

The South African Child's Right to Maintenance  
 – a Constitutionally Enforceable Socio-Economic Right?



Brigitte Clark

Introduction:

- Lack of provision for children
- Wide spread poverty
- Corruption and fraud
- Violence
- South African Social Security Agency
- HIV/AIDS pandemic
- Child-headed households
- Role of the family
- Role of the state



Effect of CRC and SA Constitution

- Article 18(2)
- Article 20
- Articles 26-31
- State secondary responsibility
- General Comments of the UN Committee on the Rights of the Child
- Section 28 (1)(c) of the SA Constitution
- *Grootboom* case



Current maintenance and social security for SA children

- Judicial and state maintenance systems
- *Bannatyne* case
- State obligations
- South African family court
- SA Law Commission- Project
- State maintenance system
- Child Support Grant, Foster Dependency Grant
- HIV/AIDS infected children
- *TAC* case



New proposals a new SA act

- SA Law Commission recommendations
- CSG universal social security system
- all children under 18
- Current amount inadequate



Conclusion

- A class action on behalf of children deprived of support or family care
- Identification of minimum core of governmental obligations
- Existing administrative inefficiency and corruption in delivery of child support
- *Ngxuzza* case
- Section 38 of Constitution
- Institution of class action

