237] as South Africa does not have a basic income grant. Unemployed people aged 18 to 59 years old find no recourse in social security. Social assistance could be better used to target food insecurity as it will provide women with the financial autonomy needed to access food, while empowering them to choose how the money is spent, without be subject to food choices of others. However, not all South Africans who qualify for these grants are able to access them. There is often a lack of consistency in observing the criteria for determining who is eligible for these grants and corruption within the social welfare system and SASSA itself.[238]

As unemployment increases, more people will become dependent on social grants, therefore, this 'redistribution through income transfers is essential'.[239] However, it makes poor people more vulnerable to national policy choices and politics. As mentioned, food cannot be understood in isolation of other socio-economic conditions such as social protection, unemployment, rural and urban development, households, access to healthcare, access to land and water, markets, and education. These gaps also restrict the ability of policy

[236] Southern African Development Community Protocol on Gender and Development of 2008. [Hereafter SADC Gender Protocol].

[237] The Department of Social Development is responsible for implementing social development services and social security mechanisms to enable and empower the poor, vulnerable and those with special needs. This includes social grants were applicable.

[238] Food Survey in South Africa (2011).

[239] Altman M et al 'Food Security in South Africa' (2009) Human Sciences Research Council available at http://www.hsrc.ac.za/en/research-outputs/ktree-doc/2943 (accessed on 17 October 2019). [Hereafter Altman et al].

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makers to address food insecurity as many of them remain scare in South Africa.[240]

4.3 Coping methods and the effects on female students

While some students have reported buying food and food storages items together as a means of coping. Another report indicated that 9 percent of students relied on selling their belongings and 2 percent of students admitted to stealing other students' foods.[241] This research is more concerned with the dangers and effects of the coping mechanisms many female students are vulnerable to in securing access to food.

A serious concern is the Human-Immunodeficiency Virus (HIV) prevalence among tertiary students in South Africa; in 2008 it was reported to be at 3.4 percent.[242] In looking at HIV in South Africa, the HIV incidence among females between the ages of 15 and 24 was four times higher than the incidence found in the males of this age group.[243] Therefore, female students at tertiary institutions, being part of this age group, are therefore also a higher risk of HIV transmission. This same study also found that the poorer socio-economic bracket was associated with a higher HIV prevalence and commonly entered into transactional sex for financial or material gain leading to an increase in HIV transmission.[244] These are the risks that many students, particularly female students who are unable to find decent part-time work, will take to access basic needs such as food. Being an HIV infected student would also seem to increase the risk of food insecurity, creating a vicious cycle since food

[240] Altman et al (2009).

[241] South African Higher Education Colloquium: Food Insecurity (2015) hosted by the University of the Free State.

[242] Steenkamp L et al 'Food insecurity among students living with HIV: Strengthening safety nets at the Nelson Mandela Metropolitan University, South Africa' (2016) available at http://doi.org/10.1080/17290376.2016.1218791 (accessed on 20 September 2019). [Hereafter Steenkamp et al].

[243] Steenkamp et al (2016).

[244] Steenkamp et al (2016).

http://etd.uwc.ac.za/

insecurity negatively impacts on both health and wellbeing. Tertiary institutions need to recognise and utilise the power they have in transforming the society in which they exist.

4.4 A transformative food system in institutions

The current food crisis presents a unique opportunity for institutions, as a microcosm of society. In exploring the suitability of food sovereignty in the South African context, this study looks at 'marginalised groups' active struggles and agencies in resisting hunger, rising food crises, food marketing monopolies and the like'.[245] It is centred on the idea that those involved in the food system, from production, distribution and consumption, should be able to sufficiently cater to their own needs, rather than the demands of markets and corporations. Food sovereignty prioritises the local and national economy and local agriculture based on the environmental, social and economic sustainability of that area. In taking this holistic approach, it could potentially transform the current food system into a just and regenerative one. There is no method in which the current food system can sustainably realise the right to food for female students at tertiary institutions. The problem is not an individual issue, it is a political issue and this is cannot be addressed by a system that promotes individual prosperity. A food sovereignty model could therefore result in the transformation of the entire food system.

Devereux noted that while universities use different methodologies, the overall picture is that campus food insecurity is much higher than what was perceived, and the problem is concentrated among black and coloured students.[246] Devereux noted that poverty reduction and the transformation of South Africa's economy and society will not happen without more black graduates.[247] Current universities feeding schemes provide some

[245] Lewis (2015) 7.

[246] Devereux (2018).

[247] Devereux (2018).

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support, but they are not coordinated or funded on a large scale, taking away the responsibility from the government and from NSFAS, who is ultimately responsible for providing access to food. Devereux stated that 'in the end this is the government's responsibility, the right to food is in the Constitution but this right is not being upheld for thousands of students - this crisis must be addressed urgently'.[248]

4.5 Conclusion

The complex nature of food security has resulted in numerous approaches aimed addressing the crisis. Tertiary institutions represent an opportunity for those less fortunate to escape poverty and create a better future for themselves, their family and ultimately contribute to society. However, this is curtailed when large numbers of students are hungry, unable to successfully complete their studies, and in turn this threatens the 'country's investment in human resources'.[249] Furthermore, upon graduation, these students are expected to become productive members of society, but the country will experience long-term consequences if food insecurity is impacting on the ability of students to study and graduate.[250] It's essential that students be recognised as a vulnerable group when it comes to food security, particularly female students. There is a need for legislation, policy and programmes with budgetary allocation to deal with this. Tertiary students are in the care of the state, which is obliged to ensure that the students' rights are fulfilled.

[248] Devereux (2018).

[249] Van der Berg L (2015).

[250] Van der Berg L (2015).

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CHAPTER 5

THE EXTENT OF RESPONSIBILITES FOR GOVERNMENT AND NON-STATE ACTORS

There is no such thing as an apolitical food problem.[251]

5.1 Introduction

While it is clear that the state is primarily responsible for the implementation of the right to food, much of the uncertainty regarding the right to food is whose problem it is, and who can be held responsible. There is a need for further clarity, which is also a governmental duty. Lewis suggests that it is the 'collective accountability among the entire campus community'.[252] This chapter recognises the complexity of the food system and highlights the various stakeholders involved. It also attempts to identify the extent of responsibilities and obligations of government and other non-state actors.

5.2 Specific challenges

One of the biggest challenges in addressing the food crisis is that there is a huge lack of empirical data. Therefore, limited knowledge, research and statistics make it extremely difficult to develop effective policies. The first collective responsibility is for continued research on food security studies, with particular attention to the gendered dynamics and experiences of women. This is the responsibility of government, Statistics South Africa, tertiary institutions themselves and civil society organisations. While there are many commendable food initiatives on campuses, short term interventions are not sustainable or consistent. It also gives effect to the 'charity' approach which students are dependent on hand outs; this is why it

[251] Sen A *Poverty and Famines: An Essay on Entitlement and Deprivation* (1981).

[252] Lewis (2015) 11.

http://etd.uwc.ac.za/

is necessary to take a rights-based approach to ensure economic freedom and agency. Food insecurity needs to be systematically addressed not individually and this includes the stigma surrounding food insecurity and poverty. The right to food should not be viewed as a luxury, but a human right, that every person should see realised.

5.3 Government

There are various responsible actors within government who are partially responsible for realising the right to access to food. They all share the responsibility as they all have a certain role to play. The constitutional right to access to food means that all organs of state, chapter nine institutions and relevant governmental departments are to some extent responsible for fulfilling, protecting and promoting the right to food.

5.3.1 All organs of state

At present, there has been no clear understanding from the judiciary, legislature or executive on what right to food entails, or what is expected to realise this right. Therefore, litigation might provide the platform to examine the right to food as a justiciable socio-economic right. Furthermore, as there is no specific legislation relating to the right to food in general or that of other non-state actor obligations, this provides an opportunity for the courts to delegate and oversee who is responsible and to what extent. They have an important role in clarifying what the right to food entails and the extent of shared responsibility. This would allow for the development of effective laws, regulations, monitoring mechanisms and budgetary allocations. Parliament has the responsibility and mandate to develop a good national policy framework regarding the right to food. It should be fair, accountable and sustainable. This includes an inquiry into what governmental departments are doing to realise the right to food. The lack of a dedicated department responsible for the right to food with no integrated intergovernmental response has effectively meant that there is nobody to be held accountable.

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There should also be consideration to existing policies and their shortcomings.

Chapter Nine Institutions also have a constitutional obligation and mandate to oversee the achievement of human rights. The SAHRC monitors the implementation of human rights, receives and investigates complaints on violations and has the mandate to suggest that any organ of state, including the judiciary, executive and the legislature, should act on the protection, promotion and fulfilment of a human right.[253] The SAHRC is required to monitor the activities of any organ of state to fulfil their constitutional mandate, but also to ensure that the SAHRC is able to effectively contribute to the 'monitoring and enhancement of rights in the country and ultimately assist in the reduction of poverty and inequality'.[254]

Relevant here, the SAHRC conducted a report on the gendered impact of the food system and organised hearings in all nine provinces. They invited the Public Protector and other government officials to listen to people worst affected before being accountable for how it would address these issues. The SAHRC also gathered multiple stakeholders in the food system including; women farmers, farm-workers and traders; legal and research institutions, the United Nations Women and the Office of the High Commissioner for Human Rights; organisations including the Centre of Excellence on Food Security; Biowatch; the Food Sovereignty Campaign; the Rural Women's Movement; and the Commission for Gender Equality and Finance and Fiscal Commission scrutinised the gendered impact of the food system.[255] Gender considerations within food policies were interrogated. The stakeholders agreed to create an advocacy campaign to involve and mobilise others in their

[253] Section 184(3) of the Constitution.

[254] SAHRC Research Brief (2017) 6.

[255] South African Human Rights Commission *The Right To Access To Nutritious Food in South Africa 2016-2017* (2017) 9-10. [Hereafter SAHRC The Right to Food].

http://etd.uwc.ac.za/

sectors aimed at encouraging interest and the 'political will of the importance of women within the food sector'.[256]

The SAHRC also reported that there has been little to no engagement throughout the development of the NFSNP and that inadequate engagement is not promising as this often results in policies that are not well suited to the practical realities of the people.[257] The biggest concern of the SAHRC is that confusion remains regarding who is actually responsible for the realisation of the right to food. Therefore, in developing the NFNSP, government should strive toward implementing a national legislative framework which would give statutory force to other structures. As suggested in the NFNSP, a 'green and white paper process is envisaged to prepare for this' as the right to access to food becomes enforceable.[258]

5.3.2 Coordination of government departments

The multidimensional nature requires a public policy approach that requires the coordination of various government departments across the various sectors. As it is a complex system dealing with various inputs, the government has recognised that the different responsible departments need to coordinate their response. In looking at the four pillars of food security namely availability, accessibility, utilisation and stability, it becomes easier to understand the extent of the different departments' responsibilities.[259]

Availability, according to the National Development Agency means 'the production and procurement of adequate quantities of food available on a continuous basis which is affected by the market and production within the agricultural sector'. Therefore, the Department of Agriculture, Forestry and

[256] Govender (2015).

[257] SAHRC The Right to Food (2017) 10.

[258] SAHRC The Right to Food (2017) 15.

[259] Nkwana (2015) 273.

http://etd.uwc.ac.za/

Fisheries is the lead department in terms of ensuring availability. Stats SA, 18.3 percent of households participate in agricultural sector.[260] Interest should also be given to how households and communities can be become more agriculturally productive and self-reliant.

Accessibility of adequate resources to obtain appropriate foods for a nutritious diet relates to the provision of food at the right time to places where the food is needed. According to the FAO, economic access is determined by the income that households and individuals have at their disposal, the fluctuations in the prices of food and the way in which households and individuals have access to social assistance. Physical access is determined by infrastructure. Social protection is important here because it provides protection for the poor and those unable to work, in allowing them to access to food systems. The Department of Social Development is responsible for this. They are responsible for food distribution centres and food parcels to individuals, aimed at providing social relief and distress as a key in ensuring economic access to food. The Expanded Public Works Programme and the Community Works Programme implemented by the Department of Public Works and the Department of Cooperative Governance and Traditional Affairs also have roles to play.[261]

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Utilisation which refers to the final use of food by households and individuals looks at the use of food for nutritional wellbeing with the maximum nutrients. It is mostly concerned with dietary diversity and food preservation. The Department of Health and the Department of Basic Education is relevant here in providing nutrition education and information of proper preparation of food and this information should be easily accessible to all.[262] Tertiary institutions should also aim to provide this information to all its students.

[260] Nkwana (2015) 273.

[261] Nkwana (2015) 275.

[262] Nkwana (2015) 275.

http://etd.uwc.ac.za/

Stability refers to the stability of the food supply. In South Africa this is impacted by natural, market, political and economic conditions. As the pillars of food indicate the multidimensional involvement necessary, all need to be maintained to ensure stability.[263] This means that in order to see a stable food system, the various factors would need to work together and be sustainable. In looking at students, this would mean that the national legislative framework is effectively implemented and provides the clarity necessary for tertiary institutions in the development of their own policy approaches.

5.4 Tertiary institutions

All tertiary institutions and places of higher learning are also responsible to a certain extent. There should be particular involvement from the senior management. In looking at the national policy framework, institutions should use this as a benchmark and then create their own policy in relation to their students' specific needs. Institutions should also be partially responsible for subsidising and better using its resources to feed all of the students on the campus. There should be higher education forums, advocacy task groups and a food and nutrition monitoring group created for overseeing the development of better food systems on campuses looking at resources, infrastructure and needs.

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Institutions should use student 'buying power' and recognise that institutions have the potential to support local small scale farmers and businesses, black farmers and businesses. Institutions are places of learning about food and can have a different engagement with food, as a social issue and opportunity. To address the role of institutions, the Dullah Omar Institute at the University of the Western Cape together with the DST-NRF Centre of Excellence in Food Security has gathered stakeholders under the Access to Food for Students Project.

[263] Nkwana (2015) 275.

http://etd.uwc.ac.za/

5.5 Private sector

The role of the private sector is in many instances linked to health and nutrition. The NFNSP recognises the need for proper nutrition, but government decisions and programmes do not seem to be in line with this objective. There are about five large supermarket chains which dominate the food retail sector. The Department of Social Development noted that these supermarket chains own the food market from 'seed development right up until distribution'.[264] It is this monopolisation that results in an unfair and inaccessible food system as it is centred on the economic capability of people to access the system.

While it is important to recognise the role that the private sector plays in the food system and their relevant corporate social investment and responsibility, this research suggests that being dependent on big companies, even for their contribution to the needs of the poor is still creating a dependency on the capitalist neo-liberal structure. Therefore, while it suggests that the private sector must respect and not violate right to food, institutions should greatly explore the avenues in which they become self-reliant in their food systems, looking at the transformation of the private companies supplying food on campuses; the use of infrastructure and facilities in growing and distributing food; and alternative approaches to reducing food insecurity within the institutions and greater society.

5.6 Conclusion

When considering the various stakeholders related to the food system, it becomes clear why food insecurity is a multifaceted issue and requires the concerted effort of the community, institutions and government. As this chapter highlighted, there are many governmental departments' responsible for the implementation of the right to food, but there is a dire need for

[264] SAHRC Research Brief (2017).

http://etd.uwc.ac.za/

overarching national legislation and an oversight body who can regulate how this right is to be achieved.

Within tertiary institutions, community and student engagement is crucial. There should also be more involvement from organisations to support and fund food security projects on campuses, focus on the sustainability and climate change aspects. Food is central to the growth of society and so too are tertiary institutions. To this end, sufficient resources and support needs to be given to ensuring that these institutions can successfully educate and empower those who are responsible for shaping the future of the country. Other non-state actors and civil society should at the very least respect the right to access to food. As the population increases and the economy becomes more unstable, it is not merely a suggestion to explore alternative food systems but rather a necessary shift toward sustainable living.

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CHAPTER 6

CONCLUDING REMARKS AND RECOMMENDATIONS

Hunger is not caused by a scarcity of food, but buy a scarcity of democracy.[265]

6.1 Introduction

This study aimed to establish the link between gender inequality and food security through the lens of female students at tertiary institutions in South Africa. It addressed the lack of gendered considerations within the food policy framework and argued that a gendered approach to the development of food security studies and policies can help address the food crisis in South African tertiary institutions and greater society. It used feminist legal theory to highlight the gendered dimensions of the political, socio-economic and cultural barriers affecting South Africa's national food crisis, identifying the specific challenges female students face in achieving food security.

This study was able to highlight the experiences of a vulnerable group in society, as it focused on the limitations of economic accessibility as it found this to be the most limiting factor contributing to food security among female students on campuses. It explored the dichotomy of South Africa's current food system and economy, and highlighted its patriarchal structure. It focused on the following factors; the gendered divisions of labour; female unemployment; and access to social protections including NSFAS and social security. In addition, to it looked at how female students are further disadvantaged by exploring these limitations within the context of a sexist, racist and classist reality in South Africa.

[265] Lappe` F 'Wake up and smell the soil' (2013) available at http://civileats.com/2013/09/18/wake-up-and-smell-the-soil-a-groundbreaking-unctad-report-on-the-paradigm-shift-needed-to-feed-the-future/ (accessed on 17 November 2019).

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In addition, it looked at whether South African law sufficiently protects the right to food in general and what obligation the state has in realising the right to food for female students at tertiary institutions in particular. Consideration was also given to the extent of responsibilities placed on other non-actors.

In looking at economic autonomy, this study maintains the position that a capitalist neo-liberal system is essentially patriarchal at its core, and until women are given equal access and tools to equip themselves to access labour markets, inequalities will persist. However, in recognising the eventual demise of a capitalist system, it also argues for the transformation of the current food system, centred of food sovereignty, where women are fully recognised for their multiple roles within the food system and can participate fully as society looks for more sustainable ways to sustain its population. It reiterates that without this shift, gender equality will remain elusive and similarly SDG 2, Zero Hunger, which commits to achieving food security, improved nutrition, and promote sustainable agriculture by 2030, will never seen its full realisation. To this end, it makes the following recommendations.

6.2 A coordinated national legislative framework

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This study has displayed that South Africa has a unique food system and there exists many groups of marginalised people who have extremely limited access to this system. In particular, female students at tertiary institutions are one of the most vulnerable groups to food insecurity. Therefore, good and effective policies need to be created to address the specific needs and issues identified. While food insecurity is a global problem with a lack of large scale studies and research, policies have to be relevant to the current known issues and targeted at addressing the issue of deep rooted intergenerational inequality and poverty that exists in South Africa. There are many marginalised groups within society, experiencing vast and different limitations, and so policies should be aimed at addressing the specific needs of the most vulnerable. As research has shown that food availability and production is not the major issue in South Africa, policies should rather be

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focused on ensuring that has physical and economic access to food at all times.

Policy developments in the area of food security also creates an opportunity to push the boundaries in creating a new food system; looking at social and ecological sustainability, regenerative food systems, and dismantling of the current food system. In recognising the various stakeholders involved, policy interventions should take a broad approach, which should act a framework for tertiary institutions, to measure their own food policies against. In so doing, it should address not just the legal aspects but also the political and social aspects in how people view food and poverty.

Therefore, the first step should be toward collecting, processing and analysing data on food and nutrition security to uncover the magnitude of the problem. Data and information is critical to study the impact and extent of government initiatives aimed towards reducing food and nutrition insecurity in.[266] Specifically in the context of students at tertiary institutions, research should also be conducted on the actual extent of food insecurity within these institutions and particular institutional policies could be created in line with the overarching national legislative framework. With the aim of creating a national indicator of food insecurity at tertiary institutions to gather data and measure the extent of the problem, consideration should be given to the use of the University Students Food Insecurity Questionnaire which has already been used by certain institutions to measure food insecurity levels among students. [267]

The NFNSP as the latest policy development is the best tool to use in achieving the objectives of the National Development Plan and that of the global SDGs aimed at achieving food security for all. However, South African food policies to date, including the NFNSP have been wholly inefficient because they have

[266] South African Market Insights 'South Africa's Food Security as measured by Statistics South Africa' (2019) available at https://www.southafricanmi.com/south-africas-food-security-30mar2019.html (accessed on 13 May 2019).

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not yet addressed the core issues within the national legislative framework on the right to food. Without one coordinated policy or strategy which stipulates exactly which governmental departments are responsible for the different sectors of the food system; clarification on what the right to food entails; and strategies aimed at reducing the limitations of accessibility to the food system, this research highlights that policies will continue to be ineffective.

6.2.1 Considerations within the national framework

In looking at considerations with the NFNSP and relevant to the issues pertaining to students in this research, it should provide clarification on the following issues as a guideline for tertiary institutions to develop their own policies accordingly. First, that food as a socio-economic right requires money and the budgetary allocation of resources inputs at different sectors of the food system. As unemployment rates are rising, provisions need to be made for tertiary students. There is much deliberation on how to make the food most accessible, this includes distribution/service delivery stops. Depending on facilities available, institutions should also consider providing food in kind, through dining halls and kitchens.

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There should also be due consideration given to the kind of food available on campuses whether it is provided by the institution or any other food suppliers on campus. It should be healthy, nutritious and affordable. Similarly, there should be better allocation of resources, specifically land at the larger institutions. This includes better use of facilities, buildings and other infrastructures on campus, to accommodate for growing, cooking and eating.

Policy should also include food and nutrition education. There should be education and curriculum programmes on food environments, nutrition, self-sufficiency, and rethinking ways food is viewed in society. When creating policy, it is important to have the voices and experiences of the marginalised communities included and reflected in policy developments, particularly women whose needs are often not considered or protected. There should also

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be consideration of short term and long term goals in finding the most effective and sustainable solutions. Chitja says it is at 'household and village level' where gender considerations matter, noting that gender is crucial at policy levels 'to release the latent potential amongst us' and calls on men to take up the gender burden from women.[268]

6.3 Multi-pronged strategy approach

While there are many different approaches to achieving developments within the food system, as food is a complex issue, this research maintains while it is the duty of Parliament to create a national legislative framework to guide policy and programme strategies, there are also other avenues to be explored in tackling the complex issue of food insecurity.

Strategic impact litigation is often used to resolve a political issue that goes to court, usually regarding a socio-economic rights claim. The effects are far reaching and go beyond the actual issue at hand. It also has a greater impact on people in hopes to develop legislation that changes society for the better. Strategic impact litigation works because it gains momentum through gathering the interest of people and in turn, puts pressure on the government. It is not limited to winning or losing a case as any litigation would raise awareness and receive media attention. There are material impacts which directly results in change from applicant, there are instrumental impacts which extend beyond the issue at hand and often alters law or policy, and there is the non-material impact which is not measurable but results in a shift in how people view these issues because their level of consciousness has changed - this is equally important. Strategic impact litigation also has the potential to bring about change in a bigger way; it would also force government to look at bigger systemic issues and could become the driver in creating a new system with consideration of the capitalist and patriarchal structures and their limitations on many South Africans.

[268] Makwela (2019).

http://etd.uwc.ac.za/

The right to food is essentially the last right that needs to be litigated on in the South African courts. Even so, the law has practical limitations and that is why mobilisation and movements on the ground is important. When considering litigation, it is important to know the following; whether these are the right applicants and respondents; whether this is the best context to establish the right you are contending for; whether this approach is the best way to proceed with realising the right to food as many vulnerable groups have yet to realise this right; whether there are deficiencies in the current reports; alternative remedies; and what the consequences are in an unsuccessful attempt to have this case heard. It is evident that an informed decision is necessary when considering this route.

In this context, this litigation strategy would be led by students and supported by various institutions and civil society organisations. Strategic litigation often also has incremental effects. It can be used to rally together many stakeholders and develop other movements. There is a bigger issue at hand but the right to food is tough to tackle broadly and so this is a good platform to start with.

There is also the need for continued advocacy on the food insecurity crisis within tertiary institutions and greater society. It is important that this issue does not lose traction and that there is a continued interest and investigation into this area of food studies. Therefore, the use of media, education, and campaigns are crucial in maintaining the progress and transparency of movement throughout.[269] While these different mobilisation strategies are all necessary, the central aim of this study was to highlight the lack of gendered considerations within the food security paradigm and in so doing, argues for the complete transformation of the food system toward a feminist food sovereignty model as the necessary shift in alleviating South Africa's unique food security crisis.

[269] SAHRC The Right to Food (2017) 21.

http://etd.uwc.ac.za/

6.4 A feminist food sovereignty model in South Africa

The term 'food sovereignty' gained popularity as a response to the emphasis on global markets as the means of ensuring national food security. Defined as 'the right of each nation to maintain and develop their own capacity to produce foods that are crucial to national and community food security, respecting cultural diversity and diversity of production methods'.[270] It gained popularity as it is centred on the empowerment of marginalised communities taking back their control of their food system. One of the key tenets of the food sovereignty vision is 'strengthening family farming and achieving gender equality', it considers the promotion of women's rights necessary for the development of a transformative and sustainable food system.[271] Be it due to biological nature of the social construction of nurture, in all instances it is widely accepted that women are more knowledgeable in the area of the sustainable use of resources than men and are an important part of the formula to address sustainable development because they are much closer to the problem, especially in developing countries, and are also closer to the solution are they have the knowledge of coping mechanisms and specific needs within their context.[272]

UNIVERSITY of the
WESTERN CAPE

Suggesting that until a 'overhaul of the food system by ensuring that participatory legislation is put in place and a new inclusive, healthy and sustainable food system replaces the old one, radical transformation will remain a rhetoric'.[273] It is necessary to realise that there is no capitalist solution to climate change and sustainability as capitalism requires the exploitation of resources for capital gain. Finding a solution to food insecurity within the capitalist system becomes seemingly impossible, therefore, it is

[270] Pereira (2004) 3.

[271] Pereira (2004) 3.

[272] World Economic Forum Global Agenda Council on Women's Empowerment 2011-2012 *Five Challenges, One Solution: Women* (2013).

[273] SAHRC The Right to Food (2017) 23.

http://etd.uwc.ac.za/

crucial to look beyond the system for solutions – this requires leadership and innovation. Tackling food injustice needs a transformation of the structural inequities of the food system and the shift toward food sovereignty.[274] Therefore, this study suggests that further research should be conducted on the suitability of a feminist food sovereignty model in South Africa.

6.6 Conclusion

In concluding, it can be argued that South Africa needs to see a lot of development regarding the right to access to food. This research considered the link between gender inequality and food insecurity through the lens of female students in South Africa. This study established the connection between and highlighted whether gendered considerations within the national legislative framework and food policies could alleviate the issue of food insecurity within institutions and greater society. It maintains that gender considerations are necessary to addressing this problem and that it is not optional, women constitute half of the population and also largely responsible for providing food for the other half, therefore, it is logical and crucial that they should be given the appropriate recognition and tools to access and transform the food system. More than recognising women's centrality in food procurement and preparation, this research has identified ways in which women's ideologies, challenges and priorities test the current food and economic systems that are enforced socially and politically.[275] Therefore, a transformation of the food system is required in order to fulfil the right to food from a human rights-based perspective'.[276] In understanding food security in a wider sense, it becomes clear that knowledge of growing food, knowledge of environmental factors and the knowledge of how to effectively use the limited

[274] Kesselman B 'Pasha 43: How South Africa can deliver on the right to food' (2019) available at http://theconversation.com/pasha-43-how-south-africa-can-deliver-on-the-right-to-food-126523 (accessed on 21 November 2019).

[275] Williams-Forson P and Wilkerson A 'Intersectionality and Food Studies' (2011) 14 *Food, Culture & Society* 1 17 available at http://doi.org/10.2752/17517441X12810842291119 (accessed on 23 November 2019).

[276] SAHRC The Right to Food (2017) 23.

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resources left on the planet, is perhaps the most valuable information future generations can be taught. There is no doubt that women have invaluable knowledge of food and related resources, it is therefore necessary for them to be a part of the solution to achieving food security for all.

In the end, the holistic human rights approach to food means the full ability and right to choose what to eat. To allow somebody the freedom to decide what they put into their body, to know where it comes from and what the ingredients are, to choose how it is consumed, and why it is consumed – whether it is for nourishment, pleasure or no reason at all. That is some food for thought.

Word count: 30 441

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