

Introduction to the *Means to Live*

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The essays that follow in this part of the *South African Child Gauge* are based on the findings from the *Means to Live* research project of the Children's Institute, University of Cape Town. This essay provides background information to the ones that follow by introducing the research and some of the key thinking and concepts underpinning it.

This essay focuses on the following questions:

- What is the *Means to Live*?
- What is a child rights framework?
- What programmes were evaluated in the *Means to Live*?
- What is meant by targeting?
- What is the *Means to Live* framework for analysis?
- What is the *Means to Live* methodology?
- What are some of the cross-cutting themes?
- What are the conclusions?

What is the *Means to Live*?

The *Means to Live* is a three-year research project that focuses on a package of targeted government services, grants and other benefits, of which poor children are the direct or indirect beneficiaries.

The idea of an integrated set of poverty alleviation programmes emerged in the Taylor Commission of Inquiry into a Comprehensive System of Social Security for South Africa. Their report, published in 2002, emphasised the need for an integrated, inter-sectoral approach to addressing poverty.

While many policy reviews and programme evaluations have used a rights framework, there is a lack of research that focuses specifically on targeting mechanisms, or which evaluates targeted programmes from the perspective of children. There has also been little comparative analysis of programmes with a view to integration of poverty alleviation strategies.



The *Means to Live* addresses these gaps by undertaking desk-based and primary research that investigates the targeting aspect of a range of programmes relevant to children's socio-economic rights. Ultimately, it seeks to support the development of a more comprehensive, integrated package of programmes for children living in poverty, and for the households in which they live.

What is a child rights framework?

The South African Constitution sets up a human rights framework that places various obligations on government, citizens and non-citizen residents. Like other modern constitutions, it recognises that human rights and the basic social conditions in which people live are fundamentally interconnected. This is represented in the Constitution by socio-economic rights clauses, which impose positive obligations on the State. Apart from simply protecting members of society from human rights violations, socio-economic rights oblige the South African government to do as much as it can to satisfy the basic needs of everyone.

Socio-economic rights place positive obligations on government to secure a basic set of public goods – education, health care, social security, food, water, shelter, access to land and housing. Justiciable socio-economic rights assist researchers, activists and people living in poverty in monitoring the State's progressive realisation of its obligations to the poor and holding the State accountable for its obligations through, for instance, litigation. This is a fundamental part of the balance of powers of the Courts, the Judiciary and the Executive branches of government.

The right to just administrative action is an additional tool in the assessment and enforcement of state efforts to address poverty. It focuses on the requirement that governmental policy is effectively implemented, and that it meets the minimum requirements of lawfulness, procedural fairness and reasonableness.

The South African Constitution provides for socio-economic rights in Sections 26, 27, 28 and 29.

Section 26 (1) states the right of "everyone"¹ "to have access to adequate housing", and Section 27 (1) guarantees the right of everyone "to have access to (a) health care services, including reproductive health care; (b) sufficient

food and water; and (c) social security, including, if they are unable to support themselves and their dependants, appropriate social assistance".

The rights in Sections 26 and 27 are qualified by a subsection that requires the State to "take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights".

A second category of socio-economic rights, referred to as "basic" rights, entrenches children's socio-economic rights (Section 28 (1) (c)); the right of everyone to basic education, including adult basic education (Section 29 (1) (a)); and Section 35 (2) (e) – a detainee's rights to adequate accommodation, nutrition, reading material and medical treatment. This category of rights is not qualified by reference to reasonable measures, progressive realisation or resource constraints.

In addition to the Constitution, South Africa's socio-economic rights obligations to children can be found in two other important legal instruments: the United Nations Convention on the Rights of the Child, and the African Charter on the Rights and Welfare of the Child.

What programmes were evaluated in the *Means to Live*?

The *Means to Live* evaluates a range of poverty alleviation programmes related to children's socio-economic rights to see whether they are appropriately targeted in their design, and whether the targeting mechanism, when implemented, gives effect to the intention of the policy and the right. In other words, it assesses poverty alleviation programmes at the level of conceptualisation and implementation, and examines the translation of policy into practice.

But it also goes further than evaluating individual programmes. Although rights are inter-dependent and government policies often stress the need for integrated planning and service delivery, there is little coherence in the development and implementation of programmes for the poor. While the *Means to Live* focuses on a set of discrete government programmes, it is also a system-wide evaluation concerned with synergy between programmes that could (or should) constitute an integrated poverty alleviation strategy – although this is not how the programmes are conceptualised.

¹ 'Everyone' includes non-citizens and residents.

An initial task for the research team was to decide which programmes to include in the review. To evaluate all programmes related to children's socio-economic rights would have been an unmanageable task. The researchers therefore employed a rationale for selecting programmes for evaluation based on both conceptual and logistical elements.

The socio-economic rights framework was used to identify areas of research.² Only those areas that are most essential to the survival and development of children – health, schooling, housing, water, nutrition and income support – were included. The researchers chose only one type of programme per sector or right to ensure a somewhat representative collection of social policy interventions. Only the most extensive national poverty alleviation programme per right was chosen.

Programmes selected for the *Means to Live* are therefore national programmes designed to address children's socio-economic rights. All these programmes are assessed from the perspective of children:

1. The **Child Support Grant** of the Department of Social Development (right to social security).
2. **Free primary health care** and **free health care for children under the age of six** of the Department of Health (right to basic health care).
3. The **School Fee Exemption policy** of the Department of Education (right to education).
4. The **National School Nutrition Programme** of the Department of Education (right to basic nutrition and right to education).
5. The **Housing Subsidy Scheme** of the Department of Housing (right to shelter and right of access to adequate housing).
6. The **Free Basic Water** policy of the Department of Provincial and Local Government (right to basic services and access to adequate housing).

The *Means to Live* evaluated the targeting of these programmes, and the consequences of the targeting mechanisms for children and their caregivers, both defined as 'rights-bearers' under the Constitution.

What is meant by targeting?

Targeting is a way of identifying who or what is eligible for a benefit or good. In the broadest sense, targeting can be universal by, for example, government spending on items that reach a large section of society, including the poor. Spending on universal free primary health care is an example of universal targeting.

Narrower targeting seeks to identify specific types of individuals, households, communities or entities to whom scarce resources or public goods can be provided. Narrower targeting requires specific mechanisms to identify beneficiaries, and is put in place to maximise the use of scarce budgetary and other resources. An example is the Child Support Grant, which is available only to children under 14 years who are living below a defined income level.

Targeting is subject to two potential errors – those of inclusion and those of exclusion. Errors of inclusion are found where people who are not eligible (for instance, because their income is above the threshold criteria) are able to access the benefit. In the case of poverty alleviation programmes, this error would be found if the non-poor were able to access a benefit. Errors of inclusion are often of great concern to government departments because it means that funds for poverty alleviation are being wasted. An example of this is fraudulent access to social grants.

Errors of exclusion, on the other hand, are found where eligible people (such as the poor or certain categories of poor people) who should be able to access a benefit are excluded because the test to assess their eligibility is set at an inappropriate level or establishes unjustifiable barriers to access. From a rights perspective, errors of exclusion are more serious than errors of inclusion, since they often imply that a right has been violated, or is not realised.



² The only socio-economic right that was left out was the right to social services. While these are essential in the context of poverty, they are not primarily aimed at poverty alleviation.

What is the Means to Live framework for analysis?

The *Means to Live* is a socio-legal study. Two main frameworks were developed by Solange Rosa, an original member of the *Means to Live* team. The frameworks are based on the principles of 'reasonableness' and of 'administrative justice', and underpin the analysis of targeted government programmes.

Reasonableness

The *Means to Live Project* uses the criteria of the 'reasonableness test' as a loose method for evaluating the State's targeting mechanisms for poverty alleviation programmes. The criteria were developed by the Constitutional Court in the landmark *Grootboom* case. In applying the criteria, the researchers looked at both the conception and implementation of targeting mechanisms for government poverty alleviation programmes.³

The following questions about the design of the targeting mechanism for the selected poverty alleviation programmes and their implementation were used:

- Has the programme been **conceptualised** in such a way that all children in need are targeted beneficiaries, and that the most vulnerable children are specifically targeted?

The following were criteria for a successful targeting mechanism:

- The target population is explicitly defined.
- The targeting mechanism is explicitly defined and easily determinable or observable.
- Identification of the targeted population is evidence-based and inclusive of those who are most in need.
- The mechanism does not create perverse incentives.
- There is an appropriately allocated budget.
- There are no unreasonable administrative barriers.
- The application is clear and easy to handle for the applicants.
- The regulations are simple and easy to handle for the officials.
- It is possible to reach high proportions of the targeted group.

- Is programme **implementation** taking place in such a way that services are being rolled out to all children in need, particularly those whose needs are most urgent?

The following were criteria for successful implementation:

- There is an effective targeting mechanism.
- There is sufficient administrative capacity to deliver the benefit to 100% of the target population.
- The test is difficult to manipulate and not open to subjective interpretation.

Administrative justice

Targeting often requires administrative decisions about who is and is not eligible for a benefit. This usually involves an application process and a decision on whether the applicant meets the eligibility requirements. This is the case for Child Support Grants, housing subsidies, fee waivers in secondary and tertiary health care facilities, and school fee exemptions.

In the analysis, the *Means to Live* highlighted instances where the requirements of administrative justice were not met.

The following breaches of administrative justice were taken into account:

- A lack of authority or unlawful delegation.
- Bias.
- Failure to comply with procedures.
- A lack of procedural fairness.
- An error of law.
- A failure to implement rational and reasonable administrative action.

These grounds are the same as those used by the Courts to review administrative action.



³ The 'reasonableness test' is adapted and used here to enhance the value of the use of constitutional analysis of government programmes with respect to their obligations in realising socio-economic rights, in particular for children. This is not to say that the *Means to Live* researchers support an interpretation of qualified children's socio-economic rights but rather an attempt to standardise the analysis of targeting.

What is the *Means to Live* methodology?

Policy review

The *Means to Live* started with a set of policy reviews – one for each of the selected poverty alleviation programmes – and a synthesis paper that framed the project and provided a synopsis of the reviews. All the reviews included a short introduction to the scale of need and the social and political context before providing a rationale for the programme and its targeting. The papers concluded with an analysis of the targeting mechanism by drawing on available evaluation research, and highlighted issues that needed further exploration using primary research methodologies. The policy reviews were published as a series of papers in December 2005 and are available for download at: www.ci.org.za.

Primary research

It is impossible to compare eligibility and take-up rates for the poverty alleviation programmes through secondary analysis of existing data, for two main reasons. First, there is a lack of data that would support calculations of eligibility for the range of programmes. Second, there are no existing data sets that accurately record take-up for all the programmes at household, let alone individual, level. It was necessary to undertake primary research to calculate the extent of inclusions and exclusions amongst a child population, and to understand some of the barriers to programme access.

The *Means to Live* research was conducted in two sites. Confining the research to specific sites enabled researchers to assess how the targeting mechanisms work in practice and to investigate the processes and effects of implementation from both the implementers' and beneficiaries' perspectives. This helped to explain how and why poor people access (or fail to access) poverty alleviation programmes in the context of their actual implementation.

A metropolitan and a rural site were identified for the research, as rural and metropolitan municipalities can differ greatly in their capacity to implement programmes and finance basic services. Mechanisms to reach urban populations may differ from those appropriate to rural areas where people may live more scattered, and have less access to information and lower literacy levels. The rationale for site selection included population size, poverty levels, accessibility, and programme implementation. Part of Makhaza in

Khayelitsha in the Western Cape province was selected as the urban research site. The rural site consisted of a cluster of three villages about 35km from Butterworth in the previous Transkei area of the Eastern Cape province.

The research had both quantitative and qualitative dimensions:

A **representative survey** of children was undertaken in each site. This enabled calculations of programme take-up as a proportion of eligibility within the local child population. It also allowed for an analysis of inclusions and exclusions, which in turn informed themes for qualitative research related to access and barriers. The total sample size was a little under 1,200.

Implementer interviews were conducted with government officials at national, provincial and local levels, as well as with other role-players involved in supporting or mediating implementation.

Qualitative interviews were conducted with caregivers⁴ who were chosen from the survey. These interviews provided insight into how caregivers and children access programmes, and why some eligible people are able to access them while others failed to get the benefit in the end.

Focus groups were convened to obtain a collective construct of the local context through a discussion of "life in the area" with a special emphasis on children. Group interviews were conducted with caregivers and with teenagers in the two sites.

What are some of the cross-cutting themes?

Multiple inclusions and exclusions in programme design

The *Means to Live* found that the targeting of poverty alleviation programmes is variable, in that different categories and proportions of the child population are eligible for the various programmes. This is not necessarily a bad thing, since it avoids an "all or nothing" situation where individuals and households who are just above the eligibility criteria are excluded from all forms of poverty alleviation. This would occur, for example, if there were a single targeting mechanism to identify the eligible "poor", and which made a defined segment of the population eligible for all poverty alleviation

⁴ Caregivers are those who undertake the primary responsibility for parenting children from day to day. In most, but not all, cases, this is the child's biological mother. Many children are cared for by grandparents, siblings, other relatives, or non-relatives. In the *Means to Live*, specific criteria were used to define one primary caregiver per child to replicate assessments of eligibility. In reality, however, care arrangements are often shared between parents or other household members.

programmes while rendering the rest ineligible.

Multiple inclusions occur where children are able to access an array of poverty alleviation programmes. In some instances, these cross-references are inherent in the policy. For instance, the regulations on school fees prescribe that children who receive Child Support Grants are automatically exempt from paying fees at public schools. Multiple inclusions seek to prevent cross-subsidisation at the expense of the poor, meaning the benefits of poverty alleviation programmes should be cumulative. For instance, people should not have to spend their child's grant on educating the child, since programmes are in place to realise both the right to social assistance and to education.

The flipside of inter-dependence is the risk of multiple exclusions. For example, as is discussed in a later essay, school attendance rates start declining at the point where children are above the age threshold for social grants and for free education. Similarly, the National School Nutrition Programme is only available to those who are able to attend school, and is explicitly targeted at primary school learners. However, the respective constitutional rights apply to all children under 18 years; so this is a situation where the targeting of multiple programmes has failed to uphold the rights of older children.

Multiple exclusions for older children raise normative questions about the kind of support that should be provided for teenagers, who face very different challenges to younger children: greater responsibility within the household, the need to prepare for future employment, the possibility of having children or having to parent younger siblings, the risk of exposure to HIV, as well as exposure to social risks such as drugs and gangsterism. All of these imply the need to ensure access to the best possible education and for income support if the household is poor.

The requirement of progressive realisation suggests that programmes should be progressively expanded to reach a greater proportion of children in need. Already, there are indications that the National School Nutrition Programme may be implemented in high schools and that the Child Support Grant may be extended to include all children under 18 years. The South African Constitution is progressive and transformative in nature, and provides a generous framework of rights for children. In the context of high unemployment, persisting poverty and inequality, the emphasis of poverty alleviation programmes needs to be on progressive expansion of the targeting mechanism.

Key dimensions of poverty

Although we talk of the multi-dimensionality of poverty, it is clear that there are two key elements that influence other dimensions of poverty.

The first is **income**, because money is a link to everything else. In a world that revolves around money, even those in the most remote areas are not free of dependence on the cash economy. The poverty alleviation programmes reviewed in the *Means to Live* demonstrate different conceptualisations of income poverty. Income thresholds range from R800 or R1,100 for the Child Support Grant; to R3,500 for a housing subsidy; and around R8,000 for free health care above the primary level.

Income thresholds assume a consistent level of income, and can be arbitrary in a context where employment is insecure and income erratic. Cash transfers through social grants provide a regular income, are effective in reducing poverty and are linked to positive health and education outcomes for children. However, the cash grants amounts are small and, in the absence of social assistance for the unemployed, are further diluted when cash transfers for children have to support entire households.

Social security needs to be complemented by the provision of services, and this is where a second key element of poverty, the **spatial** dimension, comes in.

Access to housing and land is a means of placing oneself in relation to services and resources. The legacy of apartheid is a country where spatial arrangements entrenched poverty, and poor areas – particularly the old “homelands” – were deliberately under-resourced. Children are disproportionately over represented in these areas, with over half of all children living in rural areas despite rapid urbanisation.

For these children, the burden of access to services and resources is compounded by basic problems of location and distance – the cost of transport to get to a service point; and on the supply side, the inaccessibility of areas with substandard roads, making the delivery of even mobile services difficult. Basic municipal services are often inadequate or non-existent, partly because of the financial and logistical difficulty of providing basic service infrastructure to populations that are remote and scattered, and also because of severe capacity and budget constraints in the municipalities of these areas.

In theory, housing delivery should address the spatial dimension of poverty in two possible ways: first, housing development entails more than the delivery of houses.

Integrated planning is an explicit policy objective, but the housing development projects studied in the *Means to Live* fell short of this objective. Second, the housing programme, if it is to give meaning to the principle of redress, should enable those who have been economically and physically marginalised to make choices about where they live – and where to deploy their once-off subsidy. In practice, however, this is seldom possible. Poor people continue to live in areas that are historically poor and under-resourced.

The notion of spatial poverty has informed the new education policy. No-fee schools are determined by their location on the basis of the poverty profile of the surrounding community. It is the accompanying School Fee Exemption policy that potentially enables children to transcend the historic boundaries that divide races and reinforce inequality.

Lastly, while housing and land are immovable, people are not. Household arrangements are often fluid, and the mobility of children in particular is highlighted in the *Means to Live* and other studies. This has implications for the design and implementation of programmes, which may need to follow the child.

Issues of implementation

The *Means to Live* research highlights a number of gaps between policy and practice. Principles of administrative justice become relevant, since evidence reveals a lack of certainty and consistency in the implementation of programmes. Rights-bearers are sometimes unable to claim their entitlements because of variable processes or even unlawful requirements on the part of implementing officials. The social grants system, in particular, seems to be geared strongly towards the exclusion of ineligible children, resulting in burdensome requirements that may also exclude those most in need.

While some forms of poverty alleviation are continuous, others are once-off. In both scenarios, however, the issue of maintaining or sustaining access is an important cross-cutter. Targeting mechanisms tend to focus on the point of initial access, but entitlement failures may occur if the benefit is subsequently lost. The Child Support Grant, once initially accessed through an application and means test, must be

re-accessed each month. Grant access may be lost through the death, illness or movement of the caregiver, or when the child moves households. Cross-provincial movement is particularly problematic. Access to education, too, must be sustained, and the costs are annual and ongoing. Access to subsidised housing is technically a once-off arrangement, but problems relating to quality and titling have resulted in beneficiaries losing both their houses and their right to future subsidies.

The costs of programme access can be barriers to poverty alleviation. Many of the programmes, either explicitly or implicitly, require financial investments from the poor. These may be related to the cost of transport to access service points, costs incurred in complying with the requirements for documentary proof of eligibility, opportunity costs, and secondary costs associated with government services (such as the cost of uniforms and books in the context of 'free' schooling, or the cost of relocating to a subsidy house). The Department of Housing, acknowledging that the cost of programme access discriminated against the poor and delayed housing delivery, has deliberately discontinued the requirement of a financial contribution from applicants in the lower income groups.

The possession of birth certificates and identity documents is a crucial issue, and difficulties in obtaining these result in multiple exclusions.

What are the conclusions?

Many elements of a 'basket of goods' for children are entitlements stipulated by the Constitution. Principles of 'reasonableness' and 'administrative justice' can provide a framework for assessing policies and programmes to deliver on these entitlements. All rights are inter-related and mutually supporting, but there is a need for greater coherence in the design and implementation of poverty alleviation programmes to ensure that poor children can claim their multiple entitlements and stand a better chance of developing to their full potential.

The essays that follow provide an overview of selected findings from the *Means to Live*. The full report will be published in 2007.

SOURCES

Bilchitz D (2003) Towards a reasonable approach to the minimum core: Laying the foundations for future socio-economic rights jurisprudence. *South African Journal on Human Rights*, 19: 1-26.

Constitution of the Republic of South Africa. Act 108 of 1996.

Currie I & De Waal J (2005) Socio-economic rights: Housing, health care, food, water, social security In: *Bill of Rights Handbook* (2005) 5th edition. Cape Town: Juta.

Currie I & Klaaren J (2001) *The Promotion of Administrative Justice Act Benchbook*. Cape Town: Siber Ink Publishers.

Government of the Republic of South Africa and Others v Grootboom and Others 2000 (11) BCLR 1169 (CC).

Haarmann D (1998) *From the Maintenance Grant to a New Child Support*. Cape Town: University of the Western Cape.

Hall K, Leatt A & Rosa S (forthcoming) *The Means to Live: Targeting poverty alleviation to realise children's rights*. Cape Town: Children's Institute, UCT.

Hoexter C & Lyster R (2002) *The New Constitutional and Administrative Law*, Vol. 2. Cape Town: Juta.

Liebenberg S (1998) Socio-economic rights. In: Chaskalson M, Kentridge J, Klaaren J, Marcus G, Spitz D & Woolman S (eds) *Constitutional Law of South Africa*. Cape Town: Juta.

Liebenberg S (2005) *The judicial enforcement of social security rights in South Africa: Enhancing accountability for the basic needs of the poor*. [Unpublished paper presented at the International Expert Seminar on Social Security]

Promotion of Administrative Justice Act No. 3 of 2000.



I am A HERO
I am a hero BECAUSE.
because when there was a
funeral at home
we are crying &
my young father
chase us
there.

I am a hero because
when I grow up I
like to be a nurse