

Kenya's 3rd Cycle; Universal Periodic Review (UPR)

Joint submission on Right to Food

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KANCO

Healthy people, empowered communities

KANCO is a premier health advocacy agency that sensitize, mobilize and promote collaboration among civil society organisations Locally, Regionally and Globally.

The organisations that contributed to this report are:



Kenya's SUN Civil Society Alliance (SUN CSA) mobilizes Civil Societies to Champion Scaling up Nutrition in Kenya.



Hope Givers Programme is committed to transform the living standards of the community through giving direct services to all, to meet their immediate needs and improve their living conditions.



Christian Aid Kenya supports poor and marginalised communities to anticipate, organise, adapt, respond to, and cope with, climate change and related disasters.



ICCO Cooperation focuses on economic empowerment, food security and responsible business and emergency aid.

Introduction

In the Universal Declaration of Human Rights (UDHR) (1948) at Article 25(1), Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, and housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control

The Right to Food is globally anchored in the United Nations (UN) general comment on Economic Social and Cultural Rights (ICESCR) (1966 Accession - 1972) at Article 11

Generally, it is understood as the right to feed oneself in dignity and the need to put in place and implement policies, national laws and programmes that will guarantee this right for all, but specifically for vulnerable groups.

Right to food is also well captured in SDG 2 that aims at Ending hunger, achieving food security and improving nutrition and promoting sustainable agriculture for all.

The Constitution of Kenya 2010 in The Bill of Rights (Chapter 4) imposes on the Government a constitutional obligation to progressively achieve the right to food for all Kenyans. In Article 43(1) (c), the Constitution explicitly recognizes the right to “adequate food of acceptable quality” as an integral part of the right of citizens to seek the highest attainable standard of health.

In the second cycle and under recommendation Nos. 142.154; ESCR Rec 44; CRC Rec 56a., the government of Kenya was to Implement specific standards and regulations ensuring food security and nutrition for the most vulnerable groups and the barriers and challenges to poverty alleviation are properly addressed. In implementing the recommendations, national nutrition Action plan 2015-2017 was adopted, all agriculture research institutions were consolidated into one KARLO (Kenya Agricultural Livestock Research Organization),livestock breeding bill was enacted into legislation in May 2015 and the fisheries and management development act was assented to on 3rd September 2016 and commenced operation on 23rd September 2016.However, the problem of food and nutrition insecurity still persists even after the efforts by the government. A number of factors really affect food and nutrition security and if the factors are well looked into, the country will realize food and nutrition security.

1.0 FOOD POVERTY

Kenya is one of the countries where economic prosperity has been accompanied by a rise in the absolute number of poor people. This emerging trend means that the majority of the 1 million youth who enter the job market every year end up in jobs that cannot lift them out of poverty (Moody Awori and Siddharth Chatterjee 28th May 2018) ¹Food and Nutrition insecurity is closely linked to poverty. About 50% of Kenyan population is below the poverty line. (Ksh

¹ *Hunger and Food Insecurity Plague the Lives of Millions in Africa*, Moody Awori and Siddharth Chatterjee May 2018. <https://reliefweb.int/report/kenya/hunger-and-food-insecurity-plague-lives-millions-africa>

1,584 and Ksh 2,779 level of consumption per adult per month for rural and urban areas respectively) (Food and Nutrition Security Policy Implementation Framework 2017)². Among this population is a significant percentage living in extreme poverty.

Even after efforts by the government to zero on hunger, the problem of food and nutrition insecurity still persists. According to the Kenya Nutrition Action Plan,(KNAP) 2018-2022³ Kenya experiences 20-30% deficit in staple food every year and increasing dependant on food imports 30-40% to bridge the national deficit. Although trends in household food security (availability, accessibility and stability) have generally improved over the last three decades and economic growth has been generally positive, food insecurity persists due to stagnation of agricultural production, low use of agricultural technology, high food prices, frequent disasters and the effects of climate change on the mainly rain-fed agriculture (KNAP 2018-2022)⁴. To note is that in this year 2019, Kenya experienced drought that led to a widespread hunger, deaths (<https://www.youtube.com/watch?v=UToZY6ZM6p0>)⁵ and increased food commodity prices both in our rural and urban areas.

From Kenya National Drought Early Warning Bulletin, April 2019⁶, the dry conditions and high temperatures experienced from January to March 2019 pushed more counties into the Alarm drought stage, from one (1) in February to five (5) in March. 20 Arid and Semi Arid Land (ASAL) counties reported a worsening trend and only three (3) indicated a stable trend. Counties in the Alarm drought phase were Wajir, Mandera, Garissa, Marsabit and Turkana. The downward trend in the state of vegetation across ASAL counties was attributed to the drier than average conditions experienced in March and delay in the start of the season rains. Our highlands were also affected where the delay in planting of food due to failed rains led to widespread food scarcity. The situation was compounded by corruption in which cartels take advantage of the deficit and weaknesses in the National Cereals and Produce Board (NCPB) compromising the right of Kenyans to food and proper nutrition. Food poverty in Kenya is widespread among the small-scale farmers who are the subsistent farmers. These small-scale farmers however, account for 70% of Kenya's marketed food production (twice the share of large-scale farmers) (Route to Food, 2018)⁷. They therefore are integral to enhancing food and nutrition security and should merit a greater allocation commensurate with their production.

² Food Nutrition Security Policy Implementation Framework-version 10th November 2017

³ Kenya Nutrition Action Plan 2018-2022

⁴ *Kenya Nutrition Action Plan (KNAP) 2018-2022*

⁵ Turkana, Baringo residents starve despite government promises-you tube

<https://www.youtube.com/watch?v=UToZY6ZM6p0>

⁶Kenya National Drought Early Warning Bulletin, April 2019,

<https://reliefweb.int/report/kenya/national-drought-early-warning-bulletin-april-2019>

⁷ Route to food 2018Kenya –Post-Budget-Analysis-Food-and-Nutrition-security-by-Route-to-food-3-july-2018

However, our Kenyan budget allocation for food and agriculture remains very low at 2.9% of the total voted expenditure (2.6% in budget 2018/19) (Route to Food, 2018). This is a fundamental mismatch of resources to Kenya's food and nutrition sector and poses great risk to the well-being and prosperity of the nation's single most economic sector (agriculture and food sector) which accounts for 34% of Kenya's GDP, employs about 70% of its labor force and generates 80% of Kenya's merchandise exports (Route to food 2018). It also goes against the commitment of our government to Malabo declaration, 2014 of ending hunger by 2025

A number of factors lead to the problem among them: Poverty and inadequate incomes at the individual and household level are the leading causes of food poverty; food market price volatility also leads to food poverty especially to the urban poor populations. Rising food prices that are not accompanied by or compensated with corresponding increases in incomes result in rising income poverty as food budget of households would account for an increasing share of average incomes; Lack of knowledge in terms of the best practices for agricultural farming; Kenyan Over-reliance on rain for agriculture; and lack of subsidies in agriculture.

Our Kenyan government however, has put quite some effort in dealing with food poverty where, Food and nutrition security forms one of the four pillars of the Kenya's big four agenda 2017-2022. The Big Four Agenda correctly identifies food security as a major pathway for improving the conditions of a majority of Kenyans; The government adopted the 2012-2017 national nutrition action plan and 2018-2022 Kenya National Nutrition Action Plan; There has also been the enactment of food security bill of 2017.

1.1 Recommendation

Global surveys have unequivocally shown that the agriculture sector provides the best opportunities to create employment and lift people out of poverty (Moody Awori and Siddharth Chatterjee 28th May 2018)⁸

1. Government of Kenya to form a semi- autonomous Government Agency that deals with food and nutrition security.
2. Government of Kenya to allocate 10% from the National Budget to the Agriculture sector, in accordance with Malabo declaration on accelerated agricultural growth and transformation for shared prosperity and improved livelihood.
3. Reinstate budget funds, particularly to Agricultural Research which has been proven to generate high returns on investment.
4. National government and the 47 county governments of Kenya to have a budget allocation for agricultural extension officers and extension services that shall go to the training and support of field work.
5. National and county governments to create one million new jobs every year for the next 10 years to cater for the rapidly expanding youth bulge (Moody Awori and Siddharth Chatterjee 28th May 2018)⁹

⁸ *Hunger and Food Insecurity Plague the Lives of Millions in Africa*, Moody Awori and Siddharth Chatterjee May 2018. <https://reliefweb.int/report/kenya/hunger-and-food-insecurity-plague-lives-millions-africa>

6. Have an integrated policy on climate change and food security owing to the impact of climate change on agriculture.

2.0 MALNUTRITION

Linear growth (height for age) in early childhood is a strong marker of healthy growth given its association with morbidity and mortality risk, non-communicable diseases in later life, and learning capacity and productivity. It is also closely linked with child development in several domains including cognitive, language and sensory-motor capacities (WHO/Stunting in a nutshell)¹⁰

The rate of malnutrition in the country is high with stunting rate at 29% way above the WHO allowable range, wasting rate at 4% and underweight rate at 11% (Kenya Bureau of Statistics Basic Report, 2018)¹¹. The increased rate of malnutrition directly affects children growth milestones including brain development thus stifling the very future of our nation. Malnutrition in children and adolescents (especially adolescent girls) is the most extreme form of deprivation. It affects and damages their health, hinders their capacity to learn, and reduces their ability to earn as much as their better-off peers.

In the recent past, there has been a rise in non-communicable diseases (NCDs) in Kenya which is largely linked to malnutrition and weak regulatory environment on food and food products, specifically there is a rise in cases of hypertension which is linked to unregulated consumption of salt and other unhealthy food products, increased cases of diabetes due to unregulated consumption of sugar and sugar products. In Kenya, NCDs contribute to over 50% of inpatient admissions and 40% of hospital deaths (WHO 2014) and so NCDs consume a substantial proportion of the health-care budget taking away funds from other development needs.

A number of factors have contributed to the current situation of malnutrition: Low level of nutrition education among the Kenyan population thus poor nutrition decision making; Limited availability of nutritious food groups characterized by high cost; Lack of a Caregivers Curriculum for 0-4 years that fully address the 5 nurturing domains. This would give a common guideline on raising a child between the ages of 0 and 4 years; and healths being a devolved function, most of County Governments do not prioritize food and nutrition security issues in their budgetary allocation.

⁹ *Hunger and Food Insecurity Plague the Lives of Millions in Africa*, Moody Awori and Siddharth Chatterjee May 2018. <https://reliefweb.int/report/kenya/hunger-and-food-insecurity-plague-lives-millions-africa>

¹⁰ WHO/Stunting in a nutshell
https://www.who.int/nutrition/healthygrowthproj_stunted_videos/en/

¹¹ Kenya National Bureau of Statistics (kenya bureau of statistics Basic report, 2018)
<https://www.knbs.or.ke/download/basic-report/>

However, Kenya has made significant steps in the past to reduce child under nutrition and has been recognized as one of the countries that is on track towards achieving the World Health Assembly target in maternal and child nutrition. There has also been the Beyond Zero Campaigns that seeks to promote good nutrition for all children. More so, on February 14, 2019, Kenya launched its Cost of Hunger in Africa (COHA) Survey to establish economic and social impact of undernutrition. Moreover, in those completed studies, the results show that African countries on average are losing up to one sixth of GDP annually due to child under nutrition. (WFP Insight, Aug. 4 2016) ¹²We also acknowledge that the Government recently started its Home Grown School Feeding Program (HGSFP) in primary schools across the country. However, with roughly 70-80% of the Kenyan population living in rural areas, a majority of primary schools are unable to reap the benefits of the HGSFP because of a myriad of factors among them: poor infrastructure, unpredictable weather patterns, and mismanagement of resources.

School feeding is an effective intervention in the case of undernutrition. According to Mohit Kotak 2019, Cost of school feeding ranges from US\$28 per child per year to US\$63 per child per year. Our Kenyan GDP is at US\$ 85.95 billion. The population in our Early Childhood Development Centers (ECDC) is estimated to be 3,385,500. Therefore, a total cost of between US\$ 94, 794,000 and US\$ 213,286,500 of our GDP would go to school feeding programme. From the countries that have finished COHA study in Africa, it is clear that a sixth of their GDP is being lost to child under nutrition. Even though Kenya has not yet completed its COHA study, the same estimates can apply. A sixth of our GDP is US\$ 14.33 billion. If we compare US\$ 213,286,500 and US\$14.33 billions, it is evident that the cost of hunger is much higher than what it would cost our government to school feed.

2.1 Recommendations

- 1) Government of Kenya to establish balanced and Nutritious school food in all the primary schools and mostly target the young ones in the Early Childhood Development stage. The feeding programmes to be implemented both in the private and public school and to be made mandatory.
- 2) National government and all the 47 counties to comprehensively implement costed Kenya Nutrition Action Plan 2018-2022.
- 3) Government to develop and implement policies and guidelines on nutrition during adolescence and especially on the adolescent girls aged 10-19 years.
- 4) National and county governments to fully implement the Kenya National Strategy for the Prevention and Control of NCDs 2015

¹² World Food Programme Insight. What is the cost of hunger in Africa?, 4th August 2016 <https://insight.wfp.org/what-is-the-cost-of-hunger-in-africa-e1e5c678b6a4>

- 5) National and County governments to Scale-up nutrition education and nutrition services through the use of Community Health workers and increase human resource in nutrition in our health facilities.
- 6) National government to develop and roll out a caregiver curriculum for the age group 0-4 years that shall fully address the five nurturing domains.
- 7) The national government under the ministry of education should include food and nutrition education as a common unit in all institutions of higher learning

3.0 FOOD SAFETY

Despite rising food safety concerns in the country and prioritization of environmental conservation as a “Big Four” enabler, there is widespread use of chemical pesticides, chemical fertilizers in the country. However, regulations are not being addressed in the Kenyan fiscal policies.(Route to food,2018)¹³

According to Kenya Daily Nation newspaper dated 2/10/2018¹⁴, herbicide by the name of glyphosate that is widely used in Kenya not only kills the weeds but also affects biodiversity and kills the micro-organisms in the soil that it comes into contact with. It kills beneficial insects, including nitrogen-fixing bacteria, and other beneficial flora and fauna. Following a re-evaluation of the potential carcinogenic risk to humans of several pesticides, including glyphosate in 2015, the World Health Organisation's International Agency for Research on Cancer (IARC) concluded that glyphosate is 'probably carcinogenic'

Bee colonies are also declining in Kenya, due to the widespread availability and use of harmful pesticides and herbicides, most notably neonicotinoids. It is estimated that 32% of the pesticides used in the country are banned in Europe, either because they have high toxicity levels affecting human and environmental health and/or have a lasting detrimental effect to the environment.(Route to Food, 2018)This violates our constitutional right under Pest Control Products Act Chapter 346 that regulates the importation, exportation, manufacture, distribution and use of products used for the control of pests and of the organic function of plants and animals and for connected purposes.

The government of Kenya has put up significant measures to address the problem starting with a Pest Control Products Act Chapter 346 that regulates the importation, exportation, manufacture, distribution and use of products used for the control of pests and of the organic function of plants and animals and for connected purposes. There is also a pest control products board that regulates the same. The government also banned the use of DAP fertilizer especially in the grain basket of the Northern Rift, blaming a continuing yield decline of more than 30% to

¹³ Route to food 2018Kenya –Post-Budget-Analysis-Food-and-Nutrition-security-by-Route-to-food-3-july-2018

¹⁴ Daily Nation, 2/10/2018, For Kenyan farmers, cancer comes in packet of herbicide.
<https://www.nation.co.ke/health/For-Kenyan-farmers-cancer-comes-in-packet-of-herbicide/3476990-4787154-dga1sf/index.html>

the acidifying effects of long term use of inorganic DAP input (Bii, 2017)¹⁵. Nevertheless, the problem of unsafe foods still continues.

3.1 Recommendations

- 1) Government to build on the skills and capacity of the Pest Control Products Board and other related regulatory agencies to continually review the allowable chemical inputs in the country and enforce existing regulations on the use of prohibited and harmful chemicals
- 2) The national and county governments to levy environmental taxes on chemical pesticides on the basis of their toxicity to the environment (land, water, air), human and animal health. This would mobilize fiscal revenues while mitigating the negative effects associated with pesticide application and encourage a shift towards environmentally and ecologically friendly agricultural systems
- 3) Government to develop organic farming policies that promotes reliable and sustainable organic farming. These policies should in turn be adapted by the county governments for implementation.
- 4) Health Act section 21 (6) and section 35 provides that the executive secretary shall prepare health related laws and policies Act which among others include Food safety and control. In this regard, Executive secretary to prepare a bill for the enactment of Food Safety and Control law.
- 5) Increase awareness to both food producers and consumers on food safety.

4.0 CROP DIVERSITY

The National Food and Nutrition Security Policy (2012)¹⁶ recognizes that most Kenyans still subsist on diets based on staple crops (mainly maize) that are lacking in nutritional diversity and have particularly devastating consequences on child development. Kenyan Budget policies however, are silent on investments that go beyond the large-scale production of staples, towards supporting food diversity and indigenous food crops that are climate resilient and nutritionally rich.

In Article 43(1) (c), the Constitution of Kenya explicitly recognizes the right to “adequate food of acceptable quality” as an integral part of the right of citizens to seek the highest attainable standard of health. Food diversification and use of indigenous food crops that are climate resilient and nutritionally rich helps in attaining food quantity and food quality.

¹⁵ Burn of DAP fertilizer in Rift Valley

Kenya [https://www.google.com/search?q=burn+of+dap+fertiliser+in+rift+valley+kenya+\(Bii+2017\)&tbm=isch&source=univ&client=avast&sa=X&ved=2ahUKEwivtMLf7-zIAhVGWBoKSHSH6BxMQ7Al6BAGAEA0&biw=782&bih=394](https://www.google.com/search?q=burn+of+dap+fertiliser+in+rift+valley+kenya+(Bii+2017)&tbm=isch&source=univ&client=avast&sa=X&ved=2ahUKEwivtMLf7-zIAhVGWBoKSHSH6BxMQ7Al6BAGAEA0&biw=782&bih=394)

¹⁶ *Food and Nutrition Security Policy of 2012 (FNSP)*

In Kenya, transition from subsistent farming to large-scale farming overshadows small scale farming from which comes indigenous crop farming. As well, market oriented farming is more practiced as compared to food and nutrition security orientation. This has led to low production of indigenous foods that pave way for food diversification.

Nevertheless, the government through the ministry of health and the nutrition and dietetics unit has made commendable steps towards realizing food diversification. Right to adequate food and nutrition is enshrined in our constitution under article 43 (1) (c)

In 2012, Food and Nutrition Security policy was developed. Its implementation strategy was also developed. The implementation strategy well stipulates the food and nutrition diversification strategy. Kenya nutrition action plan 2018-2022 has also been adopted and is being rolled out in some counties.

4.1 Recommendations

- 1) Government to introduction of investments that shall support food diversity and production of indigenous foods that are climate resilient and nutritionally rich.
- 2) Government to sensitize the public on the need to diversify their diet in order to increase demand for nutritious food.
- 3) The national and county governments to ensure that these foods are available in the market all through the year at an affordable price to the common Mwananchi.

5.0 POST HARVEST MANAGEMENT

Limited post-harvest management facilities, leads to high food waste. Post harvest losses in Kenya are startling as revealed by recent statistics from the Kenya National Bureau of Statistics (KNBS). In 2017, Sh150 billion worth of food went to waste, tossed out or left to rot. According KNBS, farmers lost earnings as they struggled to manage, store, and transport their produce to the market. The growers lost over 1.9 million tonnes of food, even as millions of Kenyans grappled with starvation fuelled by debilitating drought.

Maize, Kenya's staple food was the hardest hit, with farmers losing Sh29.6 billion to post-harvest losses, including rodents and poor handling. The harvest was also affected by aflatoxin. The volume of maize lost during this period – about six million bags – is the equivalent of what the country gets from the short rains of September to December, as the experts put it.

Kenya imported maize worth 42 billion, using hard-to-come-by foreign currency to buy cereal it could easily produce. Tonnes of green bananas were also lost, with farmers foregoing over Sh. 24 billion in a year when the food security situation in the country plunged to a 10-year low (Cropnuts Kenya, 2018)¹⁷

Other produce that went to waste due to poor storage and handling, transport, and fungi attack, according to data contained in the 2018 Economic Survey¹⁸, includes Irish potatoes (Sh19.7 billion), milk (Sh12.4 billion), beans (Sh11.5 billion), bananas (Sh5.6 billion), sweet potatoes (Sh3.5 billion), tomatoes (Sh2.4 billion), pineapples (Sh2.4 billion), sorghum (Sh1.9 billion), and millet (Sh1.6 billion).

Every year, post harvest losses account for about a third of the country's produce through post-harvest losses and food wastage by consumers who buy more than they need. This has an impact on the country's food security and reduces profitability for farmers. The Government has estimated post-harvest losses at 20 per cent.

5.1 Recommendations

- 1) Government of Kenya to do an overhaul transformation of National Cereals and Produce board to ensure minimal post harvest losses due to poor management and also diversify crops stored in the silos to ensure quantity and quality. This will help achieve the goal in Malabo declaration to half post harvest losses by 2025.
- 2) Increase post – harvest management facilities by establishing farm products value addition facilities per county or even per ward. This will aid in attaining quality and quantity at the same time.
- 3) Avail incentives for post-harvest technologies to reduce post-harvest losses and include clear and specific plans and corresponding budget allocation.

¹⁷ Cropnuts ,Kenya post-harvest losses, May 2018 <https://cropnuts.com/post-harvest-losses/>

¹⁸Economic Survey 2018-Kenya National Bureau of Statistics.
<https://www.knbs.or.ke/download/economic-survey-2018/>