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THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

REPORT ON THE CONSIDERATION OF THE FOOD SECURITY BILL,

(SENATE BILLS No. 12 of 2017)

Clerk's Chambers  
Parliament Buildings,  
NAIROBI

MARCH, 2018

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## ABBREVIATIONS

AFA	-	Agriculture and Food Authority
CEO	-	Chief Executive Officer
CESCR	-	Committee on Economic, Social and Cultural Rights
CoG	-	Council of Governors
KEBS	-	Kenya Bureau of Standards
KEPHIS	-	Kenya Plant Health Inspectorate Services
KNCHR	-	Kenya National Commission on Human Rights
MOH	-	Ministry of Health
NDMA	-	National Drought Management Authority

## **PREFACE**

**Mr. Speaker Sir,**

### **Establishment of the Committee**

The Senate Standing Committee on Agriculture, Livestock and Fisheries was constituted on Thursday, 14<sup>th</sup> December, 2017 during the First Session of the Twelfth (12<sup>th</sup>) Parliament pursuant to the provisions of standing order 212 (1) of the Senate Standing Orders which states:

*There shall be Select Committees to be designated Standing Committees which shall be nominated by the Senate Business Committee in consultation with parliamentary parties at the commencement of every Parliament.*

### **Mandate of the Committee**

The Standing Committee on Agriculture, Livestock and Fisheries is mandated under the Second Schedule of the Standing Orders to *consider all matters relating to agriculture, irrigation, livestock, fisheries development and veterinary services.*

The Committee is established under standing order 212(3) of the Senate Standing Orders and is mandated to-

- a) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments in respect to devolved functions and county governments;*
- b) *study the programme and policy objectives of departments and the effectiveness of the implementation of devolution;*
- c) *study and review all county legislation referred to it;*
- d) *study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives on devolved policies and functions;*
- e) *investigate and inquire into all matters relating to the assigned departments as they may deem necessary, in relation to counties and as may be referred to them by the Senate;*

- f) to consider petitions, reports and appeals by county assemblies/executives- including impeachments; and
- g) make reports and recommendations to the Senate as often as possible, including recommendation of proposed legislation to provide policy and legal guidelines and standards applicable across the 47 counties.

### **Oversight**

In executing its mandate, the Committee oversees the following Government Departments and agencies, namely-

- i. The State department of Agriculture;
- ii. The State Department of Livestock;
- iii. The State Department for Fisheries; and
- iv. The State Department of Irrigation.

### **Membership of the Committee**

The Committee is comprised of the following members-

- 1. Sen. Peter Njeru Ndwiga, MP - **Chairperson**
- 2. Sen. Ltumbesi Lelegwe, MP - **Vice-Chairperson**
- 3. Sen. Naomi Jillo Waqo, MP
- 4. Sen. (Dr.) Michael Malinga Mbito, MP
- 5. Sen. Wario Golich Juma, MP
- 6. Sen. Madzayo Stewart Mwachiru, MP
- 7. Sen. Naomi Shiyonga, MP
- 8. Sen. Moses Otieno Kajwang' Mp
- 9. Sen. Ben Oluoch Okello, MP

## Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the conduct of its meetings and the public hearing. The Committee also thanks members of the public who made submissions, both orally and in writing.

**Mr. Speaker Sir,**

It is my pleasant duty, pursuant to Standing Order 137 (1), to present the Report of the Standing Committee on Agriculture, Livestock and Fisheries on the Food Security Bill, 2017 for consideration by the House.

Signed.....



Date.....

22/03/2018

**SEN. PETER NJERU NDWIGA, EGH, M.P.**

**CHAIRPERSON**

## EXECUTIVE SUMMARY

The Food Security Bill, (Senate Bills No. 12 of 2017) sponsored by Sen. Kipchumba Murkomen, EGH, M.P., Leader of Majority was read a First Time in the Senate on Thursday, 30<sup>th</sup> November, 2017. Following the First Reading, the Bill, stood committed to the Standing Committee on Agriculture, Livestock and Fisheries pursuant to standing order No. 134 (5) of the Senate Standing Orders.

Subsequently, the Committee subjected the Bill to public hearings pursuant to Article 118 (1) (b) of the Constitution and standing order 134 (5). The Committee invited submissions from members of the public on the Bill via advertisements on the Daily Nation and the Standard on 2<sup>nd</sup> and 3<sup>rd</sup> March, 2018 respectively.

The Committee received written submissions on the Bill and held a public hearing on 7<sup>th</sup> March, 2018 in the Mini Chamber, 1<sup>st</sup> Floor, County Hall, Parliament Buildings where oral submissions were received.

The Committee thereafter, considered all the proposed amendments and came up with its recommendations for amendments to the Bill as documented in this Report.

# 1 INTRODUCTION

## 1.1 Background on the Food Security Bill, (Senate Bills No. 12 of 2017)

The Food Security Bill, 2017 directly addresses a right conferred on all Kenyans under Article 43(1) (c) of the Constitution which provides that “every person has the right to be free from hunger and to have adequate food of acceptable quality.” In addition, the Bill also responds to Article 53(1) (c) of the Constitution which that “every child has the right to basic nutrition, shelter and health care.” The Bill is therefore purposed towards ensuring compliance with the Constitutional provisions regarding the right of Kenyans to food.

This legislative framework is based on the need by the National and county governments to put in place measures and mechanisms to address food insecurity and therefore ensure that the right to food for all is realized. The Bill provides a framework and mechanisms through which the National and county governments shall fulfill their obligations in relation to food security.

The Bill establishes the Food Security Authority, a legal entity with its headquarters in Nairobi and provision for establishment of offices as may be created by the Board. The Board of the Food Security Authority comprises a membership of twelve led by the chairperson with a Director-General as an *ex officio* who doubles up as secretary to the Board.

The Bill further establishes in each county a county food security committee consisting of nine persons; five are appointed by the Governor i.e. three county executive committee members and the county commissioner. The Chairperson, the CEC member for social services and the county commissioner will be recruited by the county public service and appointed with the approval of the county assembly.



## **1.2 Committal of the Bill to the Standing Committee on Agriculture Livestock and Fisheries**

The Food Security Bill, (Senate Bills No. 12 of 2017) was published on 29<sup>th</sup> December, 2017 and read a First Time in the Senate on 15<sup>th</sup> February, 2018. The Bill was thereafter committed to the Standing Committee on Agriculture, Livestock and Fisheries for consideration.

Pursuant to Article 118 (1) (b) of the Constitution and standing order 134(5) of the Senate Standing Orders, the Committee invited views on the Bill from the public by placing advertisements in the Daily Nation and the Standard newspapers on 2<sup>nd</sup> and 3<sup>rd</sup> March, 2018 respectively.

The Committee received oral submissions at the Public Hearings held on 7<sup>th</sup> March, 2018 in the Mini Chamber, 1<sup>st</sup> Floor, County Hall, Parliament Buildings. The Committee also received a number of written submissions delivered through the Office of the Clerk of the Senate.

The Committee received submissions from the following:

1. The Ministry of Agriculture and Irrigation;
2. The Ministry of Health;
3. The National Drought Management Authority;
4. The Council of Governors; and
5. The Kenya National Commission on Human Rights (KNCHR).

## **2 SUBMISSIONS**

### **2.1 Submissions from the Ministry of Agriculture and Irrigation**

The Ministry of Agriculture and Irrigation gave oral submissions and a supplementary written memorandum on the Food Security Bill.

#### **2.1.1 Proposed amendments by the Ministry of Agriculture and Irrigation**

The Ministry of Agriculture and Irrigation proposed the following amendments to the Bill-

1. The scope of the Bill is biased towards food security and limited on nutrition security. Food security is not a standalone concept and should be considered together with its outcome of nutrition; hence Kenya has adopted the terminology “Food and Nutrition Security”. There is need to harmonize the titling of the Bill with the existing key documents that relate to Food and Nutrition Security. In this regard, proposal was made that the Bill be titled “Food and Nutrition Security Bill, 2017”.
2. The structures proposed in the Bill especially the establishment of an authority with a Board of Directors and a CEO differs from the structures defined in the Food and Nutrition Security Policy and Implementation Framework (FNSP-IF), namely the Food and Nutrition Security Council and the Food and Nutrition Security Secretariat.

The key mandate of the national Food Security falls mainly under the Ministry of Agriculture and Irrigation, but some roles such as nutrition, food safety and management are spread across or shared with several other ministries such as the Ministries of Health, Devolution, Education, Labour and Trade and Industry. The Ministry noted that the Bill seeks to consolidate some of the functions under the proposed Authority without adequately taking into account the foreseen overlaps and conflicts during implementation.

In addition, the County Food Security Committees are similar to the proposed Stakeholder Technical Committees stated in the National Food and Nutrition Policy and Implementation Framework (2017-2022).

Further, establishing the Council chaired by the presidency would foster accountability at all levels, save resources and would preserve the mandates and functions of various institutions thus avoiding duplication of mandates and functions

3. The corresponding responsibilities of the Council and the Secretariat can be managed without imposing a new financing burden on the Exchequer. Similarly, in line with the above, the corresponding responsibilities for the Council and the Secretariat would then need to be included in the Bill, thus greatly changing the contents of Parts II and IV of the Bill.

## **2.2 Submissions from the Ministry of Health**

The Ministry of Health appeared before the Committee during the Public Hearings held on 7<sup>th</sup> March, 2018 and further submitted its written memorandum through the Office of the Clerk of the Senate. The Ministry noted that there is potential for the Bill to address coordination challenges that currently exist but not through the establishment of an Authority.

### **2.2.1 Proposed amendments by the Ministry of Health**

The Ministry of Health proposed the following:

1. That the scope of the Bill should be expanded to reflect the spirit of the Food and Nutrition Security Policy. The Ministry also noted that the Bill is not comprehensive in relation to Food security and has a focus on access for vulnerable groups. The spirit of the Bill and the elaboration in functions of an authority that is prescribed, is more linked to social security for food poor persons and as such, the Bill should be re-configured;
2. Key articles within this section "Objects and purpose of the Act" are provided within other Acts like the Agriculture and Food Authority Act, National Drought Management Authority Act and are further supported by National Government through Special Programmes, Social protection , Kenya Bureau of Statistics, Ministry of Health , Food Safety et al; and should therefore be revised;

3. The Agriculture and Food Authority strategic plan provides a framework for food security through sustainable crop production across value chains and through the investment of various actors and players in the sector; the Bill therefore creates an overlap and should therefore be amended;
4. There is major duplication in the roles prescribed for the authority with existing authorities and other government entities. There are Roles of AFA, NDMA, Special programmes, Social Protection, Kenya Bureau of Statistics – which oversees national Kenya Integrated Budgetary Household Survey. The Bill should therefore be revised, to avoid these overlaps; and
5. Elements of Food safety are critically missing right throughout the value chain including linkage with other entities like KEBS, National Bio-safety Authority, KEPHIS, et al. The Bill should therefore be amended to include this;
6. The establishment of a coordination body in the form of a Council and secretariat with linkages at National and County level, as well as representation across all relevant bodies and structures will be of great benefit and will enhance synergy and avoid duplication that has been identified in several parastatal audits;
7. The proposed Food Security Fund should not be as proposed given that all existing authorities have a specific fund that provides for certain areas of implementation in relation to food and nutrition security. The Fund should be a coordination fund that enables the Council and Secretariat fully operationalize its mandate;
8. The Bill should include Nutrition, as is the case in the Food and Nutrition Security Policy and Implementation Framework. The Title should therefore be amended to include nutrition and read as follows: “The Food and Nutrition Security Bill, 2017”

9. Clause 9 should be amended to include all the vulnerable groups and should be replaced with the wording-

*”9. (1) Every Kenyan has the right to adequate food during the life cycle.*

*(2)The Cabinet Secretary responsible for health shall, in consultation with the council—*

*a) put in place measures to ensure that the special nutrition needs of all especially pregnant and nursing women, children under the age of five, school going children, adolescents and the elderly are met and assistance is provided to mothers to breastfeed their infants;*

*b) promote measures to ensure that the listed cohorts in (a) above have access to information about nutrition and that of the children;*

*c) establish programmes, health interventions and monitoring and support systems that promote the health and nutrition of all the cohorts;*

*d) promote and protect the right of infants to breast milk and to appropriate nutritious complementary foods after six months of age and adopt appropriate measures to ensure the enjoyment of the right to food for infants and children;”*

10. Clause 32 (2) (i) should be amended to include expertise in nutrition;

11. Clause 35 (1) should be amended to include the Principal Secretary, Ministry of Health.

### **2.3 Submissions from the Council of Governors (CoG)**

The Council of Governors noted in their memorandum submitted to the Committee that the sovereign power of the state is exercised at two levels of government and whose distinctness is recognized by Article 6 (2) of the Constitution of Kenya 2010. It further averred that all legislations must take cognizance of devolved governments and respond to the key issues that reflect the spirit and purpose of the devolution.

### 2.3.1 Proposed amendments by the Council of Governors

The Council of Governors proposed a number of amendments in the Bill as captured in the table below:

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
<p><b>Clause Obligations of the National and county governments with respect to the right to food.</b></p>	<p>Clause (6)(2) In ensuring that the national government fulfills its obligations under subsection (1), the Authority shall—</p>	<p>Amend to read as follows:  <i>Clause (6)(2) In ensuring that the national government fulfills its obligations under subsection (1), the Authority shall in consultation with County Governments—</i></p>	<p>Some obligations by the Authority as stipulated in this Clause are devolved roles hence need for County Consultation.</p>
<p><b>Clause Functions</b></p>	<p><b>12(1) The functions the Authority shall be to-</b>  <b>(a)...</b>  <b>(b)...</b>          ...  <b>(e)</b>monitor the issuance and administration of the food eligibility card to eligible Kenyans by the county food security committees to ensure that food poor persons access</p>	<p>Delete the two functions as provided in Clause 12(1)(e) and 12(1)(f)</p>	<p>The Council of Governors opines that the County Governments are autonomous in terms of Article 6(2) of the Constitution and as such the Authority should not monitor operationalization.</p>

	<p>food with ease and in a timely manner;  (f) monitor the implementation of the food distribution programme and the food subsidy programme by the county food security committees;</p>		
	<p><b>Clause 12(1)</b></p>	<p>Amend by introducing a new sub clause 12(1A) immediately after 12(1) to read as follows.  <i>12(1A) in performing its functions as provided for under section 12(1) above, the Authority shall consult County Governments.</i></p>	<p>Article 6(2) provides for how both the National and county governments discharge their mandates also agriculture is a fully devolved function as such the Authority cannot perform its functions without consulting the respective County Governments.</p>
<p><b>12(2)(o)</b></p>	<p><b>12(2) (o).</b> In performing its functions under subsection (l) the Authority shall- (a) (o) promote diversification and the use of alternative methods of agriculture and livestock systems and the production of diverse food crops to mitigate against drought and other climatic conditions that negatively impact food production;</p>	<p>Amend to read as follows:  <b>12(2) (o) in consultation with County Governments, promote diversification and the use of alternative methods of agriculture and livestock systems and the production of diverse food crops to mitigate against drought and other climatic conditions that negatively impact food production;</b></p>	<p>Agriculture is a developed function as such the Authority shall work in consultation with counties as provided for under Article 6(2) of the Constitution in discharging this mandate.</p>

<p><b>Clause Function of the Director General</b></p>	<p>25(2)(e)administer the funds provided for the implementation of the food distribution programme and the food subsidy programme both at the national and county levels;</p>	<p><i>Amend by deleting the words “County levels” appearing immediately after the word “national”</i></p>	<p>The Director General has no mandate to administer funds allocated to Counties for purposes of food distribution and food subsidy programme at the County levels. The Council opines that that is purely a county affair and such the part of county level should be deleted or even the entire clause 25(2)(e) be deleted</p>
<p><b>Clause Functions</b></p>	<p>31(e) coordinate and monitor the implementation of programmes and plans by county governments on food security;</p>	<p><i>Amend by deleting the function 31(e) of the Secretariat.</i></p>	<p>In terms of Article 6(2) County Governments are autonomous as such the Secretariat of the Authority cannot coordinate or monitor implementation of the programmes and plans by Counties when there are already departments and Committees established under the Bill handling the same.</p>



## **2.4 Submissions from the Kenya National Commission on Human Rights (KNCHR)**

The Kenya National Commission on Human Rights (KNCHR) is an independent Constitutional Commission established pursuant to Article 59 of the Constitution of Kenya 2010 as one of the successor commissions to the Kenya National Human Rights and Equality Commission. The KNCHR is constituted and operationalized by the KNCHR Act No. 14 of 2011 with the core mandate of enhancing the protection and promotion of human rights in Kenya.

The KNCHR noted that the Bill will go a long way in providing the necessary legal framework for the realization of Article 43 Rights as enshrined in the Constitution of Kenya. It is also timely even as Kenya implements the Sustainable Development Goals, more specifically Goal No. 2, which is geared towards ending hunger, achieving food security and improved nutrition and promoting sustainable agriculture.

This Commission further noted that the Bill also addresses the concluding observations by the United Nation's Committee on Rights of the Child where it considered the combined third to fifth periodic reports of Kenya (CRC/C/KEN/3-5) at its 2085<sup>th</sup> and 2087<sup>th</sup> meetings held on 21 January, 2016, which expressed clearly on the need to guarantee food and Nutrition for children. In addition, the Food Security Bill has also captured the spirit of the Committee on Economic, Social and Cultural Rights (CESCR) General comment No. 12 (twentieth session, 1999) on the right to adequate food (Article 11) of the International Covenant on Economic, Social and Cultural Rights which promotes physical accessibility, cultural acceptability dietary needs among others; and affirms the implementation of the International Covenant on Economic, Social and Cultural Rights which recognizes that immediate and urgent steps may be needed to safeguard the fundamental right to freedom from hunger and malnutrition.

### **2.4.1 Proposed amendments by the Kenya National Commission on Human Rights**

The KNCHR proposed the following amendments to the Food Security Bill, 2017:

#### **1. Clause 2**

The definition of 'Vulnerable persons' is well expounded. However it has omitted caregivers of some of the categories of vulnerable persons such as the elderly, sick and persons

of extreme disability. It is therefore proposed that the section be amended to include 'caregivers' to the named categories of persons;

**2. Clause 12 (1) (d)**

This provision promotes measures to improve security and access to land and water resources and the optimum and sustainable utilization of these resources. This provision needs to be made clear by inserting the word 'Food' before 'Security'. If left as it is, it may imply that the Authority has a function of land administration which includes a myriad of elements such as water, minerals, forests etc which would be antithetical to Chapter Five of the Constitution.

**3. Clause 12 (1) (g)**

This provision promotes measures to improve security and access to land and water resources and the optimum and sustainable utilization of these resources. The Commission proposed that the word *National Social Assistance Authority* be deleted and replaced with *State and Non-State Actors or National Cereals and Produce Board/Strategic Grain Reserve*. This is because the Social Assistance Act has not been implemented yet and that expressly recognizing an entity whose formation is contested in this Act may be premature.

**4. Clause 14 (1)**

The KNCHR noted with concern the omission of the critical organ on protection and promotion of Human rights in Kenya. It therefore proposed that the KNCHR be included as a critical Member to the Board.

**5. Clause 23 (2) (a)** on Academic Qualification of Director General the Commission proposed that the section be re-worded to read "*holds a relevant Degree or a Master's Degree from a recognized university*". This is informed by the principle of affirmative action where it may be difficult to find persons with such high academic qualifications based on marginalization.

**6. Clause 47** provides for offences relating to issuance and use of the food eligibility card. The Commission opined that the punishment is too harsh for the user of the eligibility card.

Perhaps separating the person issuing the card from the person using the card and providing for separate offences and punishments would be the best option. The Commission proposed a community service order for 6 months for the fraudulent user of the eligibility card, as it would not be fair to fine a person who cannot afford food with such an exorbitant fine or the imprisonment term of 1 year or both.

## 2.5 Submissions from the National Drought Management Authority (NDMA)

The National Drought Management Authority (NDMA) is a public body established by the National Drought Management Authority (NDMA) Act, 2016. The NDMA Act 2016 gives the NDMA the mandate to exercise overall coordination over all matters relating to drought management including implementation of policies and programmes relating to drought management. The NDMA provides a platform for long-term planning and action, as well as a mechanism for solid coordination across Government and with all other stakeholders.

The NDMA made oral submissions on the Bill during the Public Hearings held on 7<sup>th</sup> March, 2018 and the Committee directed that Authority puts the submissions in writing since the matters being raised were pertinent.

The general observation of the NDMA was that most of the activities envisioned in the proposed Food Security Authority are currently being implemented by the NDMA especially in areas of food security coordination, data collection, food security assessments and early warning both at the county and national levels.

### 2.5.1 Proposed amendments by the NDMA

Clause	Provisions of the Bill	Rationale for amendment	Remarks
33 (1)	States the functions of the County food security committee. These functions are similar to those being performed by the CSGs	NDMA has established drought risk management and food security coordination mechanisms at national and county levels:  ✓ Inter-governmental technical committee on drought and food	The bill proposes the formation of county food security committees. There is possibility of the roles of these structures overlapping. Then why not use the already existing structures.

		<p>security.</p> <ul style="list-style-type: none"> <li>✓ Inter-agency committee on drought and food security</li> <li>✓ Kenya Food Security Steering Group</li> <li>✓ County Steering groups</li> <li>✓ EDE pillar groups</li> </ul>	
	Creation of Food security Fund	The NDMA act 2016 creates the National Drought Emergency Funds. This is a pool fund aimed at enhancing resilience and providing readily available funds for drought response	Through the NDEF, in addition to other interventions, NDMA shall provide funds for up scaling the cash transfers to cushion vulnerable households and prop up their purchasing power and resilience building during the drought periods.
	Early warning system	Vibrant and reliable early warning system is critical in food security. NDMA has been coordination multi-agency bi-annual assessments on drought and food security assessments	The proposed bill thus does not mention explicitly if it will depend on the established early warning systems or build up its own which will be duplication
	Complementarities with other established institutions like AFA	It's important that each agency created has its own mandates roles.	The proposed Bill may overlap with the function of other agencies such as AFA

### 3 COMMITTEE OBSERVATIONS

The committee observed the following from the submissions:

1. The Food Security Bill, (Senate Bills No.12 of 2017) will affect the way food security is implemented in the country by coordinating and providing for grassroots institution, regulation, development, management, financing and support.
2. The Bill provides for the involvement of both levels of government in ensuring food security with the National Government overseeing and monitoring national programmes while county governments oversee respective local programmes.
3. There is need for the Bill to address nutrition security as envisaged in the National Food Security and Nutrition Policy and Implementation Framework(FNSP-IF) (2017-2022);
4. There is need to address the possibility of an overlap of mandates and functions of other ministries and state agencies with regard to the establishment of the Authority under the Bill e.g. the NDMA, AFA etc.;

#### 4 COMMITTEE RECOMMENDATIONS

The Committee recommends the following amendments:

##### *CLAUSE 6*

**THAT** clause 6 of the Bill be amended –

- (a) by deleting sub-clause (2) and substituting therefor the following new sub-clause-
- (2) In ensuring that the national government fulfills its obligations under sub-section (1), the Authority, in consultation with county governments shall –

##### *CLAUSE 9*

**THAT** clause 9 of the Bill be amended–

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –
  - (1) Every Kenyan has the right to safe and nutritious food that meet their dietary needs at all times –
- (b) by deleting sub-clause (2), paragraph (a) and substituting therefor the following new paragraph –
  - (a) put in place measures to ensure that the nutrition needs of certain special groups of persons who are food poor are adequately met.
- (c) by deleting the marginal note and substituting therefor the following new marginal note-  
Special groups, pregnant and lactating women.

##### *CLAUSE 12*

**THAT** clause 12 of the Bill be amended –

- (a) in sub-clause (1) by deleting paragraph (e) and substituting therefor the following new paragraphs –
  - (e) collaborate with the county government in the monitoring, issuance and administration of the food eligibility card to eligible Kenyans by the county food security committees to ensure that food poor persons access food with ease and in a timely manner;

(ea) collaborate with the county government in the monitoring and implementation of the food distribution programme and the food subsidy programme by the county food security committees;

(b) in sub-clause (2), paragraph (o) by inserting the words “In consultation with county governments” immediately before the words “Promote diversification”.

#### **CLAUSE 14**

**THAT** clause 14 of the Bill be amended in sub-clause (1) –

(a) by inserting the following new paragraph immediately after paragraph (g)-

(ga) one person nominated by the Kenya National Human Rights and Equality Commission established under Article 59 of the Constitution of Kenya, 2010.

#### **CLAUSE 23**

**THAT** clause 23 of the Bill be amended in sub-clause (2) by deleting the word “masters” appearing immediately after the words “holds a” in paragraph (a).

#### **CLAUSE 25**

**THAT** clause 25 of the Bill be amended in sub-clause (2) by deleting the words “both at the national and county levels” appearing immediately after the words “food subsidy programme” in paragraph (e).

#### **CLAUSE 31**

**THAT** clause 31 of the Bill be amended –

(a) in paragraph (b) by inserting the words “coordinate the implementation of” immediately before the words “implement the decisions” ;

(b) by deleting paragraph (e); and

(c) in paragraph (f) by inserting the word “monitoring and” immediately before the words “make arrangements for”.

***CLAUSE 32***

**THAT** clause 32 of the Bill be amended in sub-clause (2) (c) by inserting the following new subparagraph immediately after sub-paragraph (iv) –

(v) dieticians or nutritionists.

***CLAUSE 35***

**THAT** clause 35 of the Bill be amended in sub-clause (2) by inserting the word “health” immediately after the word “livestock”.



# APPENDICES



**THE FOOD SECURITY BILL, 2017**  
**ARRANGEMENT OF CLAUSES**

*Clause*

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**PART VII—FOOD INSECURITY AND INFORMATION MAPPING SYSTEMS**

- 35—Establishment of information and mapping systems.
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**FOOD SECURITY BILL, 2017**

**A Bill for**

**AN ACT of Parliament to give effect to Article 43(1)(c) of the Constitution on the freedom from hunger and the right to adequate food of acceptable quality; Article 53(1)(c) of the Constitution on the right of every child to basic nutrition and Article 21 of the Constitution on the implementation of rights and fundamental freedoms under the Constitution; and for connected purposes.**

ENACTED by the Parliament of Kenya, as follows —

**PART I—PRELIMINARY**

1. This Act may be cited as the Food Security Act, 2017 and shall come into operation on such a date as the Cabinet Secretary may, by notice in the Gazette, appoint not being more than six months after its publication and different dates may be appointed for different provisions. Short title.

2. In this Act, unless the context otherwise requires— Interpretation.

“access” in relation to food means the physical, economic and social access by a person or households to food through production, purchase or through programmes implemented by the State to ensure that the right of every person who is otherwise unable to procure food, is actualised;

“adequate food” means the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances and acceptable within a given culture;

“at risk persons” are food-poor persons who do not have a competent social support system and by reason of infancy, pregnancy, advanced years, infirmity or any other reason determined by the Authority from time to time cannot produce or purchase essential food items and commodities in adequate quantity and quality;

“Authority” means the Food Security Authority

established under section 11;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters related to food security;

“competent social support system” refers to familial or other relationships implying legal duties;

“designated agricultural commodity” means any agricultural food commodity designated as essential for the food security of the country by the Cabinet Secretary in consultation with the Authority;

“essential foodstuffs and commodities” include maize, beans, wheat, rice, meat, milk, sugar, cooking fat or oil, paraffin and any other commodity as designated by the Cabinet Secretary in consultation with the Authority;

“eligibility criteria index” means the index formulated by the Authority in accordance with the Second Schedule and applied by the county food security committees to determine the levels of access to food by potential food poor persons and their eligibility for the food distribution programme or the food subsidy programme;

“emergency food assistance” refers to food provided to both food-poor persons and non-food-poor persons during times of severe food shortage occasioned by disasters;

“family support programme” means the initiatives put in place by the national and county governments to raise the capacity of food poor persons, households and communities to attain the capacity to access food by themselves through production or purchase;

“food distribution infrastructure” refers to the entire complement of individuals, agencies, institutions, organisations, centres and such other organs as the county food security committee will designate from time to time to implement the food distribution programme and the food subsidy programme in the county;

“food distribution programme” refers to the programme established by the Authority and the county food security

committees for the benefit of at risk persons;

“food of acceptable quality” means food whose value of quality is determined as fit for consumption based on the criteria of food safety, nutrition content and standards set by the relevant certification agencies under the Kenyan law or by written law or based on international standards adopted by, or applicable to Kenya under Article 2(5) and (6) of the Constitution;

“food production” means an activity or process of producing, preparing, processing, making, preserving, packing or repackaging and or changing the form of food;

“food security” means a situation where all people, at all times have regular and permanent physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life;

“food subsidy programme” refers to the programme established by the Authority and the county food security committees for the benefit of persons with limited capability as determined by the Authority and county food security committees;

“food” means everything that originates from biological sources and water, whether processed or not, which is designated as an eatable or beverage for human consumption, including food additive materials, food raw material and other materials used in the process of preparation, processing and or the making of an eatable or beverage;

“food eligibility card” means the card issued to at risk persons and persons with limited capability by a county food security committee to authenticate their eligibility for the food distribution programme and the food subsidy programme;

“food-poor persons” means persons, including vulnerable persons, who cannot through their own or any other means produce or purchase essential food items and commodities in adequate quantity and quality for short or



extended periods of time;

“freedom from hunger” means a situation where all persons have access to a level of food, capable of meeting the recommended minimum dietary requirements as the Authority may prescribe;

“malnutrition” means poor nutritional status caused by nutritional deficiency or excess;

“minimum amount of food” means the amount of food required to meet the minimum nutritional needs of an individual, according to age, sex, occupation and health status, provided in-kind, in equivalent monetary value, vouchers or other prescribed form;

“persons with limited capability” means a food poor person who in spite of having a competent social support system are unable to produce or purchase essential food items and commodities in adequate quantities and quality for short or extended periods of time;

“right to food” means the right of every person to have regular, permanent and free access, at all times, either directly or by means of financial purchases, to quantitatively and qualitatively adequate, sufficient and safe food, corresponding to his or her cultural traditions and which ensures a physical and mental, individual or collective fulfilling and dignified life free of fear of hunger or under nutrition;

“vulnerable persons” include infants, children, school going children, pregnant and nursing mothers, the elderly, internally displaced persons, people with disabilities, sick persons with chronic diseases such as HIV/AIDS, victims of conflict, rural people in precarious livelihood situations, marginalised populations in urban areas, groups at risk of social marginalisation and discrimination and any other group that may be identified from time to time.

3. The object and purposes of this Act are—

Object and purposes.

(a) to provide a framework that promotes the realisation of the right to freedom from hunger and

- access to food of acceptable quality as a fundamental human right;
- (b) to provide a framework that promotes the elimination and prevention of discrimination of marginalized groups in the access and distribution of food;
  - (c) to provide a framework that promotes food production, self sustenance and food security in relation to all persons in Kenya;
  - (d) to provide a framework and mechanisms for the coordinated implementation of the national policy, programmes and plans on food security by the county governments;
  - (e) to provide a mechanism for ensuring that food poor persons access food at all times in adequate quantities and quality through the implementation of State sponsored programmes.
  - (f) to provide for the establishment of institutions that will advance co-operative governance and procedures for co-ordinating food security functions exercised by the State;
  - (g) to provide a framework for the planning, budgeting and implementation of the national policy on food security and nutrition using a rights based approach and to ensure the participation of rights holders and the accountability of duty bearers;
  - (h) to guarantee the integration of the needs of vulnerable persons in food and nutrition strategies;
  - (i) to ensure that food is treated as a national strategic resource;
  - (j) to ensure that emergency situations that threaten mass access to food are anticipated, mitigated and addressed with equity and speed; and
  - (k) to provide for a cross-sectoral networking platform comprising all relevant ministries, agencies and actors concerned with the production, storage, and sale of

food for purposes connected to ensuring access to food by all Kenyans at all times.

4. All persons under this Act shall, in the performance of their functions under this Act, be guided by the following principles in addition to the national values and principles set out under Article 10 of the Constitution—

Guiding principles

- (a) universality, non-discrimination and equity in the access to adequate food;
- (b) preservation of the freedom and dignity of every human being;
- (c) accountability of duty bearers and transparency in the food sector particularly emergency food aid;
- (d) coordinated public participation in the formulation, implementation, monitoring and control of policies and plans related to food and nutrition security in every sector of government;
- (e) integrity and accountability in the determination of the food poor status of persons taking into account any other assistance they are eligible for including development funds or assistance from the government targeting specific categories of persons including women and the youth for the improvement of their general wellbeing;
- (f) empowerment and capacity building as a means of facilitating the attainment of the right to food;
- (g) targeted empowerment and capacity building initiatives for both at risk persons and persons with limited capability through the application of state sponsored programmes in order to enable those receiving assistance produce or purchase their own food in the shortest time possible;
- (h) transparency in the implementation of programmes and activities relating to food security and the allocation and utilization of public and private resources;
- (i) availability and access to timely and reliable

information through the establishment of a simple, fair and accessible procedure enabling a person to seek information relevant to the enjoyment of the right to food; and

(j) ensure that interventions are based on objective information and methods, and monitoring mechanisms and regular evaluations are established, thus ensuring transparency in the public management and social audit and that the needs of the population are taken into account.

## PART II—THE RIGHT TO FOOD

5. (1) under Article 43(1)(c) of the Constitution, every person has the right to be free from hunger and to have adequate food of an acceptable quality. Right to food.

(2) For the enjoyment of the right to adequate food and freedom from hunger, the national and county governments shall—

(a) respect, protect and fulfil the human right to food and guarantee mechanisms for its enforcement;

(b) ensure the availability, accessibility, adaptability and acceptability of food for all in Kenya by making provision for access to production resources, income and support and maintaining an enabling environment in which households can attain adequate access to food and nutrition through their own efforts;

(c) promote the production of diverse crops and foods and put in place measures including irrigation schemes, water harvesting schemes and other programmes that ensure the availability of adequate food for all;

(d) put in place mechanisms that ensure the availability of farm inputs and implements and other mechanisms of food production in order to facilitate food production;

(e) ensure physical access to food that meets the minimum dietary needs of persons or communities suffering from or threatened with starvation;

- (f) put in place adequate infrastructure to facilitate access and circulation of food particularly in areas affected by food insecurity;
- (g) formulate and implement the family support programme and other appropriate programmes targeting—
  - (i) food poor persons, households and communities for the greater enhancement of their ability to produce or purchase essential food items and commodities in adequate quantities and quality; and
  - (ii) at risk persons and persons with limited capability for the purpose of building their capacity to access food on their own through interventions that mitigate the factors that cause them to be food poor;
- (h) put in place measures to ensure the availability and accessibility of food for individuals, groups and communities caught up in food emergencies and humanitarian disasters;
- (i) protect individuals, groups and communities from encroachment or interference by any person to the access to food;
- (j) take all reasonable measures to ensure that food resources and sources of food production are protected from destruction and are sustained for future use;
- (k) monitor and evaluate strategies and programmes for the realization of the right to be free from hunger and the right to adequate food;
- (l) provide an opportunity for the public to develop their understanding, skills and capacity necessary for achieving equitable and effective participation in the formulation, implementation and monitoring of any policies, strategies or programme interventions aimed at realizing food and nutrition security; and
- (m) guarantee transparency and accountability in the design and implementation of programmes and interventions by ensuring that such programmes and interventions on food security are based on objective information and methods and that they are regularly

monitored and assessed.

6. (1) The national and county governments shall promote the physical and economic access to adequate food of acceptable quality.

Obligations of the National and county governments with respect to the right to food.

(2) In ensuring that the national government fulfils its obligations under subsection (1), the Authority shall—

- (a) take measures to ensure the right to adequate food can be realised;
- (b) adopt a comprehensive national strategy and plan of action and policies to promote the realisation of right to adequate food;
- (c) advise and collaborate with the relevant agencies and public entities on matters relating to-
  - (i) domestic production of diverse foods including the cultivation of traditional crops and the accessibility of food to persons in areas affected by food insecurity;
  - (ii) production of diverse foods including the cultivation of traditional crops and that such food is accessible to person in areas affected by food security; and
  - (iii) establishment of programmes that ensure that farmers have adequate farm inputs and supplements to carry out food production;
- (d) promote a food nutrition culture that reappraises local knowledge and makes it possible to develop food best practices;
- (e) create, in consultation with the relevant county executive committee member and the Cabinet Secretary responsible for trade, appropriate areas for setting up local and regional food markets;
- (f) ensure that precautionary measures are taken to mitigate emergencies in relation to the unavailability of food;
- (g) promote investment in infrastructure to facilitate the movement of foods within local areas and to areas that suffer from a food shortages;

- (h) promote the circulation of and access to timely market information by farmers;
- (i) implement, in collaboration with the relevant agencies and public entities, programmes for the support and protection of small scale farmers including the provision of subsidies;
- (j) adopt sustainable food security measures to graduate food poor persons to persons who can participate in food production and distribution; and
- (k) facilitate access to resources and means of production and promotion of effective utilization of resources for maximum food production.

7. (1) The National and county governments shall ensure that the minimum dietary needs of persons who cannot access food and basic nutrition for survival are met.

Obligation relating to freedom from hunger.

(2) the national government shall under subsection (1)—

(a) adopt appropriate policies and action plans that promote food security;

(b) enhance preparedness to respond to food emergencies and to ensure provision for designated individuals and groups by establishment of the institutional framework contemplated in this Act; and

(c) adopt culturally-sensitive responses in ensuring that all persons are free from hunger.

(3) For purposes of subsection (1), eligibility of a vulnerable person for assistance shall be determined using a probability of an acute diminished access to food at level of consumption, due to environmental, social or economic risks and reduced capacity to cope with such risks.

(4) The Authority may make regulations setting out the criteria for the identification of eligible persons for the effective implementation of this Act.

8. (1) The National and county governments shall

Child nutrition.

promote childhood nutrition.

(2) The National and county governments shall collaborate with stakeholders to establish and implement programmes, including school feeding programmes, that promote child nutrition and food security taking into consideration the interests of vulnerable and marginalized children.

9. (1) Every woman has the right to adequate food during pregnancy and lactation.

Pregnant and lactating women

(2) The Cabinet Secretary responsible for health shall, in consultation with the Authority—

(a) put in place measures to ensure that the special nutrition needs of pregnant and nursing women who are food poor are met and that assist mothers to provide adequate care for their infants;

(b) promote measures to ensure that pregnant and nursing women have access to information about their nutrition needs and those of their children;

(c) establish programmes, health interventions and monitoring and support systems that promote the health and nutrition of pregnant and lactating women;

(d) promote and protect the right of infants to breast milk and to appropriate weaning foods after six months of age and adopt appropriate measures to ensure the enjoyment of the right to food for infants; and

(e) adopt measures to provide for food and nutrition needs of orphaned and vulnerable infants.

10. (1) The National and county governments shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

Prohibition of discrimination.

(2) Notwithstanding subsection (1), the National and county governments may take such action as they may consider necessary to remedy past effects of



discrimination against a person or group of persons and promote equality of opportunities with regard to the right to food.

(3) Any action taken by the National and county governments under subsection (2) shall not be considered to constitute discrimination as contemplated under subsection (1).

**PART III—ESTABLISHMENT OF THE FOOD SECURITY AUTHORITY**

11. (1) There is established an Authority to be known as the Food Security Authority. Establishment of the Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts; and
- (e) doing or performing all other things or acts for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate.

12. (1) The functions of the Authority shall be to— Functions of the Authority.

- (a) formulate strategies, plans and programmes to facilitate the realization of the right to food taking into consideration the rights of vulnerable and marginalized persons;
- (b) appraise and review the levels of access to food by all Kenyans in terms of quantity and quality and liaise with county food security committees and relevant agencies in ensuring optimal access to food;
- (c) collaborate with the necessary entities and stakeholders in the establishment of appropriate

mechanisms that ensure access by poor persons to adequate food in both quantity and quality;

(d) promote measures to improve security and access to land and water resources and the optimum and sustainable utilization of these resources;

(e) monitor the issuance and administration of the food eligibility card to eligible Kenyans by the county food security committees to ensure that food poor persons access food with ease and in a timely manner;

(f) monitor the implementation of the food distribution programme and the food subsidy programme by the county food security committees;

(g) identify food insecure counties and develop affirmative action measures for ensuring that food security is realized in the identified counties;

(h) monitor and evaluate the implementation of policies, plans and strategies on food security and nutrition in Kenya and provide feedback to all county food security committees, relevant ministries, agencies and actors concerned with food production, storage and sale for their further action; and

(i) in consultation with the Cabinet Secretary responsible for disaster management, carry out emergency response and mitigation programmes including, where appropriate, food distribution and feeding programmes in the case of a food emergency or where residents are affected by malnutrition.

(2) In performing its functions under subsection (1), the Authority shall—

(a) collaborate with the relevant public entities—

(i) to put in place measures to address factors that hinder the realization of the right to food and freedom from hunger; and

(ii) to ensure that their economic and social programmes and activities do not negatively affect the human right to food;

- (b) collaborate with the committees and relevant state and private agencies to carry out activities that result in the increase and improvement of agricultural production and the availability, access, utilization and stability of food among women and smallholder farmers in order to decrease poverty and hunger, improve health and achieve household food and nutrition security;
- (c) collaborate with the relevant ministries responsible for matters that relate to land in the formulation and implementation of strategies that promote agriculture and land reforms for the purpose of enhancing food security;
- (d) strengthen the networking and coordination of relevant sectoral and integrated databases on food security and nutrition data by the relevant agencies;
- (e) promote research, nutrition surveillance, data collection, analysis and the sharing and dissemination of information on food security;
- (f) formulate in collaboration with the county food security committees, an eligibility criteria index;
- (g) liaise with the National Social Assistance Authority established under the Social Assistance Act and such other entities as it considers necessary for the implementation of economic and social programmes and activities that promote the right to adequate food and freedom from hunger;
- (h) create an e-platform to facilitate the linkages amongst the county food security committees and between the Authority and the committees;
- (n) collaborate with the county food security committees in assisting households affected by emergencies to restore lost livelihoods assets, capital and means of food production through emergency programmes linked to long-term initiatives;
- (o) promote diversification and the use of alternative methods of agriculture and livestock systems and the production of diverse food crops to mitigate against drought and other climatic conditions that

24 of 2013.

negatively impact food production; and  
(p) perform such other functions for the better implementation of this Act or as may be conferred on it under any other written law.

13. (1) The headquarters of the Authority shall be in Nairobi. Headquarters of the Authority.

(2) The Authority may establish such other offices anywhere in Kenya as it may consider necessary for the discharge of its functions under this Act.

#### PART IV—MANAGEMENT OF THE AUTHORITY

14. (1) The management of the Authority shall vest in a Board which shall consist of— Board of the Authority.

- (a) a chairperson appointed by the President with the approval of Parliament;
- (b) the Principal Secretary responsible for matters relating to agriculture or the designated representative;
- (c) the Principal Secretary responsible for matters relating to livestock or the designated representative;
- (d) the Principal Secretary responsible for matters relating to finance or the designated representative;
- (e) the Principal Secretary responsible for matters relating to the co-ordination of national government or the designated representative;
- (f) the chairperson of the National Social Assistance Authority appointed under section 5(1) of the Social Assistance Act or the designated representative; No. 24 of 2013.
- (g) one person nominated by the National Drought Management Authority established under paragraph 3 of the National Drought Management Authority Order, 2011; L.N. No. 171 of 2011.
- (h) two persons nominated by the Non-Governmental Organisations Co-ordination Board established under section 3 of the Non-Governmental Organisations Co-ordination Act from amongst non-governmental organizations which support efforts towards the achievement of food security;
- (i) two persons nominated by the Council of County Governors; and
- (j) the Director General who shall be an ex-officio

member, the secretary to the Board and the chief executive officer of the Authority.

(2) The persons nominated under subsection (1)(g), (h) and (i) shall be appointed by the Cabinet Secretary by notice in the Gazette.

(3) A person shall be qualified for nomination and appointment under subsection (1) (g), (h) and (i) if such person has knowledge and experience in matters relating to food security and nutrition.

(4) The designated representatives of the members referred to under subsection (1)(b), (c), (d) and (e) shall have authority to exercise the powers and functions of the designating authority in relation to matters before the Board.

**15.** A person shall be qualified for appointment as the chairperson of the Board if that person—

Qualifications for appointment.

(a) holds a degree from a university recognised in Kenya;

(b) has knowledge and experience in matters related to food security; and

(c) has knowledge and experience in matters relating to —

(i) agriculture or livestock;

(ii) land and agrarian reforms;

(iii) public health;

(iv) public administration; or

(v) economics, sociology, disaster management or such other relevant knowledge and experience as may be considered necessary; and

(d) meets the requirements of Chapter Six of the Constitution.

**16.** The chairperson shall hold office for a term of four years and shall be eligible for reappointment for one further term.

Tenure of office.

**17.** There shall be paid to the members of the Board such remuneration, fees or allowances as the Cabinet Secretary shall, in consultation with the Salaries and

Remuneration of the Board.

Remuneration Commission, shall determine.

**18.** The office of the chairperson of the Board shall become vacant if the chairperson— Vacation of office.

- (a) is unable to perform the functions of the chairperson's office by reason of mental or physical infirmity;
- (b) is otherwise unable or unfit to continue serving as the chairperson of the Board;
- (c) is adjudged bankrupt;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (e) is absent, without reasonable cause, from three consecutive meetings of the Board;
- (f) resigns in writing addressed to the President;
- (g) fails to declare the chairperson's interest in any matter being considered or to be considered by the Board; or
- (h) dies.

**19.** The Board shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to— Powers of the Board.

- (a) enter into contracts;
- (b) manage, control and administer its assets in such manner and for such purposes as best promote the purpose for which the Authority is established;
- (c) determine the provisions to be made for its capital and recurrent expenditure and for the reserves of the Authority;
- (d) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (e) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the

purposes for which the Authority is established;

(f) open such bank accounts for its funds as may be necessary; and

(g) invest any funds of the Authority not immediately required for its purposes.

20. (1) The Board may establish such committees as it may consider necessary for the performance of its functions and the exercise of its powers under this Act.

Committees of the Board.

(2) The Board may co-opt any person to sit on any committee established under subsection (1), whose knowledge and skills are found necessary for the performance of the functions of the Board.

21. The Board may by resolution either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Authority, the exercise of any of the powers or the performance of any of the functions of the Board under this Act or under any other written law.

Delegation by the Board.

22. (1) The Board shall conduct its affairs in accordance with the provisions of the First Schedule.

Conduct of business and affairs of the Board.

(2) Except as provided in the First Schedule, the Board may regulate its own procedure.

23. (1) There shall be a Director-General of the Authority who shall be competitively recruited and appointed by the Board, on such terms and conditions as the Board shall determine.

Director-General.

(2) A person shall not be qualified for appointment as a Director-General under subsection (1) unless that person—

(a) holds a masters degree from a university recognized in Kenya; and

(b) has knowledge and at least ten years experience in the food sector.

(3) The Director-General shall be an ex-officio member

of the Board and shall have no right to vote at any meeting of the Board.

**24.** The Director-General shall be appointed for a term of five years and shall be eligible for re-appointment for one further term.

Tenure of office of Director-General.

**25.** (1) The Director-General shall be the chief executive officer of the Authority and secretary to the Board.

Functions of the Director General.

(2) In exercise of the Director-General's functions under this Act, the Director-General shall, subject to the direction of the Board—

- (a) be responsible for the day-to-day management of the Authority;
- (b) manage the funds, property and affairs of the Authority;
- (c) be responsible for the management of the staff of the Authority;
- (d) oversee and coordinate the implementation of the policies, programmes and objectives of the Authority;
- (e) administer the funds provided for the implementation of the food distribution programme and the food subsidy programme both at the national and county levels;
- (f) cause to be prepared for the approval of the Board—
  - (i) the strategic plan and annual plan of the Authority; and
  - (ii) the annual budget and audited accounts of the Authority; and
- (g) perform such other duties as may be assigned to him or her by the Board.

**26.** The Board may terminate the appointment of the Director-General in accordance with the Director-General's terms and conditions of service for—

Removal of Director General.

- (a) inability to perform the functions of the office



arising out of physical or mental incapacity;

(b) gross misconduct or misbehaviour;

(c) incompetence or neglect of duty; or

(d) any other ground that would justify removal from office under the terms and conditions of service.

27. (1) The Board may appoint such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Authority under this Act.

Staff of the Authority.

(2) The staff appointed under subsection (1) shall serve on such terms and conditions as the Board may, in consultation with the Salaries and Remuneration Commission, determine.

28. (1) The common seal of the Authority shall be kept in the custody of the Director-General or such other person as the Board may direct, and shall not be used except upon the order of the Board.

Common seal of the Authority.

(2) The common seal of the Board shall, when affixed to a document and authenticated, be judicially and officially noticed and unless the contrary is proved, any order or authorization by the Board under this section shall be presumed to have been duly given.

(3) The seal of the Authority shall be authenticated by the signature of the Director-General and the chairperson of the Board or in the absence of either person, such other member of the Board who shall be designated by the Board for that purpose

29. (1) No matter or thing done by an officer or an employee of the Authority shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Authority, render the officer or employee so acting, personally liable for any action, claim or demand.

Protection from personal liability.

(2) Subsection (1) shall not relieve the Authority from liability to pay compensation or damages to any person for any injury to that person, or other loss caused by the exercise of any power conferred by this Act or any other written law or by the failure of any works of the

Authority.

**PART V—THE SECRETARIAT**

30. (1) There shall be a secretariat to the Authority The Secretariat. which shall consist of—

(a) the Director-General who shall be the head of the secretariat; and

(b) such other persons as the Board shall determine for the proper performance of the functions of the secretariat under this Act.

(2) The persons under subsection (1)(b) shall be competitively recruited and appointed by the Board on such terms and conditions as the Board shall, in consultation with the Salaries and Remuneration Commission determine.

(3) The persons appointed under subsection (1)(b) shall possess such knowledge and experience as shall be determined by the Board.

31. The functions of the Secretariat shall be to— Functions of the Secretariat.

(a) provide technical and administrative services to the Board;

(b) implement the decisions, strategies, programmes and policies of the Board;

(c) recommend proposals and offer advice to the Board for the formulation of and implementation of programmes by the Authority;

(d) on behalf of the Authority, establish and maintain relationships with international, national and local institutions on food security;

(e) coordinate and monitor the implementation of programmes and plans by county governments on food security;

(f) make arrangements for periodical evaluation of the policies and programmes in relation to the objects and functions of the Authority; and

(g) perform such other functions as may be

assigned to it by the Authority.

**PART VI—COUNTY FOOD SECURITY COMMITTEES**

32. (1) There is established in each county, a county food security committee which shall consist of—

Establishment of county food security committees.

(a) a person with knowledge and experience in matters relating to food security appointed by the county governor and who shall be the chairperson to the committee;

(b) the county executive committee member responsible for matters relating to agriculture who shall be the secretary to the committee;

(c) the county executive committee member responsible for matters relating to livestock;

(d) the county executive committee member responsible for matters relating to social services;

(e) the county commissioner or a designated representative of the commissioner;

(f) two persons of the opposite gender, with knowledge and experience in matters relating to food security within the county appointed by the county governor; and

(g) two persons of the opposite gender, appointed by the county governor to represent such special interests within the county as the governor shall determine.

(2) A person shall be qualified for appointment under subsection (1)(a), (d) and (e) if that person—

(a) holds a degree from a university recognised in Kenya;

(b) has knowledge and experience in matters related to food security; and

(c) has a working knowledge in any of the following fields —

(i) land and agrarian reforms;

(ii) public health;

(iii) sociology; or

(iv) statistics; and

(d) meets the requirements of Chapter Six of the Constitution.

(3) The persons appointed under subsection (1)(a), (d) and (e) shall be competitively recruited by the county public service and appointed by the county governor with the approval of the county assembly.

(4) In recruiting and appointing persons under subsection (1)(a), (d) and (e), the county public service and the governor shall have regard to the diversity within the county.

(5) The committee may co-opt such persons not exceeding two in number to sit in the committee, whose knowledge and skills are found necessary for the performance of the functions of the committee.

(6) A county government may establish a fund which shall be administered by the county food security committee and into which shall be paid at least ten percent or such other amount as may be agreed upon by the county government of the annual funds available to the county constituting contributions from both the national and county governments with respect to the implementation of the food distribution programme and the food subsidy programme for the purposes of providing emergency food assistance.

33. (1) The functions of a county food security committee shall be to—

Functions of the county food security committee.

(a) implement the food security policy and programmes in the county;

(b) advise the Authority on technical issues related to the implementation of different programmes on food security within the county;

(c) collaborate with the Authority and agencies in the county in ensuring a coordinated approach in

facilitating the access of food in the county;

(d) serve as an early warning mechanism on impending food insecurity situations within the county and advise on mitigation measures to address the situation;

(e) initiate, undertake and participate in the collection, preparation, production and dissemination of data and information on food security and nutrition in the county;

(f) ensure the proper identification of food insecure areas appropriate programmes and eligible beneficiaries in relation to food security programmes and the correct application eligibility criteria;

(g) ensure that food and nutrition security issues are incorporated in the programmes of the county and monitor the performance of the county in the implementation of the policies, programmes and plans on food and nutrition security issues;

(h) determine the essential foodstuffs and commodities within the county for the purpose of implementing food distribution programmes and food subsidy programmes;

(i) spearhead the formation and operationalization of food and nutrition committees at the sub-county and ward levels and in schools and health centres within the county;

(j) coordinate activities of State organs, institutions, the private sector, non governmental organizations and community based organizations involved in food and nutrition programmes in the county;

(k) establish and implement food distribution programmes and food subsidy programmes taking into account the peculiar circumstances of the respective county;

(l) establish a competent food distribution infrastructure in the county to facilitate distribution of food and the implementation of food programmes in the

county;

(m) establish a mechanism for the disbursement of emergency food assistance in collaboration with the Authority; and

(o) mobilise and sensitize the community on food and nutrition programmes and in collaboration with the relevant stakeholders and institutions in the area, conduct capacity building, education and information campaigns on food and nutrition security issues.

(2) The county food security committee shall, in the performance of its functions under subsection (1), decentralize its services to the lowest administrative unit within the county as it shall consider appropriate for the purpose of ensuring food security within the county.

(3) The county food security committees shall be under the control and direction of the county governor in the implementation of its functions in accordance with the policies of the Authority and shall collaborate with the Authority in the carrying out of its functions under subsection (1).

34. The provisions relating to the conduct of the affairs of the Board prescribed in the First Schedule shall apply with necessary modifications to the conduct of the affairs of the county food security committee.

Conduct of affairs of the county food security committees.

#### **PART VII—FOOD INSECURITY AND INFORMATION MAPPING SYSTEMS**

35. (1) The Authority shall in collaboration with the Ministries responsible for finance, disaster management, agriculture, livestock, meteorology, planning, national security and gender, establish food insecurity and information mapping systems to provide the information needed to develop and strengthen the capacity to respond to food emergencies.

Establishment of insecurity and information mapping systems.

(2) In performing its functions under subsection (1), the Authority shall—

(a) support the development of disaster management plans in relation to food security by implementing organs;

- (b) establish a rights based early warning system and emergency preparedness strategies on food security and safety;
  - (c) systematically undertake disaggregated analysis on the food insecurity, vulnerability and nutritional status of different groups in society, with particular attention to assessing any form of discrimination that may manifest itself in greater food insecurity and vulnerability to food insecurity, or in a higher prevalence of malnutrition among specific population groups;
  - (d) develop and identify corrective measures for the purpose of addressing and preventing causes of food insecurity and malnutrition;
  - (e) establish systems to ensure the feedback of information in such formats as it may consider appropriate on food security and nutrition to priority audiences at the national, county and community levels through the appropriate media;
  - (f) establish risk management and vulnerability mapping systems;
  - (g) establish and coordinate sector specific roles and mandates related to vulnerability and emergency response; and
  - (h) undertake a food security baseline and impact assessment at all levels of governance to guide vulnerability and emergency response.
- (3) In furtherance to subsection (2), the Cabinet Secretary responsible for the implementation of programmes relating to persons with special needs shall, in consultation with the relevant State organs, provide to the Authority, information on vulnerability response mechanisms, including budget estimates to support vulnerable persons.
36. (1) In formulating and prior to the implementation of a proposal, policy, programme or project that may affect the realization of the right to food, the relevant State organ or concerned person shall carry out an impact assessment to identify, predict, evaluate

Food impact assessments.

and mitigate economic, social and other effects of such policy, programme or project.

(2) Where an existing written law requires the undertaking of an impact assessment prior to the implementation of a project or programme, the State organ or concerned person shall incorporate in that impact assessment, a food impact assessment in the manner prescribed by the Authority under subsection (4).

(3) The Authority shall cause to be undertaken an annual right to food impact assessment to identify the impact of policies, programmes and projects on the realisation of the right to food.

(4) The Authority shall determine the manner in which impact assessments under subsection (1) shall be undertaken including—

- (a) the screening of any proposal, policy, programme or project;
- (b) the undertaking of scoping exercises and examination of alternatives measures for the achievement of the same objectives;
- (c) the undertaking of the impact analysis;
- (d) the identification and implementation of mitigation measures; and
- (e) the undertaking of public consultation.

#### **PART VIII—FINANCIAL PROVISIONS**

37. (1) For the avoidance of doubt, nothing in this Act may be construed as providing for or dealing with-

Non-money Bill  
status.

- (a) taxes;
- (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;
- (c) the appropriation, receipt, custody, investment or issue of public money;
- (d) the raising or guaranteeing of any loan or its repayment;

or



- (e) matters incidental to any of those matters.
- (2) There may be established a fund which shall consist of monies specified under subsection (3).
- (3) Any expenses that may be occasioned in the implementation of this Act shall be provided from –
  - (a) such gifts, grants or donations as may be given;
  - (b) such monies as may, in the future, be provided by the National Assembly for defraying the expenses incurred in the implementation of this Act; and
  - (c) such other monies that may lawfully accrue in the discharge of the functions under this Act, not being monies accruing pursuant to Article 114 of the Constitution.

**38.** (1) The Authority may invest its funds in any securities which for the time being trustees may by law invest in trust funds, or in any other securities which the Cabinet Secretary may, from time to time, approve for that purpose.

Investment of funds of the Authority.

(2) The Authority may place on deposit with such a bank as it may determine, any moneys not immediately required for the purposes of the Authority.

**39.** The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

Financial year.

**40.** (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Authority for that year.

Annual estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year concerned.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval.

**41.** The Board shall, within a period of three

Annual report.

months after the end of each financial year, submit—

(a) to the Auditor-General, the accounts of the Authority in respect of that year together with—

(i) a statement of the income and expenditure of the Authority during that year; and

(ii) a statement of the assets and liabilities of the Authority on the last day of that financial year; and

(b) to the Cabinet Secretary, an annual report in respect of that year containing—

(i) the accounts of the Authority and statements referred to under paragraph (a);

(ii) the Authority's performance indicators and any other related information;

(iii) a report on the operations of the Authority during that year; and

(iv) such other information as the Cabinet Secretary may request.

42. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Authority.

Accounts and audit.

(2) The accounts of the Authority shall be audited and reported upon in accordance with the Public Audit Act, 2015.

No.12 of 2003.

#### PART IX—MISCELLANEOUS PROVISIONS

43. A person shall not act in a manner which—

Prohibition against the infringement of the right to food.

(a) is incompatible with or affects the enjoyment of the right to food under this Act;

(b) affects the right of another person to nutritional food;

(c) would affect the production of food that is safe for consumption or the right of another person to nutritious safe food; or

(d) impedes the implementation of activities carried out for the implementation of food security under this

Act.

44. A person who diverts funds or food meant for the food distribution programme or the food subsidy programme to a person other than its intended beneficiary at any point along the food distribution chain commits an offence and shall, on conviction, be liable to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding eight years or to both.

Offences related to diverting food meant for the food distribution or subsidy programme

45. A person who procures any food, commodities or services in relation to a food distribution programme or food subsidy programme in a manner contrary to any written law on procurement commits an offence and shall be liable, on conviction, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding eight years or to both.

Offences related to the procurement of food items or services

46. A person who administers the eligibility criteria index in a manner other than that prescribed under this Act commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred thousand shillings or to a term of imprisonment of three years or to both.

Offences related to the administration of the eligibility criteria index.

47. A person who fraudulently acquires, issues, or otherwise uses the food eligibility card commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred thousand shillings or to a term of imprisonment of one year or to both.

Offences relating to the issuance and use of the food eligibility card.

48. A person who is convicted of an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding three million shillings, or to imprisonment for a term not exceeding five years, or to both.

General penalty.

49. The Authority shall, in promoting public awareness and participation in the advancement of food security—

Public participation in the advancement of food security.

(a) develop the human resources in the field of food through education and training activities, especially the small scale businesses;

- (b) stimulate and increase the participation of the community in the human resources development activities, improving the capability of the small-scale businesses, extension services in the field of food and diversification of food;
- (c) stimulate and direct the participation of professional associations and organizations in the field of food production;
- (d) stimulate and support the activities of technological research and or development in the field of food ;
- (e) disseminate the knowledge and extension services in the field of agriculture and food production; promote the international cooperation in the field of food in accordance with the national interest;
- (f) stimulate and increase the activities of food diversification of food consumed by the community, and the stabilization of the traditional food quality; and
- (g) promote public awareness on the advancement of food security.

**PART X—PROVISIONS ON DELEGATED  
LEGISLATION**

50. (1) The Cabinet Secretary, in consultation with the Authority, may make regulations generally for the better carrying out of the provisions of this Act. Regulations.
- (2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make regulations—
- (a) for the management of food aid and food emergencies;
  - (b) to provide a framework for the collaboration and the monitoring, by the Authority, of the activities of the county food security committees and a mechanism for ensuring transparency and accountability under this Act;
  - (c) for the procedures and mechanisms for

consulting the public on food and nutrition security issues, including public hearings and meetings at all levels of government;

(d) the conduct of sensitization programmes and the publication and dissemination of information under this Act;

(e) for the conduct of food emergency programmes under this Act;

(f) for charges and fees to be paid to the Authority in the performance of its duties under this Act; and

(g) to provide for the required minimum amount of food including the quantity of food or its monetary value, needed to prevent and address hunger and for a person to be free from hunger.

(3) For the purposes of Article 94(6) of the Constitution—

(a) the power of the Authority to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and

(b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013 in relation to subsidiary legislation shall apply to regulations made under this Act.

Cap. 2.

No. 23 of 2013.

**FIRST SCHEDULE (s. 22, 35)**

**PROVISIONS RELATING TO MEETINGS OF  
THE BOARD OF THE AUTHORITY**

1. The Board of the Authority shall meet at least once in every three months to conduct the business of the Board of Authority.

2. The chairperson may on an own motion, or upon request by a member, call a special meeting of the Board of the Authority at any time, where he or she considers it expedient for the transaction of the business of the Board of the Authority.

3. Other than a special meeting, or unless three quarters

- of members agree, at least fourteen days' written notice of every meeting of the Board of the Authority shall be given to every member of the Board of the Authority by the secretary.
4. The quorum at a meeting of the Board of the Authority shall be half (maybe the quorum can be one third) of the members or such greater number (the quorum for an important matter can be two thirds of the members of the board) as may be determined by the Board of the Authority in respect of an important matter.
  5. The chairperson shall preside at the meetings of the Board of the Authority and in the absence the chairperson, the vice-chairperson or a member of the Board of the Authority elected by the members present from among their number shall preside.
  6. The matters of the Board of the Authority shall be decided by a majority of the members present and voting and in the event of equality of votes, the person presiding shall have a casting vote.
  7. The proceedings of the Board of the Authority shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.
  8. At the first meeting of the Board of Authority, the members shall elect a vice-chairperson, not being an *ex-officio* member, from among its members.
  9. Subject to the provisions of this Schedule, the Board of the Authority may determine its own procedure and the procedure for any committee of the Board of the Authority and for attendance of any other persons at the meetings and may make standing orders in respect thereof.

**SECOND SCHEDULE**

(s.2)

**PROVISIONS RELATING TO THE ELIGIBILITY CRITERIA INDEX**

In developing the eligibility criteria index, the Authority shall be guided by the following considerations—

- (a) non-discrimination of food poor persons;
- (b) preservation of the human dignity of persons during the process of administering the eligibility criteria index;
- (c) the need to determine with accuracy the status of persons as food poor or otherwise in order to ensure relevant and timely assistance to all deserving persons;
- (d) provision for at risk persons; persons with limited capability and emergency cases and the varying degrees of assistance required by each category of persons;
- (e) the inclusion of relevant and responsive parameters in the index to enable accurate determination of the food poor status of respective persons;
- (f) the simplicity of the index to allow for the officer administering the index to use it effectively and for the person to whom it is being administered to understand the process;
- (g) the flexibility and adaptability of the index to allow for its use in the diverse circumstances found in the different counties in Kenya;
- (h) the ease with which the index will be administered to diverse persons across the counties of Kenya;
- (i) geographical and cultural sensitivity and appropriateness of any programme, plan or intervention;
- (j) the inclusion of a periodic re-evaluation mechanism to review the need for holders of food eligibility cards to continue to hold them;
- (k) the inclusion of all relevant factors that pertain to the status of at risk persons and persons with limited capability insofar as determination of their food poor status is concerned;
- (l) the existence of other development initiatives and funds in the county to assist the inhabitants to improve their general wellbeing and the extent to which persons eligible for the food poor status avail themselves of such benefits;
- (m) relevant provisions regarding the operationalization of such other food assistance mechanisms contained in international and regional instruments; and
- (n) adherence to the principles of participation, accountability, non-discrimination, transparency and empowerment.





## MEMORANDUM OF OBJECTS AND REASONS

### Statement of the Objects and Reasons for the Bill

The Bill proposes to give effect to Article 43(1) (c) of the Constitution on freedom from hunger and the right to adequate food of acceptable quality.

Article 43 of the constitution establishes the right "*to be free from hunger, and to have adequate food of acceptable quality*". Under Article 21(3), all State organs and all public officers have a duty to address needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalized communities, and members of particular ethnic, religious or cultural communities.

The need for this legislative framework is based on the requirement by the National and county governments to put in place measures and mechanisms to address food insecurity and ensure that the right to food for all is realised.

This Bill provides a framework and mechanism for the National and county governments to fulfil their obligations in relation to food security.

#### 1. Overview of the Bill

**Part I** of the Bill sets out the objects and purposes of the Bill and the principles that are to guide the counties and other actors in the implementation of this Bill. This part incorporates the national values and principles under Article 10 of the Constitution. It also underscores the need for capacity building as a means of achieving the right to food for all Kenyans.

**Part II** of the Bill elaborates on the right to food as articulated under Article 43 of the Constitution. It also confers various obligations on the National and county governments in ensuring that freedom from hunger and the right to adequate food of acceptable quality is realised.

This Part also makes specific recognition of the right by children to food by and confers an obligation on the National and county governments to implement school feeding programmes.

This part also proposes that the National and County governments shall to the extent of their constitutional mandate promote the physical and economic access to adequate food of acceptable quality.

Under this part, the National and County governments are mandated to ensure that the minimum dietary needs of persons who cannot through

their own means and for reasons beyond their control access food and basic nutrition for survival, are met.

It also makes provision for the right to adequate food by a woman during pregnancy and lactation.

**Part III** of the Bill provides for the establishment of Food Security Authority as a body corporate. This part provides for the functions of the Authority to include—

- (a) formulation of policies, programmes and strategies for implementation by county governments and the establishment of monitoring and evaluation mechanisms to determine the suitability of interventions put in place to ensure food security; and
- (b) to monitor and evaluate the implementation of policies, plans and strategies on food security and nutrition in Kenya and provide feedback to all county food security committees, relevant ministries, agencies and actors concerned with food production, storage and sale for their further action among its other functions.

**Part IV** provides for the composition of the Board of the Authority to be involved in the management of the Authority. It also provides for the recruitment and appointment of the Director-General of the Authority who shall be the chief executive officer and responsible for the daily administration of the Authority.

**Part V** provides for the establishment of the Secretariat to be headed by the Director-General and which is responsible for providing technical and administrative services to the Board and ensuring that its decisions, strategies, programmes and policies are implemented.

**Part VI** of the Bill provides for the establishment of county food security committees whose role is to ensure the implementation, by the county government, of food security programmes in the county and provide a mechanism through which the food security situation monitored, any threats to food security are detected early and appropriate interventions are put in place to avert such threats.

This part also provides for decentralisation of county food security committee services to the lowest administrative unit within a county. The county food security committee is to be under the control and direction of a county governor.

**Part VII** provides for the establishment of a food insecurity and information mapping system to serve as an early warning system, facilitate

the development of disaster management plans and emergency preparedness strategies and provide a basis for the identification of the appropriate corrective measures for the purpose of addressing and preventing causes of food insecurity. It also provides for the formulation of food impact assessments prior to the implementation of any policies or programmes on food insecurity.

**Part VII** sets out the financial provisions. It also provides for the establishment of a Food Security Fund, the preparation and submission of annual estimates and the annual plan of the Authority to the relevant Cabinet Secretary and the keeping of proper books and records of account.

**Part IX** of the Bill contains provisions of a general nature including actions which affect food security and which constitute offences and imposes an obligation on the Authority to promote public awareness and public participation in advancing food security.

**Part X** provides for the formulation of particularised regulations by the Cabinet Secretary for the better implementation of this Act

## **2. Statement on how the Bill concerns County Governments**

The Bill imposes obligations on the county governments to put in place mechanisms to implement policies and programmes necessary to realise the right to food in the counties. It also provides for the establishment of county food security committees as one of the mechanisms of ensuring that the relevant policies, strategies and programmes are implemented in the counties.

The committees also serve as a monitoring mechanism with respect to such implementation and act as a source of information on food security in the county which in turn ensures that county specific interventions are adopted and implemented for the purpose of ensuring food security within the county.

Such interventions cut across a number of sectors including agriculture, health, trade and environmental conservation which fall within the ambit of county governments under the Fourth Schedule to the Constitution.

The Bill is therefore a Bill concerning county governments in terms of Article 110 (1)(a) of the Constitution.

### **Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution.**

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

*Security Bill, 2017*

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Dated the 6th December, 2017.

KIPCHUMBA MURKOMEN,  
*Senate Majority Leader.*

Opinion

FOOD SECURITY

# Ending hunger in Africa doable task

A high-level event held on January 27 on the sidelines of the 30th ordinary Session of the Assembly of Heads of State and Government of the African Union (AU) in Addis Ababa discussed progress in eradicating hunger in Africa. Organised by the Food and Agriculture Organisation of the United Nations (FAO), in partnership with the African Union Commission (AUC), the Ethiopian Government and the United Nations Economic Commission for Africa (ECA), it focused on three key thematic areas: policy, experience sharing and multi-stakeholder dialogue.

Participants at the meeting, called to review the continental target of ending hunger in Africa by 2025, noted that despite progress having been made, the task was a complex issue that calls for the concerted efforts of all the stakeholders.

The forum noted that several African countries had made remarkable progress to align their development policies, programmes and national visions to the 2014 Malabo Declaration on Accelerated Agricultural Growth and Transformation



MOHAMED Y. AW-DAHIR

Conflicts, civil insecurity and extreme weather patterns are the main drivers of hunger, food insecurity and malnutrition."

for Shared Prosperity and Improved Livelihoods.

Emphasis had been put on the third pillar of the Comprehensive Africa Agriculture Development Programme (CAADP), which aims at increasing food supply and reducing hunger by raising smallholder productivity and improving responses to food emergencies. The efforts are also aligned with Sustainable Development Goal 2, which seeks zero hunger by 2030.

An FAO report, *Regional Overview of Food Security and Nutrition in Africa 2017*, however, shows that the food security and nutrition situation was worsening in absolute terms. Undernourishment in sub-Saharan Africa rose from 20.8 per cent in 2015 to 22.7 per cent in 2016 —from 200 million to 224 million cases.

Conflicts, civil insecurity and extreme weather patterns are the main drivers of hunger, food insecurity and malnutrition. In eastern Africa, Somalia and South Sudan are among the four countries where pre-famine conditions were declared by the international community last year to have the highest number of undernourished people in Africa. Marginalised groups and rural communities are the most affected.

Most of Africa's poor and hungry populations live in the rural areas and depend on agriculture and related activities for their daily income and livelihoods.

However, despite the numerous challenges, African farmers, especially the small-scale ones, are at the frontline in the fight against hunger. Agricultural and rural transformation are,

critical to not only achieving food security and nutrition, but also addressing many other challenges, including building resilience.

Governments and policy makers have a major role in ending hunger. Evidence-based policies, strategies and programmes that support and promote sustainable agriculture, food security and rural development will guarantee farmers quality and affordable inputs and markets.

**Holistic measures**

Governments need to strengthen institutions meant to ensure food security within their borders and adopt other holistic measures. They must also ensure that safety nets and other social protection are put up to cushion communities from extreme hunger.

Vulnerable communities need to be empowered with the appropriate social interventions that catalyse production and productivity by linking food consumption with production — for example, through homegrown school feeding programmes. Forging partnerships and stakeholder engagement

across sectors is crucial to achieving nutritional outcomes through the promotion of sustainable agriculture, health and education. Creating youth employment in agriculture and agribusiness will eradicate economic strain, crime and discourage migration within and out of the continent.

Despite shrinking jobs in agriculture and agribusiness due to urbanisation and automation, productivity in farming can be increased through innovation. The success will depend on transparency and commitment to public service with zero tolerance to corruption. Good governance, political stability, peace and security are paramount in eradicating hunger. An unstable or insecure population cannot grow their own food or contribute to economic development.

To win this war, Africa should silence all other guns and focus on the fight against hunger.

Mr Aw-Dahir is senior officer (Program and Partnership) at FAO Sub-Regional Office for Eastern Africa, Addis Ababa. Mohamed.Awdahir@fao.org

**DROUGHT**

## Act now to reverse water depletion trend

Growing up in the 1970s on the eastern slopes of Mt Kenya, our parents could not allow us to fetch water from River Mariara unaccompanied because of the risk of drowning or being devoured by crocodiles.

Sadly, the raging Mariara, whose volume was very high throughout the year, is now a mere trickle along a dry riverbed.

This is true of other nearby rivers such as Kathita, Thingithu and Mutonga and others countrywide. It is only through broad-based strategies that we can alleviate the water depletion trend. All the water users from the upstream up to the downstream should be sensitised and trained on the conservation of the water catchment areas, including riparian reserve restoration by planting appropriate vegetation.

There is an urgent need to invest in water preservation measures, including dams and reservoirs to tap the run-off water for agricultural and domestic use. The Kenya Forest Service (KFS) ought to up its game in forest restoration. Re-forestation, afforestation and agro-forestation, just like the best farming practices, need to be revitalised and embraced urgently.

PROTASIO MUTUMA MBUI, Nairobi

REPUBLIC OF KENYA



TWELFTH PARLIAMENT  
THE SENATE

**PUBLIC HEARINGS/ RECEIPT OF MEMORANDA**

1. The Warehouse Receipts System Bill, (Senate Bills No. 10 of 2017); and
2. The Food Security Bill, 2017 (Senate Bills No. 12 of 2017).

The Warehouse Receipts System Bill (Senate Bills No. 10 of 2017) and The Food Security Bill (Senate Bills No. 12 of 2017) were read a First Time in the Senate on 30<sup>th</sup> November, 2017 and 15<sup>th</sup> February, 2018, respectively and were thereafter committed to the Senate Standing Committee on Agriculture, Livestock and Fisheries for consideration.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and standing order 130(4) of the Senate Standing Orders, the Senate Standing Committee on Agriculture, Livestock and Fisheries now invites interested members of the public to submit their views on the Bills. The views may be submitted in the following manner-

1. Public Hearings shall be held on **Wednesday, 7<sup>th</sup> March, 2018 from 10:00 a.m. to 12:00 p.m. at the Mini Chamber, First Floor, County Hall, Parliament Buildings, Nairobi;** or
2. Written Memoranda may be forwarded to the **Clerk of the Senate/ Secretary, Parliamentary Service Commission, P.O. Box 41842-00100, Nairobi,** hand-delivered to the **Office of the Clerk/ Secretary, Parliamentary Service Commission, First Floor, Main Parliament Buildings, Nairobi** or emailed to **csenate@parliament.go.ke**, to be received on or before **Wednesday, 7<sup>th</sup> March, 2018 at 5.00 p.m.**

The Bills may be found on the Parliament website at <http://www.parliament.go.ke/senate>.

CLERK OF THE SENATE/ SECRETARY,  
PARLIAMENTARY SERVICE COMMISSION.

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Stimulating the growth and expansion of the industrial sector will enhance the growth and contribution of the manufacturing sector to Kenya's national output in line with the Government's "Big 4" plans for transforming Kenya into a middle income industrial country.

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**MINUTES OF THE EIGHTH SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES HELD ON WEDNESDAY, 21<sup>ST</sup> MARCH, 2018 IN COMMITTEE ROOM 5, COUNTY HALL AT 11.00 A.M.**

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**PRESENT**

1. Sen. Peter Njeru Ndwiga, MP - Chairperson
2. Sen. Ltumbesi Lelegwe, MP - Vice Chairperson
3. Sen. Naomi Jillo Waqo, MP
4. Sen. (Dr.) Michael Malinga Mbito, MP
5. Sen. Naomi Shiyonga, MP

**ABSENT WITH APOLOGY**

1. Sen. Moses Kajwang', MP
2. Sen. Stewart Madzayo, MP
3. Sen. Ben Oluoch Okello, MP
4. Sen. Golich Juma Wario, MP

**IN ATTENDANCE**

- |                      |   |                  |
|----------------------|---|------------------|
| 1. Ms. Carol Kirorei | - | Clerk Assistant  |
| 2. Mr. David Ng'eno  | - | Research Officer |
| 3. Mr. Leonard Kibet | - | Legal Counsel    |

**SENATE**

**MIN. NO. 34/2018      PRAYER**

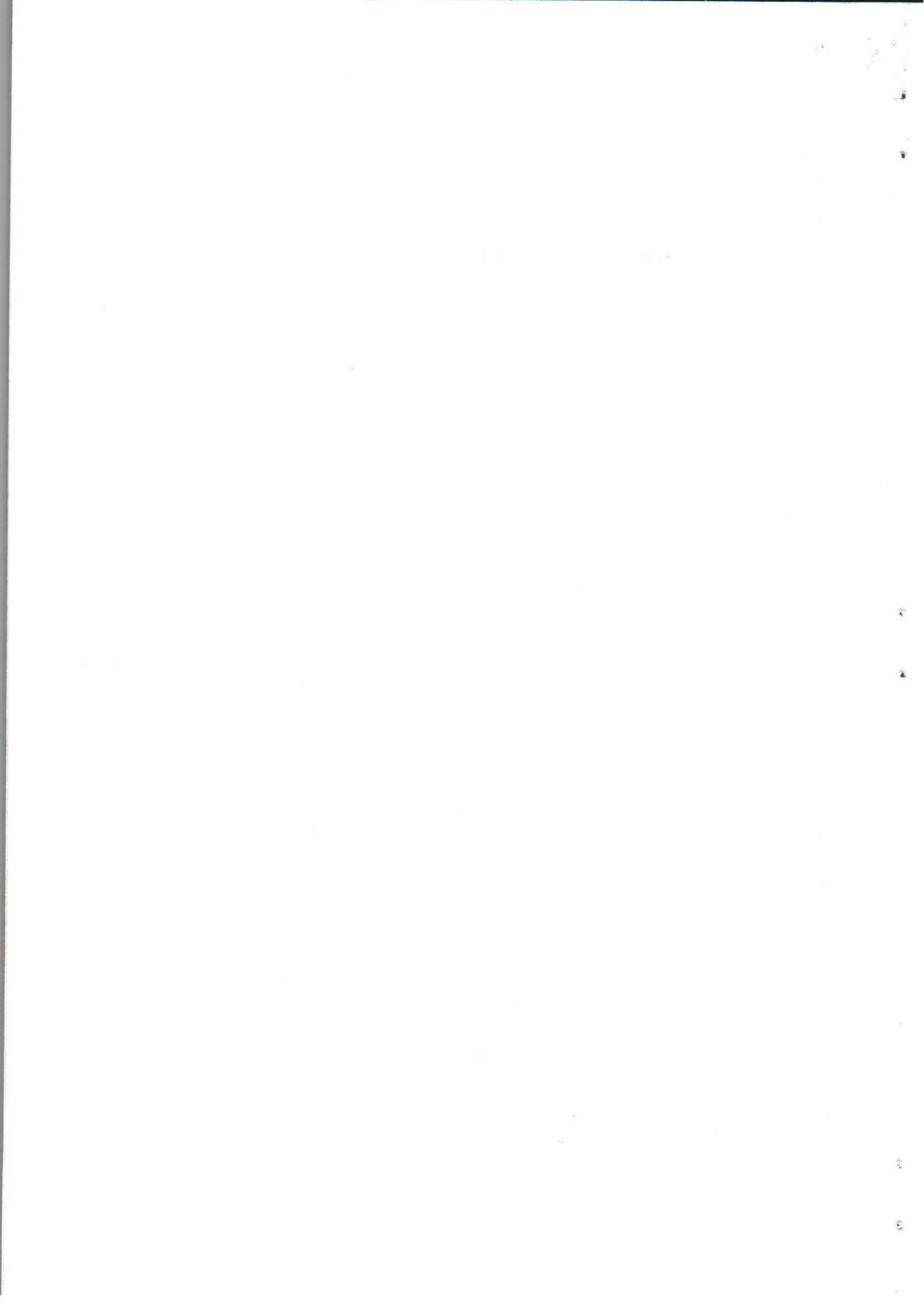
The Chairperson called the meeting to order at 9.15 a.m. followed by a word of prayer.

**MIN. NO. 35/2018      ADOPTION OF THE AGENDA**

Members adopted the agenda of the meeting as presented after being proposed by Sen. Ltumbesi Lelegwe and seconded by Sen. Naomi Jillo.

**MIN.NO. 36/2018      CONFIRMATION OF PREVIOUS MINUTES**

The Minutes of the 6<sup>th</sup> sitting held on Thursday, 15<sup>th</sup> March, 2018 were confirmed as a true record of the deliberations by the members present and





**MINUTES OF THE SEVENTH SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES HELD ON TUESDAY, 20<sup>TH</sup> MARCH, 2018 IN THE GROUND FLOOR BOARDROOM, RED CROSS BUILDING AT 9.00 A.M.**

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**PRESENT**

1. Sen. Peter Njeru Ndwiga, MP - Chairperson
2. Sen. Naomi Shiyonga, MP
3. Sen. Naomi Jillo Waqo, MP
4. Sen. Golich Juma Wario, MP

**ABSENT WITH APOLOGY**

1. Sen. Ltumbesi Lelegwe, MP - Vice Chairperson
5. Sen. (Dr.) Michael Malinga Mbito, MP
2. Sen. Moses Kajwang', MP
3. Sen. Ben Oluoch Okello, MP
4. Sen. Stewart Madzayo, MP

**IN ATTENDANCE**

1. Ms. Carol Kirorei - Clerk Assistant
2. Mr. David Ng'eno - Research Officer
3. Mr. Leonard Kibet - Legal Counsel
4. Mr. Reuben Kimosop - Serjeant-At-Arms

**SENATE**

**MIN. NO. 34/2018      PRAYER**

The Chairperson called the meeting to order at 9.25 a.m. followed by a word of prayer.

**MIN. NO. 35/2018      ADOPTION OF THE AGENDA**

Members adopted the agenda of the meeting as presented after being proposed by Sen. Naomi Shiyonga and seconded by Sen. Naomi Waqo.

**MIN.NO. 36/2018**

**CONFIRMATION OF PREVIOUS MINUTES**

This agenda was deferred to the next meeting of the Committee.

**MIN. NO. 37/2018**

**CONSIDERATION OF PROPOSED AMENDMENTS TO  
THE FOOD SECURITY BILL, 2017**

Members considered the proposed amendments to the Food Security Bill, 2017 received during oral submissions at the Public Hearing held on 7<sup>th</sup> March, 2018 and written memoranda submitted to the Committee through the Office of the Clerk of the Senate as follows:

1. **Title**

**Proposal:** That the title be amended to include nutrition and therefore should read 'Food and Nutrition Security Bill'.

**Rationale:** To harmonize the Bill with the provisions of the the Food and Nutrition Security Policy and Implementation Framework

**Resolution:** Not agreed to.

2. **Clause 2**

**Proposal:** That the definition of "vulnerable persons" be amended to include care-givers of some of the categories of vulnerable persons such as the elderly, sick and persons of extreme disability.

**Rationale:** So as to have a well expounded definition.

**Resolution:** Not agreed to.

3. **Clause 6(2)**

**Proposal:** That the clause be amended as follows, 'In ensuring that the national government fulfills its obligations under subsection (1), the Authority shall in consultation with County Governments...'

**Rationale:** Some obligations by the Authority as stipulated in this Clause are devolved roles hence need for County Consultation.

**Resolution:** Agreed to.

4. **Clause 9**

**Proposal:** That the clause 9(1) be amended to include vulnerable groups by replacing the word 'woman' with 'Kenyan' in clause 9 (1); and that clause 9(2)(a) be amended to include special groups by replacing the pregnant and lactating women as provided for in the entire sub-clause.

**Rationale:** To provide for every Kenyan.

**Resolution:** Not agreed to. However, the Committee resolved to amend the clause to include all Kenyans and also make provision for special groups.

5. **Clause 12(1)**

**Proposal:** Amend by introducing a new sub-clause 12 1A immediately after 12(1) to read as follows-

*12(1)(A) in performing its functions as provided for under section 12(1) above, the Authority shall consult county governments.*

**Rationale:** This is to bring the Act in conformity with Article 6(2) of the Constitution which provides that national and county governments are distinct and interdependent.

**Resolution:** Agreed to.

6. **Clause 12(1)(d)**

**Proposal:** That the clause be amended by inserting the word 'food' before 'security'.

**Rationale:** The clause may imply that the Authority has the function of land administration which includes elements such as water, minerals, forests etc.

**Resolution:** Not agreed to.

7. **Clause 12(1)(e), (l), (f)**

**Proposal:** Proposal was made to delete the two functions as provided in clause 12(1)(e) and 12(1)(f).

**Rationale:** The county governments are autonomous in terms of Article 6 (2) of the Constitution and as such the Authority should not monitor its operations.

**Resolution:** Agreed to.

8. **Clause 12(2)(o)**

**Proposal:** That the clause be amended to read as follows-

*12(2) (o) in consultation with County Governments, promote diversification and the use of alternative methods of agriculture and livestock systems and the production of diverse food crops to mitigate against drought and other climatic conditions that negatively impact food production.*

**Rationale:** This is to bring the Act in conformity with Article 6(2) of the Constitution which provides that national and county governments are distinct and interdependent.

**Resolution:** Agreed to.

9. **Clause 14(1)**

**Proposal:** That the clause be amended to include the Kenya National Commission on Human Rights (KNCHR) as a member of the Board managing the Authority.

**Rationale:** KNCHR is a critical organ on protection and promotion of Human rights in Kenya.

**Resolution:** Agreed to.

10. **Clause 23(2)(a)**

**Proposal:** That the clause be amended to read that the Director-General holds a relevant Degree or a Master's Degree from a recognized university.

**Rationale:** This is informed by the principle of affirmative action where it may be difficult to find persons with such high academic qualifications based on marginalization.

**Resolution:** Agreed to.

11. **Clause 25(2)(e)**

**Proposal:** That the clause be amended by deleting the words “*county levels*” appearing immediately after the word “*national*”

**Rationale:** The Director General has no mandate to administer funds allocated to counties for purposes of food distribution and food subsidy programme at the County levels. It is purely a county affair and as such the part of county level should be deleted or even the entire clause 25(2) (e) be deleted.

**Resolution:** Agreed to with amendments. The Committee resolved to amend the clause by deleting the words “*both at the national and county levels*”.

12. **Clause 31(e)**

**Proposal:** That the clause be amended by deleting the function 31(e) of the Secretariat.

**Rationale:** Article 6(2) of the Constitution.

**Resolution:** Agreed to with amendments. The Committee resolved to delete (e) and redraft the clause to provide for monitoring and evaluation, and coordination and implementation of the decisions, strategies, programmes and policies of the Board.

13. **Clause 32 (c) (i)**

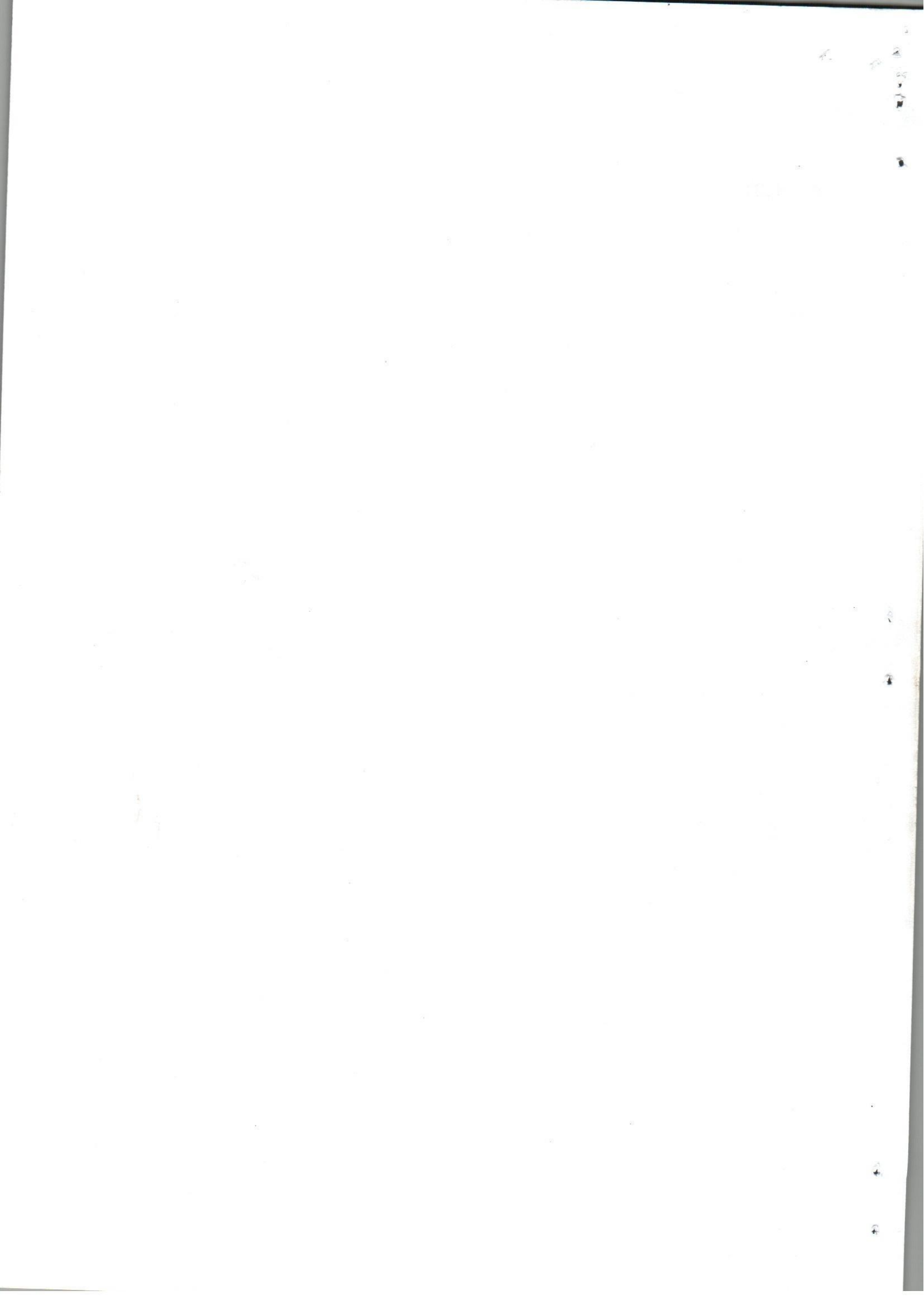
**Proposal:** That the clause be amended to include experts in the field of nutrition.

**Rationale:** It is necessary to have the involvement of nutritionists at the grassroots level.

**Resolution:** Agreed to.

14. **Clause 33(1)**

**Proposal:** That the clause be amended to avoid duplicity with the National Drought Management & Coordination Act, 2016 over functions.



**MINUTES OF THE THIRD SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES HELD ON WEDNESDAY, 7<sup>TH</sup> MARCH, 2018 IN THE MINI CHAMBER, 1<sup>ST</sup> FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 A.M.**

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**PRESENT**

1. Sen. Peter Njeru Ndwiga, MP - Chairperson
2. Sen. Steve Ltumbesi Lelegwe, MP - Vice Chairperson (**Chairing**)
3. Sen. Moses Kajwang', MP
4. Sen. Naomi Jillo Waqo, MP
5. Sen. Naomi Shiyonga, MP

**ABSENT WITH APOLOGY**

1. Sen. (Dr.) Michael Malinga Mbito, MP
2. Sen. Golicha Juma Walio, MP
3. Sen. Stewart Madzayo, MP
4. Sen. Ben Oluoch Okello, MP

**IN ATTENDANCE**

1. Mr. David Ng'eno - Research Officer
2. Mr. Mitchell Otoro - Legal Counsel
3. Ms. Carol Kirorei - Clerk Assistant

**SENATE**

**IN ATTENDANCE**

1. Ms. Gladys Mugambi - Ministry of Health
2. Ms. Grace Gichohi - Ministry of Health
3. Ms. Victoria Mwenda - UNICEF
4. Mr. Saiyana Lembara - National Drought Management Authority
5. Mr. Abiya Ochola - National Drought Management Authority
6. Ms. Gladys Mbai - Africa Practice
7. Mr. Francis Osiemo - Food Trade

defined in the Food and Nutrition Security Policy and Implementation Framework (FNSP-IF)(2017-2022), namely the Food and Nutrition Security Council and the Food and Nutrition Security Secretariat.

Food Security falls under the mandate of the Ministry of Agriculture and Irrigation, but some roles such as nutrition management are spread across ministries e.g. Health, Devolution and Trade & Industry. The Bill seeks to consolidate some functions under the proposed Authority without adequately taking into consideration the foreseen overlaps and conflicts during implementation.

3. That the County Food Security Committees are similar to the Stakeholder Technical Committees stated in the National Food and Nutrition Policy and Implementation Framework (2017-2022);
4. That establishment of the Council to be chaired by the Presidency would foster accountability at all levels save resources and would preserve the mandates and functions of various institutions, avoiding duplication of mandates and functions;
5. That the corresponding responsibilities for the Council and the Secretariat need to be included in the Bill, thereby greatly changing Part II and IV of the Bill;
6. That the corresponding mandates of the Council and Secretariat can be managed without imposing a new financial burden on the Exchequer; and
7. That in light of the above reasons, the Bill be aligned to the National Food and Nutrition Policy and Implementation Framework (2017-2022);

**ii) Submissions from the Ministry of Health**

Ms. Grace Gichohi gave submissions on behalf of the Ministry of Health as summarized below:



1. That the scope of the Bill should be expanded to reflect the spirit of the Food and nutrition security Policy, including changing the title to read “The Food and Nutrition Bill, 2017”;
2. That there is major duplication in the roles prescribed for the Authority with existing authorities and other government entities. There are Roles of AFA, NDMA, Special programmes, Social Protection, Kenya Bureau of Statistics – which oversees national Kenya Integrated Budgetary Household Survey;
3. That there is need for a separate Fund on food security issues; and
4. That a comprehensive memorandum would be sent to the Office of the Clerk of the Senate by 5 p.m.;

### **iii) Submissions from the National Drought Management Authority**

Mr. Saiyana Lembara and Mr. Abiya Ocholla submitted the views of the National Drought Management Authority (NDMA) as follows:

1. That the Bill proposes coordination structures that provide and overlap with structures provided under the National Drought Management Act, 2016;
2. That the National Drought Management Authority has in place County Steering Groups running in 23 Counties, and the Food Security Bill creates an overlap of duties, proposal was made that the existing structures under the National Drought Management Act, 2016 remain;
3. That section 12 (2)(e) which provides the function of the Authority as to *“monitor the issuance and administration of the food eligibility card to eligible Kenyans by the county food security committees to ensure that food poor persons access food with ease and in a timely manner”* creates an overlap with the functions of the NDMA;
4. That section 14(1)(g) which provides for the Membership of the Board of the Authority as follows *“one person nominated by the National Drought*

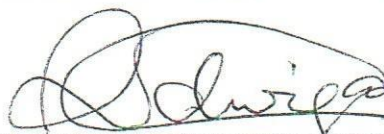
Management Authority established under paragraph 3 of the National Drought Management Authority Order, 2011” refers to an Order that was repealed by the National Drought Management Act, 2016; and

5. That a comprehensive memorandum would be submitted by close of business.

**MIN. NO. 14/2018**      **ADJOURNMENT**

There being no other business the Sitting was adjourned at 11.15 a.m.

SIGNED:.....



(CHAIRPERSON)

DATE:.....

13/03/2018