

**“PROTECT CHILDREN’S RIGHT TO NUTRITION BY RE-OPENING THE NSNP”**

**CHILDREN’S INSTITUTE & CENTRE FOR CHILD LAW SUPPORT LITIGATION FOR THE  
REINSTATEMENT OF THE NATIONAL SCHOOL NUTRITION PROGRAMME**

**FOR IMMEDIATE RELEASE:**

**1 July 2020**

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**#9MillionMeals #SchoolMealsNow**

Tomorrow, 2 July 2020, the High Court, Pretoria will hear arguments in the matter concerning the re-opening of the National School Nutrition Programme (NSNP) for all children.

The Children’s Institute, represented by the Centre for Child Law, have entered the case as Amicus Curiae (friend of the court). The Amicus bring arguments to support those brought by the Applicants, Equal Education and two Limpopo schools, (represented by SECTION27 and Equal Education Law Centre). The Applicants argue that the NSNP must be re-opened for all qualifying children, regardless of whether their grades returned to school on 8 June 2020.

The arguments of the Amicus focus on the interrelatedness of children’s right to basic nutrition, their right to basic education and to have their best interests considered of paramount importance. The Department of Basic Education’s (the Department) failure to provide the NSNP to all learners who qualify, whether they are attending school or not, is a violation of these rights.

The Children’s Institute submits that these rights are interrelated and must be protected and implemented in a manner that views children’s developmental needs in a holistic manner. They point to the purpose of the NSNP, which is to:

1. Enhance learning capacity, school attendance and punctuality; and
2. To contribute to children’s general healthy development by alleviating hunger and providing essential micro-nutrients.

The Children’s Institute submits further that the Department’s argument that the fact that needy learners receive nutrition from the NSNP is only incidental to the main aim of assisting in the provision of education is flawed. An expert affidavit by the Children’s Institute demonstrates the link between nutrition and education:

*“The relationship between nutrition and education is well-established: healthy and well-nourished school children learn better. Malnutrition not only has severe consequences for the physical health and survival of children; it also affects their cognitive development and learning outcomes. Those who are undernourished do not have the*

*same potential for learning as well-nourished children ... The NSNP, which delivers micronutrients through its inclusion of protein, vegetables and fruit, holds positive benefit for children's development and learning in the school environment, contributing to better health and the realisation of their right to basic education."*

The NSNP is a key component of government's social protection package that is essential in realising the nutritional, developmental and learning needs of millions of children, many of whom live in households below the food poverty line. After the Child Support Grant, it is the state's second biggest child poverty alleviation programme. The expert affidavit highlights the negative impact of suspending the NSNP:

*"Given this context, of widespread poverty alongside high and growing unemployment, loss of earnings and rising food prices, the suspension of the NSNP will have had substantial consequences for children and their households as it would have exacerbated child hunger and placed already struggling households in an even more desperate situation."*

The Children's Institute's papers provide evidence to the court of the high child poverty and malnutrition rates in South Africa: Before lockdown approximately 6 million children lived in households where there are no employed adults. These households are reliant on social grants for survival. Approximately 6.4 million children lived below the food poverty line of R581 per person in 2020 Rands, meaning that their caregivers are financially unable to ensure they receive basic nutrition, despite these caregivers receiving the Child Support Grant. Over a quarter of all children under 5 in South Africa were stunted, indicating that families are unable to feed their children a nutritional diet and that this is negatively affecting their children's healthy development. In these circumstances, International and Constitutional law place a duty on the State to support these families to provide for their children's basic need especially with regards to nutrition. These high levels of child poverty and malnutrition existed before South Africa instituted its lockdown. Since then, levels of unemployment and food insecurity have increased, and at the same time children have lost access to school feeding.

The NSNP usually reaches over 9 million children daily and literally fills the gap for millions of children who face food insecurity and hunger. The decision to close the NSNP on 18 March when schools were closed due to the hard-lockdown should have been preceded (or immediately followed) by a child rights impact assessment to determine what would be in the best interests of children affected by the closure of the NSNP. Such an assessment would have revealed the significant negative impact of the closure on children's rights to basic nutrition, education and health. This evidence should have ensured that the Department

immediately began planning for re-opening safely at the earliest possible date. The Applicants and Amicus wrote numerous letters to the Minister and Department starting in April, bringing these issues to the Department's attention.

The lack of recognition of the negative impact on children and subsequent lack of early planning is what has led to the slow re-opening of the NSNP to all grades across the country. It is only as a result of the litigation launched by the applicants in June that National DBE began to plan and lead the re-opening of the NSNP.

Given the Department's opposition to this application and their slow progress in re-opening the NSNP, the Children's Institute supports the Applicants in their request to the court for a supervisory order to monitor the Department's implementation of the re-opening of the NSNP. Such an order will ensure the National and Provincial Department's prioritise the realisation of children's rights to basic nutrition, basic education and health.

**Ends.**

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