



UNIVERSITY OF NAIROBI

AFRICAN WOMEN'S STUDIES CENTRE

JUSTIFICATION FOR THE FOOD SECURITY BILL, 2014



Filling the Granary: Zero Tolerance to Hunger

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Legislation on the right to food in Kenya, that is the Food Security Bill, 2014 [FSB], is timely for following three reasons:

1. Firstly, it addresses directly a right provided to Kenyans in the Constitution of Kenya, 2010 [COK] at Article 43(1)(c) which states, *“Every person has the right to be free from hunger, and to have adequate food of acceptable quality;”* In addition, such legislation also responds to Article 53(1)(c) that states, *“Every child has the right to basic nutrition, shelter and health care;”*. The FSB is therefore purposed towards ensuring compliance with constitutional provisions regarding the right of Kenyans to food.
2. Secondly, the passing of the Food Security Bill, 2014 would enable the realization of the spirit of the Constitution of Kenya, 2010, which can be gleaned from several provisions within it. These include Article 10 which articulates the National values and principles of governance among them social justice. It also includes Article 19 of the COK that states, *“(1) The Bill of Rights is an integral part of Kenya’s democratic state and is the framework for social, economic and cultural policies. (2) The purpose of recognising and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings.”* Moreover, Article 20 indicates that, *“(1) The Bill of Rights applies to all law and binds all State organs and all persons. (2) Every person shall enjoy the rights and fundamental freedoms in the Bill of Rights to the greatest extent consistent with the nature of the right or fundamental freedom.”*
3. Finally, the Food Security Bill, 2014 enables the National and County Governments to fulfill their obligations to Kenyans through providing a solution to the stark realities emergent from recently concluded comprehensive research that was undertaken in 20 Counties by the African Women Studies Centre, University of Nairobi. The research was with respect to the issue of food security and the data from this research paints a grim picture. For instance, in response to the question whether the respondent or any member of their household had gone to sleep at night hungry because there was no food, it emerged that out of the 20 Counties Kirinyaga recorded the lowest number of households that slept hungry rated at 2.1% whilst Turkana had the highest at 48.1%. The overall findings of the research were that 18% of the population or 7.1 million Kenyans are often or always hungry. Clearly, this situation is untenable and the fact that one Kenyan lacks what to eat at all is reason enough for the state to take urgent action to remedy the situation.

It is important to note that although there exists a qualification in Article 21 of the Constitution with respect to the implementation of the socio-economic rights canvassed in Article 43 where the latter are pegged for progressive implementation, the findings from the above research clearly establish the need for the legislation of the Food Security Bill as immediate. Undeniably, if interventions such as those proposed in the FSB are not put in place now, the quality of the health and therefore output of the future generations will be compromised. In addition, the majority of persons will be anxious as they age because of the fact that in some cases elderly persons become vulnerable when they do not have a social support system that is able to ensure they have a meal daily and a meal that addresses their peculiar needs.

ESSENTIALS OF THE FOOD SECURITY BILL

The Food Security Bill essentially proceeds along the basis of categorizing Kenyans as either food poor or non-food poor. Its provisions, whilst addressing the food poor specifically, also aim at ensuring the non-food poor continue to be so and do not slip into the category of food poor persons. Food poor persons are further sub-categorized into two groups. These are those who are 'at risk' and cannot of their own produce or purchase food and are therefore entirely in need of assistance and 'Persons with limited capability' who can produce or purchase essential food items and commodities to a certain extent that is not adequate. The Bill establishes family support programmes targeting the 7.1million food poor persons, households and communities with limited capability to produce or purchase food items for the greater enhancement of their ability to produce or purchase essential food items and commodities in adequate quantities and quality.

The Bill puts in place a mechanism that enables the clear identification of persons who are food poor through the application of an eligibility criteria index administered at county level through county food security committees. One's status as food poor is subject to renewal periodically based on a review that is built into the eligibility criteria index. Once a person is certified as food poor based on the latter index, the Bill proposes that they are issued with a food eligibility card that can be used at various outlets that will be identified by the county food security committees as places for food poor persons to receive food aid through methods that will be clearly put in place.

THE FOOD SECURITY AUTHORITY

The Food Security Bill therefore establishes the Food Security Authority as the body that will establish and monitor the levels of food security in the Country and the extent to which Kenyans enjoy their rights under Article 43(1)(c). The Authority is placed under the Office of the President (placement to be discussed further) and is tasked with spearheading the exercise of ensuring through collaborating with relevant Ministries and agencies that Kenyans enjoy their right to food and are free from hunger.

FOOD DISTRIBUTION INFRASTRUCTURE

The Food Security Bill provides for the creation of a food distribution infrastructure at the county levels by the county food security committees. This infrastructure refers to all the actors and agencies that will work in concert to deliver the food assistance required by at risk persons and persons with limited capability. Among the methods proposed for this to be done is through the establishment of feeding or food distribution centres for at risk persons, and the licensing of stores and outlets interested in participating in the programme to sell food at subsidized rates to persons with limited capability. The latter stores and outlets would then be reimbursed by the state to the tune of the subsidy.

EXIT STRATEGY FOR FOOD ASSISTANCE PROVIDED BY THE STATE TO FOOD POOR PERSONS

Whilst the reality is that at risk persons require assistance to access food at all times while their status remains at risk, it is however the case that the state would have to put in place deliberate programmes to empower persons with limited capability to be able to produce or purchase food on their own. This includes programmes at the macro level that target infrastructure and such other factors that have a bearing on food production to micro level programmes that target the individual, family, or household, or community's capacity to produce or purchase essential food items or commodities. The FSB in particular provides for the establishment of family support programmes by the National and county governments as a means to raise the capacity of persons with limited capability to become food secure as well as some persons in the at risk category including children headed households and pregnant women.