

African Union, African Regional Bodies

## Model Law on Food Security and Nutrition in Africa

Legislation as at 31 December 2019

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African Union

# Model Law on Food Security and Nutrition in Africa

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**CONSIDERING** that Article 17 of the Constitutive Act of the African Union (AU) establishes the Pan-African Parliament to ensure the "full participation of the African people in the development and integration of the continent";

**NOTING** that Article 3 of the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament (PAP Protocol) and Rule 4 (a) of the Rules of Procedure of the Pan-African Parliament (PAP) empower the PAP to facilitate regional cooperation, development and promotion of "collective self-reliance" as well as the "implementation of the policies, objectives and programmes" of the AU;

**CONSIDERING** further that Article 11 (3) of the PAP Protocol and Rules 4 and 5 of the PAP Rules of Procedure empower the PAP to work towards the harmonization or co-ordination of the laws of Member States;

**RECOGNIZING** that the majority of African States have accepted international and regional legal instruments with provisions relating to food security and nutrition (FSN), such as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the African Charter on Human and People's Rights and the African Charter on the Rights and Welfare of the Child, which require Member States to take legislative and other measures with a view to progressively achieve the full realization of the right to adequate food;

**RECOGNIZING** further that international organizations such as the Food and Agriculture Organization of the United Nations have developed guidelines, for example the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, that provide guidance to countries on the policy, legal and institutional aspects of FSN;

**TAKING** note of the progress made by African countries in providing legal protection to the right to adequate food through constitutional provisions and legislation relating to FSN;

**NOTING** further the evidence that FSN policies and frameworks that are anchored in legislation are relatively more effective and foster sustainable improvement of FSN, and the need to address structural challenges and create enabling environment for FSN, including specific policies, programmes and legislations;

**RECALLING** the Resolution of the PAP on 2 November 2018, which underscored the importance of a Model Law on FSN to catalyse and inform processes for the development and/or strengthening of pertinent laws in African countries, and mandated the Committee on Rural Economy, Agriculture, Natural Resources and Environment and the Pan-African Parliamentary Alliance on FSN to lead the formulation of a Model Law on FSN in Africa;

**RESOLVED** that the development of a Model Law on FSN in Africa by the PAP will make a significant normative contribution to improving FSN in the continent, and can catalyse the effective implementation of and delivery on the goals of the Malabo Declaration, the 2030 Agenda on Sustainable Development Goals (SDGs) and the aspirations of the Africa Agenda 2063;

**FURTHER RECOGNIZING** that the development of a Model Law on FSN should take into account the crosscutting and multi-sectoral nature of FSN, and must be cognizant of the diverse legal traditions of African States;

**RECOMMENDS** the following model law for consideration and adoption by the Policy Organs of the AU, in accordance with Rule 5 (b), (c) and (d) of the Rules of Procedure of the PAP, which empowers it to, *inter alia*, make recommendations and take resolutions on the objectives and on any matters relating to the AU and its organs, Regional Economic Communities, Member States and their organs and institutions;

**Hereby adopts the following Model Law on Food Security and Nutrition in Africa:**

## **General provisions**

### **Article 1 – Purpose of the model law**

The purpose of the model law is to guide or serve as a source of inspiration for countries that aim to develop national or sub-national legislation on the right to adequate food and food security and nutrition (FSN). Countries may make use of the model law in elaborating a framework legislation, primary legislation or secondary legislation that covers all or some aspects of FSN.

### **Article 2 – Scope of the law**

1. The model law shall govern issues related to food security and nutrition, including the availability, accessibility, stability and utilization of food and the realization of the right to adequate food.
2. It shall include essential elements of FSN that may be governed by one or more legislation, including the definition of rights and entitlements, duties and responsibilities at all levels, enabling environment for the production, distribution and consumption of safe and nutritious food, FSN governance structures and accountability mechanisms.

### **Article 3 – Right to adequate food**

Every man, woman and child, alone or in community with others, shall be free from hunger and shall have physical and economic access at all times, either directly or by means of financial purchases, to quantitatively and qualitatively sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear.

### **Article 4 – Duties of the State and non-state actors**

1. The State and the different levels of its structures shall have the following duties:
  - i. *To respect*: to avoid any form of interference with people's efforts to feed themselves and their families;
  - ii. *To protect*: to prevent third parties, such as trans-national companies and other non-state actors, from impairing people's enjoyment of the right to adequate food;
  - iii. *To facilitate*: to create a conducive environment for the enjoyment of the right to adequate food by putting in place appropriate policy, legislative and institutional frameworks to respect, protect and fulfil the right;
  - iv. *To provide*: to deliver or facilitate the provision of food for those who are unable to feed themselves because of circumstances beyond their control, such as natural or man-made disasters.
2. Non-state actors, including business enterprises, have direct responsibilities not to interfere with people's enjoyment of the right to adequate food and to redress any adverse effects their conducts create to food and nutrition security.

## Article 5 – Guiding principles

All policy, strategy, legislative, programme and operational interventions relating to food security and nutrition, including on the availability, accessibility, stability and utilization of food, shall be guided by the following human rights principles:

1. *Participation*: ensure the free, informed, full and effective participation of all stakeholders, including local women, men, elders and youth, in decision-making, implementation and monitoring processes relating to FSN.
2. *Accountability*: put in place inclusive and context-sensitive feedback channels, including social auditing, and establish accessible and effective grievance mechanisms in relation to the formulation, implementation and evaluation of FSN policies, laws and programmes.
3. *Non-discrimination*: avoid discrimination on the grounds of race, language, religion, sex, age, political belief, national or social origin or another status, especially of vulnerable groups, with a view to ensuring equality in the enjoyment and exercise of the right to adequate food.
4. *Transparency*: ensure that the process and outcome of decision-making at every stage is clearly defined and adopt context-sensitive strategy for communication with all stakeholders, particularly the target population.
5. *Human dignity*: respect the dignity or inherent worth of all human beings, particularly people facing food security and nutrition crises and various forms of marginalization.
6. *Empowerment*: enable rights holders, particularly vulnerable and marginalized people, to claim their right to adequate food and play a primary role in ensuring their own food and nutrition security.
7. *Rule of law*: ensure that public authority is exercised based on law and that independent administrative, judicial and quasi-judicial mechanisms of accountability are put in place.

## Article 6 – Access to productive resources, agricultural inputs and services

1. The State shall develop and implement policies, laws and programmes for equitable access to and responsible management of natural resources such as land, water, fisheries and forests, including the recognition of formal and informal tenure rights, the security of tenure, and gender-equitable access to resources.
2. The State shall put in place a mechanism whereby people engaged in agricultural food production, in particular small-scale and subsistence producers, have equitable access to agricultural inputs such as seeds, fertilizers and pesticides.
3. The State shall promote ever increasing and equitable access to credit, agricultural insurance and services, particularly for small-scale and subsistence food producers.
4. The State shall put in place mechanisms to strengthen efforts to improve the development of sustainable agricultural technologies and their transfer and dissemination under mutually agreed terms.
5. The State shall extend support to agricultural cooperatives and producers' organizations that contribute to FSN, including by strengthening the role of women in such institutions.

## Article 7 – Nutrition

1. The State shall promote the production and consumption of safe and nutritionally balanced food for healthy, active and productive life.
2. The State shall set targets and strategic directions to reduce and eliminate malnutrition, including through cross-sectoral coordination.



3. The State shall promote nutrition education and healthy eating by all possible means.
4. Special attention shall be paid to the nutritional status of infants, children, teenage girls, women of a reproductive age and expectant and lactating mothers.
5. The State shall facilitate the development of nutrition guidelines and standards that are tailored to the needs of various groups of the population and relevant stakeholders.

### **Article 8 – Food market and trade**

1. Food trade at the national level shall be regulated based on, *inter alia*, standards of availability, safety, quality, affordability, consumer rights and effective and equitable distribution of food.
2. The State shall put in place mechanisms to stabilize the price of staple food. Hoarding of food commodities and other practices that affect price stability shall be prohibited and sanctioned.
3. The State shall determine the conditions of import and export of food, particularly staple food, by striking an appropriate balance between the requirements of domestic food and nutrition security and food culture on the one hand and the regional and international standards of trade it has accepted on the other.

### **Article 9 – Food safety**

1. The State shall put in place a mechanism to ensure the safety, hygiene and nutritional value of food by preventing contamination and food-borne illnesses in the production, preparation, handling, storage and distribution of food.
2. The State shall regulate, *inter alia*, food additives, residue limits, irradiation, packaging and genetic engineering of food products.
3. The norms, standards, criteria and procedures of food safety and quality to be applied by all relevant actors in relation to different types of imported as well as locally produced food shall be determined in accordance with scientific evidence and best practices developed at the national and international levels.
4. The State shall establish or designate a public authority or public authorities to regulate, control, approve and certify the safety of food along the food value chains, and to promote food safety, *inter alia*, through support to smallholders and small enterprises to meet applicable standards.

### **Article 10 – Food labelling, marketing and advertising**

1. The State shall regulate the labelling of locally produced as well as imported food products packaged for sale and consumption, including the origin, ingredients, quality, quantity, nutritional value, expiry date and other necessary information.
2. The State shall regulate and control the marketing and the medium, contents, audience and place of advertisement of traded food commodities. The State shall in particular establish restrictions and prohibitions of marketing and advertising of food in child-specific settings, such as schools and other areas where children are likely to gather, with a view to protecting them from the adverse effects of energy dense, nutrient poor foods.
3. The State shall regulate the marketing and promotion of breast-milk substitutes, including the prohibition of gifts to health workers and distribution of free samples.
4. The provision of false or misleading information in labelling and advertisement of food products, and actions of erasing, covering and tampering with approved labels shall be prohibited and sanctioned.

### **Article 11 – Food fortification and diversification**

1. The States shall regulate the fortification of locally produced as well as imported food with the aim of alleviating nutritional deficiencies and treating the effects of malnutrition by providing a list of food products subjected to fortification.
2. The State shall promote the diversification of food by providing incentives for local food producers and processors and strengthening small and medium sized businesses in the food sector.

### **Article 12 – National food reserve**

1. The State shall organize a system of strategic food reserve to meet food security and nutrition needs by ensuring a reliable supply of designated food commodities, particularly for situations of food crises resulting from market irregularities or emergency situations.
2. The State shall assign a competent authority to designate essential agricultural or food commodities, to procure and manage food commodities in accordance with applicable regulations, to revise the stock and accompanying needs periodically, and to determine the existence of conditions that entail the utilization of food reserves.
3. The system of strategic food reserve shall have national and sub-national structures, and it shall be organized in a way that does not constitute trade barrier.

### **Article 13 – School food and nutrition**

1. The State shall implement sustainable and holistic policies and programmes that aim to promote a healthy school food environment, and to guarantee children's right to adequate food at school without discrimination.
2. Nutrition guidelines and standards, and other food environment policies shall be adopted to improve the nutritional quality and adequacy of school food and meals.
3. The state shall promote food and nutrition education in the whole school system, by targeting school children, parents, school staff, local smallholder farmers, rural enterprises, and community leaders to foster healthy food-related practices.
4. Food procurement for school feeding programmes shall, to the extent possible, be connected to local production to promote the value of local dietary habits and traditional nutritious foods, and to foster inclusive and sustainable development.
5. There shall be national and sub-national mechanisms for multi-sectorial coordination of policies and programs in school food and nutrition, which ensure the participation of all relevant stakeholders and include monitoring and accountability mechanisms.

### **Article 14 – Minimum wage**

The State shall set and regularly revise minimum wage in accordance with applicable laws by taking into account the purchasing power of the currency and the positive effect of disposable income of consumers on the consumption of balanced diets.

### **Article 15 – Social security and social protection**

1. The State shall put in place an effective employment-based and non-employment based social security system that is regularly updated by taking available resources and living conditions into account.

2. There shall be a general or targeted system of social protection or safety net for those in need, including systems of public supply, subsidies, cash transfer or food voucher/stamps.

### **Article 16 – Special measures**

1. The State shall ensure that pregnant women, lactating mothers, children, the elderly, the urban poor, people living with HIV/AIDS, internally displaced people, refugees, landless farmers, pastoralists and other vulnerable groups, who do not have sufficient means, have access to adequate food. It shall further ensure the equitable and effective participation of these groups in decision-making processes relating to FSN.
2. The State shall promote breastfeeding and ensure that working women have the right to breastfeed their babies in both public and private spaces without discrimination, including by granting adequate maternity leave and requiring workplaces to have breastfeeding facilities.
3. The State shall put in place strategies to support everyone who suffers from hunger or malnutrition to obtain the minimum amount of nutritious food.

### **Article 17 – Administrative and institutional responsibilities**

1. The State shall assign a specific public authority or public authorities with primary executive responsibilities on food security and nutrition.
2. The public authority/authorities in charge of food security and nutrition shall play a leading role in the development and execution of FSN policies in integrated and consultative processes.

### **Article 18 – FSN coordination system**

1. The state shall put in place an inter-sectoral and multi-stakeholder coordination mechanism with advisory, consultative or decision-making responsibilities for effective food security and nutrition governance.
2. There shall be a *Food Security and Nutrition Council* with the membership of all relevant ministries, farmers and workers organizations, CSOs/NGOs, professional organizations, academic and research institutions, the private sector, and financial and technical partners.
3. The FSN Council shall have the independence and human and financial resources necessary for its effective functioning.
4. The FSN Council shall be composed of the following:
  - i. An *Inter-Ministerial Steering Committee*, which shall be constituted of all relevant ministers and chaired by the President, the Prime Minister, the Vice-President or the Deputy Prime Minister of the country, to draw up strategic directions and advise the Council;
  - ii. A *Secretariat* that shall be hosted at the ministry in charge of food security and/or nutrition;
  - iii. *Technical Committee* constituted of focal persons from each Ministry in the Steering Committee, and representatives of CSOs/NGOs, professional organizations, academic and research institutions, the private sector, financial and technical partners to prepare the work plan and budget of the Council and carry out technical monitoring and evaluation of its work and programs;
  - iv. *Regional Coordination Units* composed of the regional or provincial chapters of the member institutions to coordinate the work of the Council at the regional levels; and
  - v. *Sub-regional and community-level* committees or focal persons.

## **Article 19 – Mandate of the FSN council**

1. The functions of the FSN Council that is established under article 18 of this model law shall include:
  - i. coordinating relevant authorities in the elaboration, implementation and monitoring of FSN policies, strategies, legislation and programmes at the national and sub-national levels;
  - ii. ensuring the harmonization of sectoral policies and practices relating to FSN;
  - iii. overseeing the implementation of the FSN policies, strategies, legislation and programmes;
  - iv. promoting actions on FSN and the right to adequate food at the national and sub-national levels;
  - v. mainstreaming FSN and the right to adequate food in sectoral plans and budget;
  - vi. continuously assessing the FSN situation in the country;
  - vii. establishing and overseeing a national FSN information system, including on food prices, food reserves and early-warning systems;
  - viii. promote measures to ease access to food such as providing tax exemptions on essential food stuff and facilitation of food transfers/transport within the country;
  - ix. mobilizing resources for FSN and establishing priorities; and
  - x. raising the awareness of the public and all other stakeholders on FSN.

## **Article 20 – FSN information system and emergencies**

1. The State shall put in place a FSN information and early-warning system that includes a mechanism of monitoring the FSN situation to anticipate and prevent food crises, which may result from natural or man-made disasters.
2. The State shall establish or designate a public authority for disaster risk management with the necessary mandate, resources and procedures for FSN emergency preparedness, response and rehabilitation.
3. The public authority stated under sub-article 2 shall coordinate its activities to prevent and manage food crises with the strategic food reserve system envisaged under article 12 and all other state and non-state actors.

## **Article 21 – Implementation of the right to adequate food and FSN objectives**

1. The State shall allocate sufficient or ever-increasing budget for the implementation of the right to adequate food and FSN frameworks.
2. The State shall put in place FSN financing mechanisms, including the creation of FSN fund and seeking assistance from development partners in cases of need.
3. State and non-state actors shall raise the awareness of all relevant stakeholders on the right to adequate food, FSN and mechanisms for its implementation and monitoring.

## **Article 22 – Accountability mechanisms**

1. Policies, legislation and programmes on the right to adequate food and FSN shall include recourse mechanisms that serve as channels of feedback and complaints from members of the public and remedies from state and non-state actors with responsibilities.

*Not commenced*

2. Any person, group of persons or their representative with a claim that their right to adequate food has been violated or that their access to food and nutrition has been impaired by a state or non-state actor shall have the right to bring the claim to an independent judicial organ, after exhausting administrative remedies, and receive prompt and reasoned decision thereon.

### **Article 23 – Legislative measures**

1. The State shall adopt specific regulatory frameworks to implement its primary laws and ensure consistency among its legislation in all areas relating to food security and nutrition.
2. The legislative frameworks on FSN shall include sanctions and penalties against non-compliance with the requirements of the law.

### **Article 24 – Safeguard clause**

1. No provision in this Model Law shall be interpreted as derogating from the principles and provisions contained in other relevant instruments relating to food security and nutrition.
2. In the event of a contradiction between two or more provisions of this Model Law, the interpretation which best furthers food security and nutrition and offer more protection to consumer rights and legitimate interests shall prevail.

### **Article 25 – Amendment and revision**

1. Any Member State may submit proposal(s) to the Pan-African Parliament to initiate the amendment or revision of this Model Law.
2. Proposals for amendment or revision that are accepted or adopted by the Pan-African Parliament shall be transmitted to the Assembly of Heads of State and Government of the AU at least six months before the meeting at which it shall be considered for adoption.

### **Article 26 – Authentic texts**

1. This Model Law is drawn up in all four (4) African Union official languages, namely, Arabic, English, French and Portuguese. All four (4) texts shall be equally authentic.
2. The Model Law shall also be translated in sign language.