



# FOOD NUTRITION AND SECURITY SOMALIA

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LEGAL ASSESSMENT REPORT



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## FOREWARD BY NATIONAL COORDINATOR FOR SCALING UP NUTRITION OFFICE OF THE PRIME MINISTER, SOMALIA

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This report presents the results of a study on the legal framework of food nutrition and security (FNS) in Somalia and the right to food. This study is spearheaded by the Sun Movement whose representation is drawn from the Office of the Prime Minister, Vice Presidents of Federal member states, ministries of Health, Agriculture, Fisheries, Livestock, Humanitarian, Trade and Commerce, Women and Human Rights, Information, and Labor and Human Services.

The current legal assessment is a step in the formulation of the Food Nutrition and Security Bill, and its main objective is to analyze the policy, legal, and institutional framework related to FNS and the right to food in Somalia.

We would like to thank all the participants who have contributed to this report by providing clarifications, data and information, in particular the national authorities and Ministries in Somalia in charge of FNS; the Executive Secretariat of SUN; FAO;

**By. Dr. Mohamed Abdi Farah,**

## EXECUTIVE SUMMARY

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Food security is said to exist when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. This requires a nutritionally diverse diet.

Nutrition security is said to exist when food security is combined with education, a sanitary environment, adequate health services and proper care and feeding practices to ensure a healthy life for all household members (UNSCN 6th Report on the World Nutrition Situation).

Food security is achieved, if adequate food is available and accessible for and satisfactorily utilized by all individuals at all times to live a healthy and happy life.<sup>1</sup> Accordingly, FNS has four basic dimensions, namely, availability, access, utilization and stability. Availability implies that people have adequate food (in terms of quantity, quality, safety, socio-cultural acceptability) readily at their disposal. Access requires that all households and their members have sufficient resources to obtain appropriate foods through production, purchase or supply. Utilization is about the ability of the human body to ingest and metabolize food. Stability refers to the availability, accessibility and utilization of adequate food at all times.

Somalia has not yet legislated the Food Nutrition and Security Act. However, Somalia has different legislation that relates more indirectly to FNS or one or more aspects of FNS. Such laws are in different forms, such as parliamentary acts, regulations or decrees issued by the government. Food security and nutrition are closely interlinked. Food insecurity can lead to different manifestations of malnutrition. One vital element that explains this connection is the food that people eat; specifically, the quality of their diet.

Food insecurity can affect diet quality in different ways, potentially leading to undernutrition as well as overweight and obesity. Ensuring access to a healthy diet is a prerequisite for achieving the SDG target of eradicating all forms of malnutrition. For this

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<sup>1</sup> FAO.2000. The Four Dimensions of Food and Nutrition Security: Definitions and Concepts, available at [http://www.fao.org/elearning/course/fa/en/pdf/p-01\\_rg\\_concept.pdf](http://www.fao.org/elearning/course/fa/en/pdf/p-01_rg_concept.pdf)



reason, this legal assessment report examines several issues related to the challenges affecting FNS in Somalia. In summary, this Legal Assessment Report outline is as follows:

**Chapter One** of the report introduces the food nutrition and security framework in Somalia. It briefly narrates the process undertaken to prepare this report.

**Chapter Two** focuses on the legal, policy and institutional arrangements for FNS in Somalia. This Chapter examines the various mechanisms put in place to ensure FNS in Somalia.

**Chapter Three** builds on the concept of the right to food. It focuses on the supportive legal frameworks for FNS.

**Chapter Four** -This Chapter highlights international and regional FNS instruments such as

**Chapter Five** explores recommendations to be considered in the proposed FNS framework for Somalia. It explores the governance, financial and legal considerations.

**Chapter Six** focuses on the legal considerations on nutrition specific interventions and how it relates to the law.

**Chapter Seven** presents the summary of findings and recommendations.

## LIST OF ABBREVIATIONS

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<b>CBO</b>	Community Based Organization
<b>FSNAU</b>	Food Security and Nutrition Analysis Unit
<b>HSSP</b>	Health Sector Strategic Plan
<b>IYCF</b>	Infant and Young Child Feeding
<b>MDC</b>	Micronutrient Deficiency Control
<b>MN</b>	Micronutrient
<b>NGO</b>	Non-Governmental Organization
<b>UN</b>	United Nations
<b>UNICEF</b>	United Nations Children’s Fund
<b>WFP.</b>	World Food Programme
<b>WHO</b>	World Health Organization
<b>FSN</b>	Food Security and Nutrition
<b>FSNP</b>	Food Security and Nutrition Policy
<b>GAM</b>	Global Acute Malnutrition
<b>GMP</b>	Growth Monitoring Programme
<b>GNC</b>	Global Nutrition Cluster
<b>IMAM</b>	Integrated Management of Acute Malnutrition
<b>IMAMI</b>	Integrated Management of Acute Malnutrition of Infant less than 6 months
<b>IMCI</b>	Integrated Management of Childhood Illness
<b>IYCF</b>	Infant and Young Child Feeding
<b>IYCN</b>	Infant and Young Child Nutrition
<b>MOH</b>	Ministry of Health



<b>MOLSA</b>	Ministry of Labor and Social Affairs
<b>MSP</b>	Multisectoral Platform
<b>NDP</b>	National Develop Plan
<b>NGO</b>	Non-Governmental Organization
<b>NSU</b>	National Somalia University
<b>SDG</b>	Sustainable Development Goals
<b>SUN</b>	Scaling Up Nutrition

## ABOUT SUN

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The Federal Republic of Somalia joined the SUN Movement on 17<sup>th</sup> May 2014 through a Letter of Commitment. At the time, Somalia had enhanced the availability of services for the management of acute malnutrition (MAM) as well as infant and young child and maternal feeding (IYCF) and care practices. Somali had developed a National Nutrition Strategy, Micronutrient Strategy and IYCF Strategy, in addition to a completing a costed Plan of Action for Nutrition.

Somalia has a well-established Nutrition Cluster, which since 2006 has grown to almost 100 active partners including, government, UN and civil society organizations in the field of nutrition. Besides the National coordinator, there are active SUN national coordinators in Puntland and Somaliland, while all Federal Member states have nominated focal points. The SUN Movement approach has been endorsed in Somalia and was officially launched 2016. The country has established the following SUN Movement networks:

### SUN Government Network

The representation is drawn from the Office of the Prime Minister, Vice Presidents of Federal member states, ministries of Health, Agriculture, Fisheries, Livestock, Humanitarian, Trade and Commerce, Women and Human Rights, Information, and Labor and Human Services.

### SUN Donors Network

The Department of International Development (DFID) acts as Donor Convener. The network's members include Germany's MBZ, German Development Agency (GIZ), the Swedish International Development Cooperation Agency (SIDA) and the Swiss Agency for Development and Cooperation (SDC).

## SUN UN Network

United Nations Children’s Fund (UNICEF), World Food Programme (WFP), United Nations Population Fund (UNFPA), the Food and Agricultural Organization of the United Nations (FAO) and the World Health Organization (WHO).

## SUN Business Network

Current membership is drawn from the National Chamber of Commerce and Sub-National Chamber of Commerce. The SUN Business Network (SBN) is responsible for solutions required to end malnutrition through business, markets and people.

## SUN Civil Society Network: Somalia’s SUN

Civil Society is chaired by Save the Children International (SCI). The network aims to increase advocacy and mobilization of multi-sectoral nutrition interventions.

## Somalia SUN Champions

Somalia has appointed prominent leaders as SUN champions among them the Vice President of Puntland State. The champion has mobilized the public, parliament and all line ministries Nutrition to address malnutrition in Somalia.



# CHAPTER ONE

## INTRODUCTION AND BACKGROUND

*“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.....” Art. 25(1)  
Universal Declaration of Human Rights;*

## 1.1 GENERAL OVERVIEW OF FOOD NUTRITION AND SECURITY IN SOMALIA

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Food insecurity threatens to drastically interfere with human development.<sup>2</sup> It undermines the basic human rights of entire populations. Over 800 million people are estimated to suffer from chronic undernourishment.<sup>3</sup> The burdens of chronic hunger and ill health in turn preclude individuals and groups from enjoying other human rights.<sup>4</sup>

Somalia is gradually transiting from insecurity and emergencies toward peace and stability, and socio-economic sectors contributing to achieving food security and nutrition. The Federal Republic of Somalia officially consist of six federal member states namely Galmudug, Hirshabelle, Jubaland, Southwest, Puntland, Somaliland and the municipality of Benadir. The country is further subdivided into 18 regions and 95 districts. The member states originated from the previous eighteen administrative regions.

There has been tremendous progress to improve the policy and legal framework for food and nutrition security in Somalia. The Ministry of Health's Strategic Plan, Health and Nutrition Policy with nutrition indicators are positive developments. Furthermore, the Ministry of Agriculture has integrated nutrition in its Strategy. Somalia also has the are draft Breastmilk Substitutes (BMS), Food Fortification Strategy, Infant and Young Child Feeding (IYCF) and Integrated Management of Acute Malnutrition (IMAM) strategies.

There is a chapter on nutrition in the National Development Plan (NDP) under the pillar 4, social development which provides the best opportunities for stakeholders to engage to address myriad nutrition challenges in Somalia. The attainment of multi-stakeholder support to nutrition especially nutrition sensitive programmes can be achieved through National Food Security Policy developed by the Ministry of Agriculture and Irrigation.

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<sup>2</sup> Food and Agriculture Organization of the United Nations (FAO), *The State of Food Insecurity in The World at 8* (2012).

<sup>3</sup> Ibid.

<sup>4</sup> <https://www.usaid.gov/sites/default/files/documents/1866/IntegratingRuleofLawandGlobalDevelopment.pdf>

The national conference on food Security and agriculture development conducted in Mogadishu by the MoAI during the 23-25th January 2018 brought together participants from the most important stakeholders engaged in Food Security and Nutrition activities in Somalia including Federal State Members government senior officials. The resolutions of the conference were crucial leading to the drafting of the food security and nutrition policy for Somalia. Presently, Somalia has a draft National Food Security and Nutrition policy and institutional framework to effectively liberate its people from various forms of food and nutrition insecurity: chronic, acute, and cyclical.

## 1.2 THE PROJECT AND METHODOLOGY

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This legal assessment involves an analysis of Somalia's laws, regulations, policies, and plans related to FNS measures. The results and findings of this legal assessment can be used to portray the relevant policies, strategies, plans and legislation in Somalia and thus offer a basis for identifying potential gaps, ambiguities, or opportunities for improving FNS.

This assessment was performed between September and November 2020. In terms of methodology, the following steps were undertaken:-

### 1.2.1 Document analysis

A collection and analysis of relevant documentation was performed, among other tasks, in order to obtain preliminary information on the FNS and right to food situation in Somalia. Moreover, a policy, legal and institutional framework analysis was performed at the national level.

The main data sources were official country reports, Progress Reports, National Government Assessments, National Human Development Reports, etc. and databases (FAOSTAT, UNDP, World Bank), as well as national statistics services and other relevant national documentation in particular, the Draft National Food security and Nutrition policy documents and official public information provided by national authorities and other relevant stakeholders.

### 1.2.2 Consultation with relevant stakeholders

Using preliminary results from data and information collection, specific issues were identified. Then relevant stakeholders were surveyed on those issues, using questionnaires and telephone interviews.

In addition, this process included consultations with civil society organizations, in the context of the Regional Network for Food and Nutrition Security in Somalia and with the private sector.

### 1.2.3 Technical missions

Two legal technical missions to Somalia were also carried out, each of a one-week duration, aimed at collecting additional information and enabling discussions with national stakeholders.

Despite these efforts, we are aware of the limitations of this report. The main difficulties relate to the following:

- I. The study was conducted during the COVID -19 pandemic period. National as well as global measures to mitigate the spread of the pandemic posed a challenge to the data collection methods to suit the environmental challenges;
- II. The scope of the assessment was broad and included a study of all Federal States however the time available for the study was limited;
- III. The limited resources available to carry out legal technical missions to all parts of Somalia;
- IV. The difficulty in obtaining responses from some participants, in particular those who did not complete the questionnaires on time.



# CHAPTER TWO

## ANALYSIS FRAMEWORK ON FOOD AND NUTRITION SECURITY AND THE RIGHT TO FOOD

*“Striving to ensure that every child, woman and man enjoys adequate food on a regular basis is not only a moral imperative and an investment with enormous economic returns; it also signifies the realization of a basic human right.”*

*(Jacques Diouf, Director-General, FAO)*

## 2.1 INTRODUCTION

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The right to food is a human right that is firmly anchored in international law, including the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>5</sup> and the Convention on the Rights of the Child (CRC).<sup>6</sup> By ratifying these legal instruments, states take cognizance the obligation to realize the right to food and other rights contained in them.

The Constitution of the Federal Republic of Somalia does not explicitly guarantee the right to adequate food. However, under Article 3(4), The Constitution of the Federal Republic of Somalia promotes human rights, the rule of law, general standards of international law, justice, participatory consultative and inclusive government, the separation of powers between the legislature, executive and an independent judiciary, in order to ensure accountability, efficiency and responsiveness to the interests of the people.

The right to adequate food as a basic human right was first recognized in the Universal Declaration of Human Rights in 1948, as part of the right to a decent standard of living (Art. 25):

Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food...’ It became legally binding when the International Covenant on Economic, Social and Cultural Rights (ICESCR) entered into force in 1976. Since then, many international agreements have affirmed the right to food, among them the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, and the Convention on the Rights of the Child (CRC), 1989.

In 2002, the UN Special Rapporteur on the right to food defined the right to adequate food as a right “to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of people to which the consumer belongs, and

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<sup>5</sup> Most relevant are Articles 2 and 11 of ICESCR.

<sup>6</sup> Articles 24.2c and 27 (CRC).

which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.”

The key elements of the right to food are:

- a) **Availability:** Food must be available via natural resources (e.g. through production by cultivation, animal husbandry, fishing, hunting, gathering, etc.) or available for purchase.
- b) **Accessibility:** People must have economic and physical access to food. Families should be able to afford adequate food without compromising other basic needs, such as school fees, medicine, or rent. Everyone should be able to access food, including those with physical constraints such as children, the sick, persons with disabilities, and the elderly.
- c) **Adequacy:** Food must satisfy dietary needs, taking into account an individual’s age, living conditions, health, occupation, sex, etc. Food is not adequate if, for example, it does not supply necessary nutrients for physical and mental development (which may, for example, be different for pregnant women or children).
- d) **Food should be safe for human consumption** and free from adverse substances or contaminants, and food should be culturally acceptable (consistent with religious requirements, for example).

The right to food is a right that is generally progressively realized. Translating this obligation into practice has remained largely elusive.<sup>7</sup> The ultimate objective of the right to food is to create an environment that enables all people to feed themselves, either by producing food or by earning a living. When people are unable to care for themselves (e.g. because of age, sickness or times of crisis), states should provide support directly.<sup>8</sup>

The right to food adds a legal dimension to conventional economic food security strategies. ‘Political will’ is substituted by ‘State obligations’ to address food insecurity,

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<sup>7</sup> Guide to conducting a Right to food Assessment, FAO at pg.

<sup>8</sup> Ibid at pg. 10.



hunger and poverty. States as the primary duty bearers to realize human rights in a nation state have the obligation to respect, protect and fulfil the right to food (CESCR 1999).

The principles outlined in international human rights agreements stem from a moral perspective: that every human being has a right to food, and that no one should suffer from hunger, is widely acknowledged.<sup>9</sup> States are thus obliged to act to progressively realize the right to adequate food as outlined in ICESCR Article 11. In addition to the moral imperative and the legal obligation, there are several convincing arguments to tackle the hunger problem.

From an economic point of view, realizing the right to adequate food is a good investment. Food secure individuals are more productive, are less frequently sick and tend to invest more in the future. FAO has estimated that, on a global scale, if deaths and disability caused by hunger persist at current levels, it will cost developing countries in terms of future productivity US\$500 billion or more. Every child whose physical and mental development is affected by hunger and malnutrition stands to lose 5 to 10 percent in lifetime earnings.<sup>10</sup>

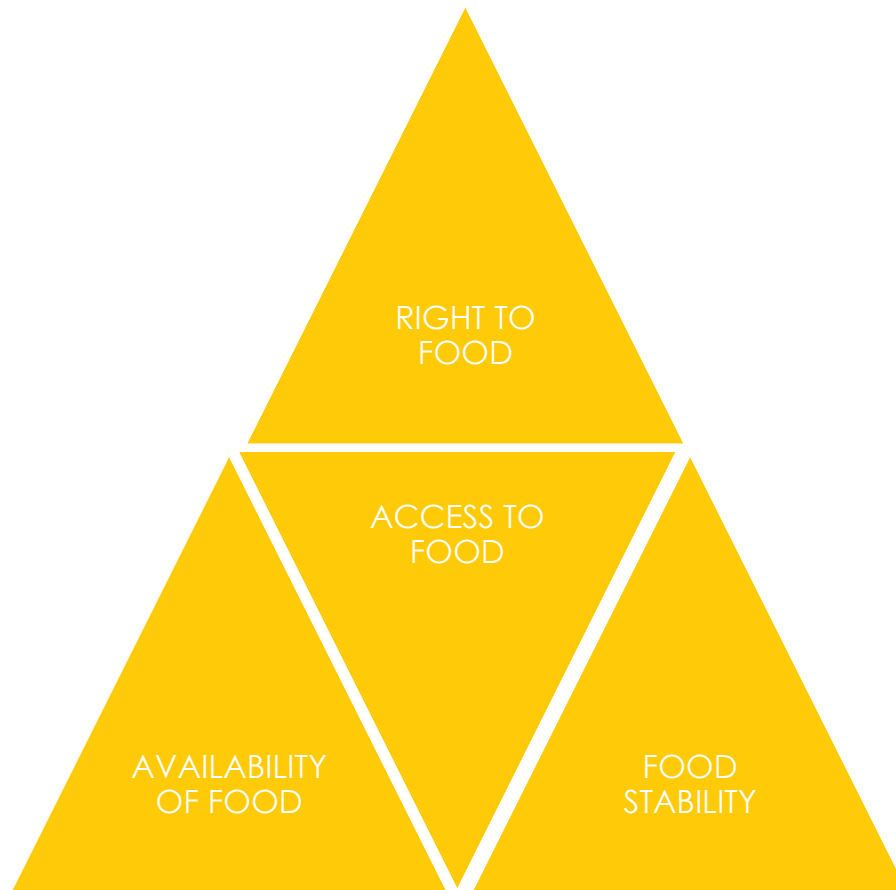
A rights-based approach empowers local communities to participate in decision-making. Such an approach facilitates people's efforts to take direct responsibility for themselves and reduces their dependence on state assistance. They become part of the solution rather than the problem. Effective realization of the right to adequate food cannot be accomplished for free and at once; this can only occur progressively and over time.

FAO has shown that a reduction in hunger can be understood as an investment in the national economy. Direct and indirect transfers targeted at vulnerable population groups may also stimulate the economy, as well as serve the pursuit of equity.

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<sup>9</sup> The World Food Summit (WFS) in 1996 was instrumental in setting in motion a process "to clarify the content of the right to adequate food and the fundamental right of everyone to be free from hunger". As of 1

<sup>10</sup> FAO, 2004b. The state of food insecurity in the world 2004. pp. 10–12.



**Figure 1: Key elements of the right to food**

In order to recognize the right to Food in Somalia, it will be critical to identify all relevant policy areas in order to promote food security through a human rights-based approach. Somalia needs to define the full meaning of the right to food, on what it entails in practice and what needs to be done in areas such as food aid, nutrition, education strategies, access to resources, and legal frameworks and institutions, in order to realize this right.

## 3.1 Legal aspects of FNS

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The Legal aspects of FNS in Somalia will be considered under the following sub-topics;

1. Laws applying to food Labelling;
2. Laws applying to Food Fortification;
3. Laws applying to Meat Hygiene;
4. Laws applying to food safety;
5. Consumer protection in relation to Food;

## 3.2 LEGAL IMPLICATIONS FOR THE FOOD ENVIRONMENT

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Food environments are the collective surroundings, opportunities and conditions that influence people's food and beverage choices and nutritional status. The type of foods produced and how they are processed, traded, retailed and marketed through the supply chain influence food environments.

Better access to a balanced diet requires a healthy food environment. Information and education concerning dietary food choices are vital, but consumers must also be empowered through food environments that ensure more nutritious diets are affordable and accessible.

Food environments that provide safe, diverse and healthy diets are particularly important for vulnerable groups, such as children, mothers or the elderly; and including refugees, who are more constrained by lack of resources.

Today's food environment is quite different to that experienced by previous generations. Globally, an extensive variety of food and drink products are now available in most markets, offering palatability, convenience and novelty. But at the same time, the wide availability and heavy marketing of many of these products, and especially those with a high content of fat, sugar or salt, challenge efforts to eat healthily and maintain a healthy weight, particularly in children.

The food industry in Somalia fuels its economy, particularly the livestock and fish industries. Before the civil war, the central government had a large food quality control system, with laboratory and inspection divisions. Currently, there are no coherent or robust public health offices in the central government responsible for sanitation- and hygiene-related matters; regardless, there are many functioning and viable food entities such as catering companies, hotels, restaurants, cafeterias, and kiosks that handle food for consumers. The collapse of the Somali government over two decades ago eroded all public health enforcement entities, leaving the country with no system responsible for the investigation of adverse health effects or contaminants in food or water (World Health Organization, 2006).

However, since the civil war, diaspora investors began small food manufacturing factories to produce foods such as pasta and mineral water. Because there are no appropriate public health laws, enforcement, or inspection services in place, these companies do their own quality control with no government oversight. There is need for Somalia to identify and legislate necessary actions to ensure that food - in all its forms - is safe, wholesome and nutritious.

### 3.3 LAWS APPLYING TO FOOD LABELLING

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Factual and truthful labelling of food contributes to informed consumer choice. People should be informed of the nutritional content of food and meals at the time of purchase through easy-to-understand nutrition labels. A food label should include key facts, such as the content and values of key ingredients, as well as the manufacturing and expiry date. Food labels should make reasonable claims about the characteristic of the food, or its intended effect on the body. Regulations on nutrient and health claims are also needed to safeguard consumers.

In Somalia, common concerns include the lack of a system to verify the information or to regulate claims made on food labels; and concerns about the alteration of critical information like expiry dates on food labels. There is no regulatory mechanism in place to establish standards for food labelling, or to ensure compliance with such standards.

## Recommendations

1. Enact and implement legal provisions that require truthful information on the nutritional content of food and meals at the time of purchase through easy-to-understand nutrition labels.
2. Establish and implement regulations on nutrient and health claims on food labels.
3. Make legal provisions for the mandatory printing of expiry dates on packaged foods, with appropriate sanctions to deter the falsification of food labels.

### 3.4 LAWS APPLYING TO FOOD ADDITIVES

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Food additives are substances that are added to food or animal feed during processing or storage. They include antioxidants, preservatives, colouring and flavouring agents, and anti-infective agents. Most food additives have little or no nutritional value. Chemicals in food are a worldwide health concern and are a leading cause of trade obstacles.

Governments have a duty to promote healthy diets, and to regulate the production, consumption and marketing of harmful foods or food additives. WHO develops scientific risk assessments to define safe exposure levels which form the basis for the development of national and international food safety standards to protect the health of the consumers and ensure fair trade practices.

In Somalia, the recently established Bureau of Standards will adapt these international standards, but it lacks the enforcement capacity to ensure compliance. The practice of adding various substances or colours to foods is common, but there is no comprehensive data on the types and levels of these additives or colours; and no enforcement mechanism to ensure compliance with international standards.

There is need for Somalia to Implement a comprehensive framework to regulate and enforce food additives and colours; in consultation with the Bureau and other concerned agencies.

## 3.5 LAWS APPLYING TO FOOD PACKAGING

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Food packaging is a major determinant of food quality, because the processes and materials used to package foods can introduce various hazards, including chemical, biological and physical hazards. Food packaging is a major economic activity in the country.

Large food processing companies undertake packaging within their processing facilities. However, there is also a growing trend of outsourcing food packaging. A key growing trend is the packaging of brand-name products into small packs, e.g. beverages, margarines, salt, sugar, etc. targeting the low-income market. Currently, there is no regulation requiring compliance or the enforcement of standards for food packaging, including the maintenance of traceability for foods packaged by outsourced contractors in Somalia.

There is need to implement a comprehensive risk-based control system targeting all actors involved in food packaging, with a view to ensuring compliance including the traceability of foods. There is also a need to develop and Implement regulations to ensure licensure and inspections of all food packaging facilities in the country.

## 3.6 LAWS APPLYING TO FOOD EXPORTS

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Somalia main exports are livestock, bananas, skins, fish, charcoal and scrap metal. Main export partners are United Arab Emirates, Yemen and Oman. The key issue for food export is compliance with the food safety requirements of the importing country. These standards have been harmonized under the WTO/SPS, the Agreement on Technical Barriers to Trade and other trade-related provisions.

Somalia has made great strides in ensuring that its produce meets requirements of the trading partners. However, there are key gaps with regard to export compliance for livestock products. Furthermore, the multiple agency approach to export compliance creates unnecessary burden on exporters. Also, there is limited human resource capacity

for handling the emerging complexities of international trade in the various food products and destination markets.

## Recommendations

1. Streamline the existing mechanisms for ensuring compliance of food exports, possibly by centralizing it within a proposed agency.
2. Increase the HR capacity for regulatory compliance with food export requirements.

## 3.7 LAWS APPLYING TO FOOD IMPORTS

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Somalia mainly imports tobacco (8.82% of total imports), machinery (7.87%), sugar (6.44%), cereals (5.73%), vehicles (5.32 %), ferrous and dairy products (ITC, 2018). Currently, there is no centralized mechanism for ensuring uniformity of standards for imported foods. Therefore, with such a diversity of imported foods, the potential risks are increasing, as well as the safety concerns from consumers. For example, baby milk from China adulterated with melamine.

The challenge of ensuring the safety of imported food is global, hence not unique to Somalia. In particular, the level of regulatory oversight in the exporting country is a major determinant of the quality and safety standards of imported foods. In this context, current modern approaches with regard to food imports involve prior notification of the intended imports, with all the necessary details to enable the determination of potential risks, before the shipment is allowed.

Such an approach is complemented by stronger collaboration and information sharing among food importing countries, in order to ensure that risks related to food imports are minimized and expeditiously addressed.

## Recommendations

1. Implement a system for the regulation of imported foods which is focussed on the implementation of preventive controls and collaboration with other countries.

2. Develop legislation and guidelines on prior notification of food imports, and ensure their implementation using a risk-based approach.

### 3.8 FOOD MARKET SYSTEM AND FNS

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In Somalia, the food market system remains unresponsive. Trade distortions, inefficient logistics, postharvest losses, and uncompetitive marketing practices, have the cumulative effect of raising food prices, to the grave detriment of poor consumers, while depressing farm incomes. Food price movements have been more volatile, compared to the general price level. Episodes of rapid food price inflation are implicated in the reversal of nutritional improvements in recent years. Poor households face greater challenges in boosting diet diversity compared to higher income households.



# CHAPTER THREE

## POLICY, CONSTITUTION AND EXISTING LEGAL FRAMEWORK

## 3.1 INTRODUCTION

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Ensuring Food Nutrition and Security requires formalized policies and legislative instruments that will provide a coherent framework for long-term commitments, spell out clearly the roles, rights and responsibilities, resources and sanctions. National food control systems in Somalia are currently in the conceptual stage and have started to take a multi-sector approach. Currently, there is no overarching law on Food Nutrition and Security in Somalia. However, there are policies and strategic plans that highlight the legal direction for sector laws and policies.

## 3.2 THE CONSTITUTION

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The protection of human rights under the constitution is the most effective form of legal protection as this is considered the fundamental or supreme law of a nation. This means that all domestic policies as well as laws must abide by its provisions and that, in the event of a conflict, constitutional provisions prevail. Constitutions generally include a declaration of fundamental human rights that both guide and constrain government action.

Explicit recognition of the right to food in the substantive part of the constitution guarantees that the right to food will be taken into account in all relevant spheres of state activity affecting the exercise of this right, provided that public authorities and domestic courts have a thorough understanding of constitutional provisions and routinely apply them.

Somalia does not explicitly refer to the right to food in its substantive provisions but mentions it in its guiding principles. These principles provide guidance for government action, especially in the socio-economic sphere. The Constitution of the Federal Republic of Somalia provides for some articles that support the realization of the right to food. Article 3(4) which contains the Founding Principles reads *inter alia* that “The Constitution of the Federal Republic of Somalia promotes human rights, the rule of law, general standards of international law, justice, participatory consultative and inclusive government, the separation of powers between the legislature, executive and an

independent judiciary, in order to ensure accountability, efficiency and responsiveness to the interests of the people.”

Moreover, Article 10 of the Constitution of the Federal Republic of Somalia provides for human dignity. It recognizes that human dignity is given by God to every human being, and this is the basis for all human rights. The Article goes further to state that human dignity is inviolable and must be protected by all.

The Constitution under Article 29(2) provides that “Every child has the right to be protected from mistreatment, neglect, abuse or degradation.” Article 27 which recognizes Economic and Social Rights and states that every person has the right to full social security. Also, it goes further to state that it shall be ensured that women, the aged, the disabled and minorities who have long suffered discrimination get the necessary support to realize their socio-economic rights.

### 3.3 POLICIES INSTRUMENTS ON FNS

In Somalia, the Food Security and Nutrition policy framework is mainly covered under the Draft National Food Nutrition and Security Policy, 2020 and other sectoral policies and strategic plans. However, the Federal Government of Somalia (FGS) has demonstrated commitment and leadership in the development of a policy infrastructure to support FNS.

The following policies currently provide a framework for FNS in Somalia :-

#### 3.3.1 THE SOMALI NATIONAL DEVELOPMENT PLAN 2020-2024

The Somali National development plan is a key policy document which underscores the government commitment to improving nutrition and food security. The plan identifies that nutrition is becoming increasingly critical during crisis. The plan underscores the commitment by government to foster partnerships with development agencies to scale-

up responses to climate shocks and drought to ensure the most vulnerable received enough quantity and quality food.

### 3.3.2 Somalia Nutrition Strategy 2020-2025

The Somalia Nutrition Strategy (2020-2025) is in line with the NDP and other downstream policies and strategies and is strategically designed to address the triple burden of malnutrition (coexistence of over nutrition, undernutrition and micronutrient deficiencies). It is also designed to contribute to the achievement of the nutrition-related Sustainable Development Goals (SDGs), World Health Assembly resolutions and Global Nutrition Targets for 2025.

The goal of the strategy is to end hunger and achieve food security and improve nutrition. This strategy espouses that there should be at least 4 legislative bills aimed at protecting, promoting and supporting optimal maternal and nutrition passed in parliament as a result of engagements with parliamentary committee on nutrition and food security.

### 3.3.3 Common results framework for nutrition

Multi-sectoral nutrition plans are usually endorsed at the highest level and seek to guide collective implementation and resource allocation. The CRF structure in Somalia was developed using a results-based approach whereby intermediate results feed into strategic results. The overall objective of the CRF is to contribute to the reduction of malnutrition by 30% in the next five years in Somalia, as well as to control the fluctuating rates, establishing a more predictable and stable pattern of nutritional status.

The plan has seven strategic objectives, including: building an enabling environment; multi-sector coordination; development of human resources; comprehensive package of nutrition interventions; optimal use of nutrition-sensitive programmers; and addressing social and cultural issues that hinder equity.

### 3.3.4 Social mobilization advocacy and communication strategy (SMAC)-2019-2021

The SMAC strategy is a coordinated, government-led approach to multisector social mobilization, advocacy and communication efforts to scale up nutrition in Somalia. The Strategy seeks to improve maternal and child nutrition in Somalia, with focus on reduction

of maternal infant and young child under-nutrition and child stunting. This will be achieved by up scaling both essential nutrition specific as well as nutrition-sensitive interventions.

The SMAC Strategy was developed as a product of a participatory exercise that involved several actors involved in nutrition programmers in Somalia.

This strategy is coordinated under the Somalia's SUN Multi-Stakeholder Platform (MSP), known as the National Coordination for Scaling Up Nutrition (NCSUN) which holds annual assessment workshops at national and sub-national levels. It holds monthly meetings with government stakeholders and quarterly meetings for all stakeholders.

The strategy encourages the use of country's self-assessment exercise which is an analysis of the following four SUN processes:

1. Bringing people into the same space
2. Coherent policy and legal framework
3. Common Results Framework (CRF) for National Nutrition Plan
4. Financial tracking and resource mobilization

### 3.3.5 WFP Somalia Interim Country Strategic Plan 2019-2021

This interim country strategic plan encompasses lessons learned from WFP programming and reflects feedback gathered across Somalia during stakeholder consultations. It is closely aligned with the Somalia National Development Plan (2017–2019) and regional development plans, as well as the humanitarian and recovery priorities for food security and nutrition set out in the humanitarian response plan and the drought impact needs assessment for Somalia.

The plan proposes that all actors should work to deliver efficient, effective and equitable assistance, including through innovative partnerships with national and regional government institutions, United Nations and international organizations, international and national non-governmental organizations, civil society and the private sector.

This interim country strategic plan focuses on the following strategic outcomes:

- **Strategic outcome 1:** Food-insecure and nutrition-insecure people in areas affected by natural or human-caused disasters have access to adequate and nutritious food and specialized nutritious foods that meet their basic food and nutrition needs during and in the aftermath of shocks.
- **Strategic outcome 2:** Food-insecure people in targeted areas are better able to withstand shocks and stresses throughout the year.
- **Strategic outcome 3:** Malnourished and food-insecure children, adolescent girls, pregnant and lactating women and girls, and clients undergoing anti-retroviral therapy or directly observed treatment for tuberculosis in areas with persistently high rates of acute malnutrition have improved nutritional status throughout the year.
- **Strategic outcome 4:** National institutions, private sector actors, smallholder farmers and food-insecure and nutritionally vulnerable populations benefit from more resilient, inclusive and nutritious food systems by 2021.
- **Strategic outcome 5:** National institutions have strengthened policies, capacities and systems for supporting food-insecure and nutritionally vulnerable populations by 2021.
- **Strategic outcome 6:** The humanitarian community is better able to reach vulnerable people and respond t/o needs throughout the year. Together, these outcomes will support Somalia on the path towards zero hunger, recovery and lasting stability.

### 3.3.6 Somalia guidelines for management of acute malnutrition guidelines/CMAM/IMAM

Malnutrition remains widespread. By the end of 2019, the national prevalence of Global Acute Malnutrition (GAM) was at 13.1 per cent and urgent treatment and nutrition support were needed for approximately 962,000 children below the age of 5 years of which

162,000 were SAM children.<sup>48</sup> The level of Severe Acute Malnutrition stood at 1.8 per cent however, higher prevalence was observed among IDP children. <sup>49</sup>Twenty-eight per cent of children under 5 years are stunted (short for their age).<sup>50</sup>

The advent of ready to use therapeutic food (RUTF) and a community-based approach, community management of acute malnutrition (CMAM), has made it possible to treat most children in their homes. The efficacy of the CMAM approach has been demonstrated since 2007 following an endorsement by UN agencies which paved the way for the further expansion of the intervention.

CMAM is generally a preventive continuum with four components:

- i. community outreach as the basis;
- ii. management of moderate acute malnutrition (MAM);
- iii. outpatient treatment for children with SAM with a good appetite and without medical complications; and
- iv. inpatient treatment for children with SAM and medical complications and/or no appetite.

A key objective, both globally and nationally, of CMAM is progressive integration into the national health system and ultimately complete government ownership. By the end of 2012, governments in 63 countries including Somalia had established partnerships with UNICEF, WFP, WHO, donors, and NGO implementing partners (IPs) for CMAM.

The Ministries of Health (MoH) assume leadership and coordination roles and provide the health facilities. Implementation arrangements vary in specific contexts or areas. Most countries implement inter-related interventions such as Infant and Young Child Feeding (IYCF), Integrated Management of Childhood Illnesses (IMCI), Mother Child Health (MCH), as well as micronutrient supplementation.

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<sup>48</sup> FEWSNET and FSNAU, 2020.

<sup>49</sup> Directorate of National Statistics, Federal Government of Somalia, *The Somali Health and Demographic Survey 2020*.

<sup>50</sup> Ibid.

The internal and external inputs for CMAM include policies, commitment of funds, coordination, and technical support available to the MoH and other IPs. Access to services suggests linkages with formal and informal healthcare and community-based organizations or systems. Access to CMAM supplies includes both essential drugs and ready to use therapeutic or supplementary foods. Service quality requires establishment of guidelines, support and supervision for staff, training, and monitoring and evaluation components. Intended outputs are enhanced community knowledge and practices regarding child nutrition and health, improvements in nutritional status of children under five years of age admitted to CMAM, and reduced morbidity and mortality.

Through CMAM services, UNICEF provides technical guidance to improve the quality and access of SAM treatment, and works toward standardized monitoring and evaluation methods to demonstrate impact of the intervention on SAM.

The guidelines for Integrated Management of Acute Malnutrition have been developed to assist health workers in the assessment and appropriate management with services and/or counselling for the treatment of acute malnutrition both Moderate Acute Malnutrition (MAM) and Severe Acute Malnutrition (SAM). the guidelines will focus on children under five years, Strict implementation of the guidelines can significantly contribute towards reducing the under five mortality rate due to acute malnutrition.

### 3.3.7 Somalia Social Protection Policy

The Somalia Social Protection Policy, 2019<sup>51</sup> defines social protection as ‘government-led policies and programmes which address predictable needs throughout the life cycle in order to protect all groups, and particularly the poor and vulnerable, against shocks, help them to manage risks, and provide them with opportunities to overcome poverty, vulnerability, and exclusion’. the objectives of social protection policies and programmes can be categorized as protective, preventive, promotive and transformative; or a

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<sup>51</sup> Spearheaded by Ministry of Labour and Social Affairs, Somalia.

combination of these factors, with the intent of helping households manage and cope with vulnerability and risk and of bridging the gap between short-term needs and strategic investments (IFAD et al., 2012).

Protective social protection most often involves cash or in-kind transfers or fee-waivers, with the aim of providing for basic consumption needs such as food and health care and alleviating chronic or transitory poverty.<sup>52</sup> Preventive social protection involves insurance schemes such as pensions, or risk-pooling mechanisms such as health and unemployment insurance, in order to prevent a drop in living standards during crises or at less productive times in an individual's life.<sup>53</sup> Both protective and preventive measures can help households avoid ill-advised coping strategies in times of crisis, such as selling productive assets or withdrawing children from school.<sup>54</sup> Promotive social protection may include productive transfers, insurance and credit schemes, labour market interventions, investment in public assets and access to education or skills training.<sup>55</sup> This provides the basis for economically vulnerable households and for those who are experiencing transitory poverty to more securely invest in human capital and livelihoods, leading to higher productivity and income.<sup>56</sup> Transformative social protection aims to change discriminatory laws and practices that result in unequal access to social and economic resources and opportunities.<sup>57</sup> This may include, for example, rights-based approaches to social protection, such as employment guarantees, redistribution of land to poor or marginalized groups, price controls and the protection of women's inheritance and employment rights.<sup>58</sup>

Somalia has strides in the use of social protection. There is need for the country to take a focus on transformative social protection which will be focused more on long term legal measures.

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<sup>52</sup>

<sup>53</sup> Ibid at pg. 4

<sup>54</sup> Ibid at pg. 4

<sup>55</sup> Ibid at pg. 4

<sup>56</sup> Ibid at pg. 4

<sup>57</sup> Ibid at pg. 4

<sup>58</sup> Ibid at pg. 4

## 3.9 SUPPORTIVE NATIONAL LEGISLATION

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The inclusion of human rights, and of the right to food, specifically in national legislation is a critical step in ensuring the effective implementation of the right to food in every national context. National legislation also translate international and constitutional commitments into more specific rights, duties and responsibilities in relation to FSN. In Somalia, the following national legislation address certain aspects of FNS.

### 3.10 THE VETERINARY LAW CODE 2016

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*Article 2.1.2(d) of the Veterinary Law Code 2016 provides inter alia that* “one of the functions of the veterinary service in Somalia is the “control of zoonosis, food hygiene and meat inspection”. In the present day, Somalia does not have a law on meat inspection. It is yet to be enacted. However, there is a draft Meat Inspection Control Bill which is in use in Somalia. This is important from the perspective of food safety, which is a critical aspect of FSN.

### 3.11 THE DRAFT MEAT INSPECTION AND CONTROL ACT

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There is a draft framework for Meat control in Somalia. Unfortunately, the legislative cycle for a comprehensive regulatory framework over meat and meat products intended for human consumption is incomplete. Somalia needs to finalize the enactment of regulatory standards for the management of slaughterhouses and places where such meat is processed and draft regulations for the import and export control over such meat and meat products.

## 3.12 LABOR AND EMPLOYMENT-RELATED LAWS RELATING TO FNS

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Promoting decent employment is essential to achieving food security and reducing poverty.<sup>59</sup> Simply put, in order to be able to access food, poor people rely on the income from their labor, because it is often the only asset they have. Achieving full and productive employment and decent work for all, including women and young people is enshrined in the Millennium Development Goal (MDG) 1 which underscores the need to eradicate extreme poverty and hunger.

However, policy responses globally including Somalia have rarely addressed the employment and hunger challenges in a coordinated manner. There has been growing attention to the importance of employment, as seen in the United Nations (UN) system's response to the global and financial crisis. In 2009, the UN agreed on a Global Jobs Pact to boost employment, production, investment and aggregate demand, and promote decent work for all.

Moreover, the UN System Wide Action Plan of the Second UN Decade for the Eradication of Poverty (2008-2017) set “full employment and decent work for all” as a main theme. Likewise, a variety of initiatives have been taken to increase food and nutrition security of the most vulnerable, including increasing investment in agriculture, addressing food prices increases, and reducing producers' and consumers' vulnerability to food price shocks and to the effects of climate change. And yet, those initiatives have rarely taken up explicit employment objectives. This Case for Action argues that improving policy coherence between employment and agricultural initiatives and investing more in the promotion of decent rural employment contribute highly to the interlinked challenges of fighting rural poverty and feeding a growing world population in a sustainable way.

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<sup>59</sup> The Decent Rural Employment Report, Gender, Equity and Rural Employment Division (ESW) of FAO, under the supervision of Peter Wobst, Senior Economist (ESW) pg. 2.

Even more importantly, decent work is a fully-fledged human right, enshrined in international human rights law,<sup>60</sup> to which each person is entitled as a means of personal development and socio-economic inclusion. Due to Somalia's largely informal nature approach to work, children, youth and women suffer from limited access to social protection, such as benefits associated with unemployment or inability to work such as pregnancy, sickness, disability or age.

In relation to FNS, it should be noted that national legislation in the areas of food security, have direct or indirect relationship with protection of labor standards, such as the prevention of child labor, without necessarily being open to the integration of those standards.<sup>61</sup> For example, school feeding laws that have been adopted by many countries and broader food security legislation with provisions for school meals and support to poor households are positively associated with an increase in school attendance and a reduction in child labor. The same could be said about legislation that provides for services and benefits to low-income workers in conditions of poverty, or about a law that guarantees a certain number of days of employment for members of poor households. Somalia has programs that promote school feeding to support poor household. There is no legislation to support school feeding which will serve to offer legal protection to reduce child labor.

### 3.13 SOCIAL PROTECTION FRAMEWORK

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Social protection measures are policy instruments that are widely used across a broad range of developing countries in pursuit of many different development objectives. In many cases social protection measures such as food or cash transfers were first introduced to ensure minimum levels of food security for vulnerable households.<sup>62</sup>

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<sup>60</sup> The right to work is enshrined in the Universal Declaration of Human Rights and recognized in international human rights law through its inclusion in the International Covenant on Economic, Social and Cultural Rights.

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<sup>62</sup> Food and nutrition (in-)security and social protection Rachel Slater, Rebecca Holmes and Nicholas Mathers, Overseas Development Institute, United Kingdom at pg. 1.

Scholars have recommended the need for States to adopt a broad definition of social protection that includes *“all public and private initiatives that provide income or consumption transfers to the poor, protect the vulnerable against livelihood risks and enhance the social status and rights of the marginalized; with the overall objective of reducing the economic and social vulnerability of poor, vulnerable and marginalized groups”* (Devereux & Sabates-Wheeler, 2004: 9).

### 3.14 COMMERCIAL FOOD FORTIFICATION

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Commercial food fortification in Somalia is hampered by the absence of commercial/industrial fortification of commonly consumed foods. This is mainly due to the lack of the appropriate infrastructure to carry out fortification. i.e. there are no large-scale food industries with the capacity to fortify these foods, no standards on how much of the fortificant to add, no quality control agency to enforce the standards and check for compliance.<sup>63</sup>

The Somalia Nutrition Strategy (2020-2025) supports preventive and curative interventions outlined in the Somalia Micronutrient Control and food fortification strategy including home-based food fortification and commercial food fortification. Data on consumption per capita of the commonly consumed foods is important in justifying a food fortification program and in the formulation of standards and regulations. Although this kind of data is not available in the country, anecdotal evidence point to the increased consumption of sugar, wheat flour products and oil (used in preparation of the wheat flour products).<sup>64</sup> Even though some parts of the country grow maize, this is mainly for export and used as livestock feeds and does not form part of the majority population diet.<sup>65</sup>

There is need for to check the quality of food imports and provide minimum standards for production and marketing of foods available for human consumption in Somalia. There is

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<sup>63</sup> Supra note 5 at pg. 17-18.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid

need to enhance the capacity to conduct laboratory testing for analysis of safety and nutritional parameters in the foods.

Presently, some of the UN agencies such as WFP provide fortified foods such as maize flour, wheat flour and others as part of humanitarian aid. The agencies should ensure that, these foods meet international standards such as those provided by CODEX standards and are fortified in accordance with the WHO guidelines on food fortification.

### 3.14.1 Considerations for Food Fortification in Law

Food fortification requirements may be established either in an act of the governing legislature (such as a food- or health-related act), or in technical food regulations. An example of an act that is solely dedicated to mandatory fortification is the Philippines' Act Promoting Salt Iodization Nationwide.<sup>66</sup> This law establishes policy, applicability, industry support, public information and sanctions, and is supported by rules and regulations for the implementation of salt iodization and related purposes; these rules include a technical standard for iodized salt.<sup>67</sup>

Other countries use technical regulations (also called standards or other such similar terms), to mandate the specific legal requirements for food fortification, but rely on parent legislation to ensure appropriate implementation.<sup>68</sup> One advantage of setting fortification provisions in regulation, rather than in legislation, is that amendments can be made more quickly and easily, providing of course, that the power to administer regulations is delegated from the primary governing legislature to an appropriate subsidiary or statutory body.<sup>69</sup> Regardless of the way in which national food law is constructed, all those involved in the food production and distribution system (including importers) must understand the applicable laws and, above all, comply with them.<sup>70</sup> To this end, and to ensure that food law achieves its public health objectives, it must be:

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<sup>66</sup> Guidelines on food fortification with micronutrients/edited by Lindsay Allen ... [et al.]at pg. 241.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

<sup>69</sup> Ibid at pg. 242.

<sup>70</sup> Ibid.

1. certain in its operation (i.e. clearly and unambiguously expressed for those engaged in the activity to which the regulation is directed);
2. supported by an appropriately structured and resourced information dissemination system and enforcement capability.<sup>71</sup>

Under certain circumstances, complementary measures to government legislation or regulation can be used to fulfil regulatory objectives.<sup>72</sup> These measures take the form of industry self-regulation or a co-regulatory mechanism between industry and government in which government decides the appropriate level of involvement.<sup>73</sup> Such measures are respectively administered by industry alone or jointly by industry and the government sector, and are best suited to matters of process or intermediate outcome.<sup>74</sup>

A complementary system only works well when the following recognized “success factors” are present:

- i. the level of risk to public health and safety, or potential harm to consumers, is low;
- ii. the product is relatively homogeneous across the product category and consumers can readily identify it with the industry;
- iii. the industry is competitive, but also cohesive and represented by an active industry association;
- iv. the industry and/or its association is responsive to consumer complaints;
- v. companies are keen to enhance their future viability and are concerned about their reputations, future customers and the wider community.<sup>75</sup>

### 3.14.2 Recommendations

1. Despite the lack of large industries to fortify some of these commonly consumed foods, it is important to begin some preparatory work towards legislating measures to govern food fortification.

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<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid.



2. Advocate for extended distribution of fortified foods in schools, as part of feeding programs and for vulnerable groups.
3. Ensure that these distributed fortified foods comply with International Standards such as CODEX.
4. Conduct food consumption pattern studies to determine consumption levels of fortifiable foods (wheat flour, sugar and oil)
5. Strengthen the quality control authority and allocate adequate resources with the mandate to establish standards and conduct food quality control
6. Advocate for incentives from the government to encourage set up of food factories with the capacity for fortify the commonly consumed foods.

### 3.15 NUTRITION INTERVENTIONS IN FNS

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In Somalia, foundational nutritional deficiencies emanate from inadequate maternal and child nutrition which poses a serious problem with devastating consequences for infants, young children, adolescent girls and women. Undernutrition in communities results in increased morbidity, mortality, cognitive delays and losses, long-term disability and poor health into adulthood impacting the next generation, which affects the overall social and economic development of the country.

It is estimated that undernutrition causes 45 percent of all child deaths in Somalia<sup>76</sup> – where the neonatal, infant and under-five mortality rates are among the highest globally. Delivery of nutrition services remains a key challenge. The existing functional health facilities are inadequate and inequitably distributed across regions and districts, creating a need for the Federal and State Ministries of health to increase the number of facilities in order to bring them closer to vulnerable populations. Health facilities are also poorly equipped to provide quality nutrition services. There is an increased understanding of the short- and long-term consequences of undernutrition especially during the first 1000 days in the life of a child (a critical period of vulnerability between conception and a child's

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<sup>76</sup> Black et al. Maternal and child undernutrition and overweight in low-income and middle-income countries. *Lancet*. 2013. 2013 Aug 3; 382(9890):396.

second birthday when nutritional deficits are potentially irreversible for life). Improper diets contribute to malnutrition and slow development in children; and to obesity and heart disease in children and adults. There is global consensus that the marketing of such foods to vulnerable groups (e.g. children, pregnant mothers or the elderly) should be regulated. Investments in and scaling up of nutrition-specific interventions is required in three key areas:

1. breastfeeding and optimal infant and young child feeding;
2. addressing micronutrient deficiencies; and
3. improving maternal nutritional status before and during pregnancy, with emphasis on adolescent girls.

### 3.16 LEGAL SAFEGUARDS FOR BREASTFEEDING

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Breastfeeding is one of the most effective ways to improve child survival and to promote healthy child growth and development. The right of mother and child to breastfeed is recognized as a human right. Improvement in breastfeeding rates requires protecting, promoting and supporting breastfeeding by, inter alia, regulating the marketing of breastmilk substitutes.

In the marketing of Breast Milk Substitutes National Implementation of the International Code, Status Report 2018, Somalia was listed to have no information on the legal measures and no legal measures whatsoever, regarding regulation of BMS.

#### Recommendations

1. Enact a Breastmilk Substitutes Act in order to facilitate its full implementation and enforcement.
2. Develop the necessary regulations and enforcement mechanisms to ensure the full implementation of the Breastmilk Substitutes Act.

## 3.17 CONTROLLING THE MARKETING OF FOOD TO CHILDREN

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The federal Republic of Somalia, Provisional Constitution under Article 29(2) provides that “*Every child has the right to be protected from mistreatment, neglect, abuse or degradation.*” The health of children is increasingly threatened by current trends in the production and marketing of food, where the content of sugar, salt, fat, preservatives and other harmful chemicals is unregulated.

The marketing of foods and non-alcoholic beverages with a high content of fat, sugar or salt reaches children throughout the world. Further, a wide range of techniques are used to market these products, reaching children in schools, nurseries, and supermarkets; through television and the Internet; and in many other settings. Evidence shows that television advertising influences children’s food preferences, purchase requests and consumption patterns. Efforts must be made to ensure that children everywhere are protected against the impact of such marketing and given the opportunity to grow and develop in an enabling food environment, one that fosters and encourages healthy dietary choices and promotes the maintenance of healthy weight. WHO has developed a set of recommendations that are intended to guide efforts by Member States in designing new and/or strengthening existing policies on food marketing communications to children.

### Recommendations

1. Implement, to the fullest extent possible, the full set of WHO recommendations on the marketing of foods and non-alcoholic beverages to children.
2. In particular, the implementation should aim to ensure that settings where children gather are free from all forms of marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt. Such settings include, but are not limited to, nurseries, schools, school grounds, playgrounds, family and child clinics and paediatric services and during any sporting and cultural activities that are held on these premises.



3. Develop and implement, in collaboration with relevant agencies and the state department and agencies in the education sector, standards to ensure that the meals offered to children in schools are safe wholesome and of balanced diet.



# CHAPTER FOUR

## INTERNATIONAL AND REGIONAL COMMITMENTS

*UNIVERSAL DECLARATION OF HUMAN RIGHTS, Art. 25(1): "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services..."*

The right to adequate food is a normative embodiment of FNS that seeks to ensure that every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.<sup>84</sup> This right has been protected in the 1948 Universal Declaration of Human Rights (UDHR), which is referred to in many national constitutions and is considered to be a source of inspiration for their bill of rights. The UDHR provides for the right of everyone to a standard of living adequate for the health and well-being of himself and of his family, including food.<sup>85</sup> This right has later been enshrined in a legally binding treaty, i.e., the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966.

Subsequently, international human rights treaties addressed different aspects of the right to adequate food of children, women, migrant workers and persons with disabilities. Regional human rights treaties in Africa followed suit in explicitly recognizing the right to food of children and women. There are also many other treaties that are relevant for FNS, such as those relating to access to productive resources.

In addition to the legally binding treaties, several other international and regional instruments have been developed through multi-stakeholder processes on the right to adequate food and FNS. These instruments are not legally binding *per se* but they are often based on or refer to the commitments of states under international law and they are adopted through inclusive consultations. The following table presents the legally binding and non-binding international and regional instruments of relevance to the right to adequate food and FNS.

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<sup>84</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 12 of 1999, para. 6

<sup>85</sup> UDHR, art 25

Legally-binding treaties	Other international and regional instruments
<ul style="list-style-type: none"> <li>• Universal Declaration of Human Rights, 1948, art 25</li> <li>• International Covenant on Economic, Social and Cultural Rights, 1966, art 11</li> <li>• Convention on the Rights of the Child, 1989, art 24</li> <li>• Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art 14</li> <li>• Convention on the Rights of Migrant Workers and Members of Their Families, 1990, arts 25-26</li> <li>• Convention on the Rights of Persons with Disabilities, 2007, art 28</li> <li>• Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa, 2003, art 15</li> <li>• African Charter on the Rights and Welfare of the Child, 1990, arts 14, 19-20</li> <li>• African Youth Charter, 2006, Art. 14</li> <li>• ILO Convention No. 169 concerning Indigenous and Tribal Peoples, 1989</li> </ul>	<ul style="list-style-type: none"> <li>• Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, FAO 2004</li> <li>• Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, CFS 2012</li> <li>• Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, COFI 2014</li> <li>• Principles for Responsible Investment in Agriculture and Food Systems, CFS 2014</li> <li>• UN Guiding Principles on Business and Human Rights, HRC 2008</li> <li>• ICN2 Rome Declaration on Nutrition, FAO and WHO 2014</li> <li>• Maputo Declaration on Agriculture and Food Security in Africa, AU 2003</li> <li>• The Comprehensive Africa Agriculture Development Programme, AU 2002.</li> </ul>

- Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods, AU 2014
- Africa Regional Nutrition Strategy 2015-2025, AU 2015
- Framework and Guidelines on Land Policy in Africa, AUC-ECA-AfDB, 2010
- Agenda 2063: The Africa we want, AUC, 2015
- The 2030 Agenda for Sustainable Development

The international and regional legal and policy instruments require states to adopt measures to give effect to their commitments at the national level by all appropriate means, in particular by adopting legislative frameworks.<sup>86</sup> In fact legislation are considered to be highly desirable and, in some cases, indispensable to guarantee the fulfilment of the right to adequate food as well as other commitments.<sup>87</sup> The Federal Republic of Somalia become a State party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1990 by way of accession.

The “right to food” is a human right. This was first formally recognized by the United Nations in 1948, the Universal Declaration of Human Rights (UDHR), UDHR Article 25, protecting the right for people to feed themselves in dignity. Further, at the UN World Food Summit of 1996, the Heads of States and Governments reaffirmed the right of

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<sup>86</sup> For example, see the International Covenant on Economic, Social and Cultural Rights, art 2.1

<sup>87</sup> See, Committee on Economic, Social and Cultural Rights, General Comment No. 3, para. 3.



everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger. They pledged their political will and commitment to achieving food security for all and eradicate poverty and hunger in all countries. In 1990, the United Nations set the Millennium Development Goal to halve the number of people suffering from hunger by 2015.

Somalia has signed and ratified the following international conventions

- a) the International Covenant on Economic, Social, and Cultural Rights,
- b) the International Covenant on Civil and Political Rights,
- c) the African Charter on Human and People's Rights.
- d) the Convention on the Rights of the Child
- e) the African Charter on the Rights and Welfare of the Child and
- f) the Universal Declaration of Human Rights (1948).



# CHAPTER FIVE

## PROPOSED LEGISLATIVE RECOMMENDATIONS FOR FOOD NUTRITION AND SECURITY IN SOMALIA

## 5.1 OBJECTIVES

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The legislative framework for FNS in Somalia must achieve the following broad objectives: -

1. To offer legal protection on the right to food.
2. achieve good nutrition for optimum health of all Somalis.
3. To increase the quantity and quality of food available, accessible and affordable to all persons in Somalia at all times .
4. To protect vulnerable populations using innovative and cost-effective safety nets and emergency relief programs linked to long-term development.
5. To develop legislative proposals that would achieve Food Nutrition and Security.
6. To guide the actions of government at the National and Regional levels in respect functions relating to Food Nutrition and Security;
7. To align the multi-sectoral agencies institutional and regulatory frameworks with the policies and recommendations in key areas of Food Nutrition and Security.
8. To advance consumer protection in the actions of Food Nutrition and related sectors.
9. To enable compliance by Somalia with international treaties, conventions and other relevant obligations; and also, with global norms, standards and other key recommendations.

## 5.2 POSSIBLE CONSIDERATIONS FOR SOMALIA'S FNS LAW

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The Background study for a regional model law on food security and nutrition in Africa recognised possible considerations by African States to legislate FNS. They proposed adaptation of the FNS law to incorporate provisions on the following matters:



- ❖ Title of the law, preamble and definition of terms;
- ❖ Objectives of the law: including realizing the right to adequate food, ensuring FNS for all;
- ❖ Scope of application: the law should cover the main pillars of FNS and/or it should be applied by central and local government authorities, private sector, research and academic institutions, CSOs.
- ❖ Guiding principles: human dignity, non-discrimination, gender-equality, participation/consultation, transparency, accountability, empowerment;
- ❖ Obligations of the state and responsibilities of other actors: duties to respect protect and fulfil; or in terms of the main pillars of FNS; these could be framed in terms of rights or freedom from hunger.
- ❖ Priority policy areas: identification of the different policy domains which contribute to achieve FSN and priorities for intervention
  - Secure access to productive resources: security of tenure in land, fisheries, forest etc. in general terms (e.g. particular attention to indigenous peoples and gender-equitable tenure).
  - School food and nutrition – mainly on school feeding and nutrition education, but general provisions on procurement, for example, demanding that food be procured from local farmers
  - Regulation of food advertisement and information (children, schools): general provision that do not go into the details of consumer protection
  - Food safety: generally, because this is often governed by a separate legislation; including reference to the institutional coordination aspect
  - Food fortification



- ❖ Entitlements of vulnerable groups: children, lactating mothers, the elderly, persons who cannot provide for themselves for different reasons; systems of social protection and safety net, e.g. food subsidies or food stamps;
- ❖ Institutional framework for FNS governance: executive authority, or an inter-ministerial or multi-stakeholder or cross-sectoral council or committee with executive, advisory, consultative and/or coordination responsibilities;
- ❖ National food reserve or stock system or establishment of food security fund, e.g., for targeted subsidies or other financing mechanisms to increase production;
- ❖ Auditing: independent monitoring and assessment mechanism on the situation of FNS;
- ❖ FNS information and auditing/monitoring system;
- ❖ Disaster or emergency prevention and response, including early warning;
- ❖ National food security and nutrition financing and budgeting; and
- ❖ Recourse mechanism: sanctions and administrative and judicial remedies'

## 5.3 CONSIDERATIONS FOR THE GOVERNANCE STRUCTURE OF FNS

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Food and nutrition security requires multi-dimensional and multi-sectoral interventions. In order to achieve the overall goal of food and nutrition security, the complexities of the four dimensions; availability, accessibility, utilization and stability must be addressed concurrently by establishing effective linkages for collaboration and coordination of all sectors.

Currently, FNS is coordinated administratively by the SUN movement under the Office of the Prime minister. There is no existing legal structure to provide clarity of function for FNS. However, the SUN movement has been instrumental in effectively providing administrative linkages and coordination in the area of FNS in Somalia. As a result, there are gaps and overlaps in dealing with implementation of food and nutrition policies and

programs at both Federal and Regional levels. It is therefore important to strengthen the linkages and put in place legal institutional structures involving both levels of government, development partners' private sector, civil society, and local communities.

To achieve this, certain steps must be taken to establish functional, organizational and legal frameworks. These include establishing effective leadership, coordination and stakeholder platforms at all levels that require the setting up of a National Food and Nutrition Security Council, at both levels Government, Food and Nutrition Security Committees and Secretariats; and/or strengthening Food and Nutrition Security Stakeholder Technical Committees. The envisaged structures are essential for creating an enabling environment to facilitate multi-sectorial stakeholder participation. These will also enable effective flow of information from policy making to the implementation and beneficiary levels.

## 5.4 PROPOSED SOMALIA NATIONAL FOOD SECURITY AND NUTRITION COUNCIL

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The National Food and Nutrition Security Council will be the highest decision-making body in the proposed structure. The Council should be housed by the highest ministerial level in this case Somalia preferably the Office of the Prime Minister(OPM). There should be a considered budget line or a fund for the council and the Council should be permitted in law to receive grants, donations. This will streamline grants and donations to be driven under government agenda on FNS. The Council will: -

1. Direct commitment of national resources for effective implementation of the FNS policy;
2. Provide policy direction, guidance and oversight on food and nutrition security matter;
3. Direct commitment of national resources for effective implementation of the Food and Nutrition Security strategy;

4. Approve and oversee the implementation of the National Food and Nutrition Implementation Framework;
5. Ensure mainstreaming of national food and nutrition policy function by the national and county governments.

## 5.5 PROPOSED OBJECTIVES OF THE COUNCIL

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The main object of the Council is to ensure that Somalia meets its national and international obligations on the right to food and to ensure food security and adequate nutrition for all the people in Somalia for their health and social and economic well-being by –

- a) promoting good nutrition of all the people in Somalia;
- b) ensuring that food and nutrition security issues are incorporated in national and sectoral development plans as well as Regional government development plans;
- c) ensuring that nutrition security issues are incorporated in formal and informal education and training in order to improve the knowledge and attitudes of communities on food and nutrition-related matters;
- d) ensuring food and nutrition security at household, National and Regional levels for improving the socio-economic status of the people in Somalia;
- e) ensuring the establishment of food reserves in Somalia;
- f) ensuring that the government and non-governmental sectors responsible for food production, importation, distribution and trade and food crisis management adequately fulfil their roles that contribute to food security;
- g) collaborating with the relevant public authorities to ensure that economic and social programmers and activities do not negatively affect the human right to food;
- h) ensuring the development and maintenance of national food composition tables; and

- i) ensuring a healthy environment and good sanitation in the entire food chain system.

## 5.6 PROPOSED NATIONAL FOOD AND NUTRITION COMMITTEE

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The National Food and Nutrition Committee (NFNC) shall be composed of representatives of implementing/line ministries and representatives of the Regional Governments Food Committees. Every National and Regional shall have a food and nutrition committee to address food and nutrition security issues. The Council shall advise on the establishment and composition of the food and nutrition committees.

A food and nutrition committee may coopt any person including a member of the civil society or the private sector to the committee. Each food and nutrition committee shall appoint a focal person who shall be responsible for making report on the activities of the council. The National Food and Nutrition Committee will:

1. Recommend for approval Policies to the Council;
2. Provide Policy direction, guidance and oversight to implementing agencies;
3. Prepare the National Food and Nutrition Security status report to the Council
4. Facilitate resource mobilization, allocation, supervision and guidance for FNS implementation.
5. Facilitate cross-section collaboration and cooperation between government ministries, development partners, civil society, the private sector, and academia in addressing Food and Nutrition Security matters
6. Facilitate capacity building, research and analysis to improve food and nutrition security
7. Coordinate development of national gender and inter-generational responsive public education strategy and implementation program for Food and Nutrition Security

## 5.7 PROPOSED REGIONAL FOOD AND NUTRITION COMMITTEES

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The Regional Food and Nutrition Committee (RFNC) shall be composed of representatives of implementing/line ministries and representatives of the Regions Food Committees. The Committee will:

1. Prepare implementation plans and Policies by the Council;
2. Coordinate implementing agencies within the region;
3. Prepare Regional Food and Nutrition Security status report to the Council
4. Facilitate regional collaboration and cooperation between government ministries, development partners, civil society, the private sector, and academia in addressing Food and Nutrition Security matters.

## 5.8 SOMALIA NUTRITIONIST AND DIETICIANS ACT

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There is no enforcement of set standards of professional practice and ethics for nutritionists and dietetics in Somalia. There is need to have a platform for their participation in matters relating to nutrition and dietetics for professionals in Somalia. There is need for legislation that provides for the standards and practice of the profession for nutritionist and dieticians.

## 5.9 ESTABLISH A NUTRITION CENTRE FOR EXCELLENCE

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One key pillar of the social and human development section of the National Development Plan (NDP) Somalia is to build an adequate, well educated, better skilled and competent workforce that contributes to the economic and human development of the nation. The NDP action for the workforce objective is to scale up in-service training programmes for priority cadres, attract and retain health workers, improve human resource productivity and accountability, strengthen partnerships for human resource development, develop and enforce standards for health training institutions and establish accreditation and licensing bodies to regulate professional practice.

Establishing a Centre of Excellence is crucial step to eradicating malnutrition through establishment of a team of experts in nutritional policy, research and training in tandem with the National Development Plan (NDP). There is an urgent need to extensively equip the nutrition workforce including graduating nutritionists, nurses, and other frontline workers in different sectors with required skills and knowledge as well as increase the number of in-service nutrition and workforce knowledgeable and skilled in nutrition services provision.

Moreover, improvements in nutrition sector governance, systems and service delivery cannot be achieved without increasing the capacity of the human resource to effectively deliver nutrition services. The common results framework by Scaling up Nutrition (SUN) movement Somalia developed in 2018 highlighted human resource as one of the key drivers in achieving quality services that will have a positive impact on the nutrition status of Somalia Population. Disparity in training among the health workers indicate a gap that could be filled by the Centre particularly through nutritional trainings such as i.e. IMAM, IYCF, GAM and development of other experts to support nutritional service demands and practice experts (Cluster(Somalia), 2017).

## 5.10 PROPOSED NATIONAL FOOD RESERVE

The FNS proposed law should establish the national food reserve to be administered in a manner proposed by the proposed Council. The purpose of the national food reserve shall be to –

- a) ensure a reliable supply of food for the country;
- b) meet local shortfalls in the supply of food;
- c) meet any other food emergencies caused by drought or flood, or by any other natural disaster, as may be determined; and
- d) correct problems relating to the supply of food in the country.

## 5.11 FOOD IMPACT ASSESSMENT

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The Council if established may consider undertaking an annual right to food impact assessment to identify the impact of policies, programmes and projects on the realization of the right to food in Somalia.

## 5.12 A NATIONAL FOOD COMPOSITION TABLES

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The proposed Council may in consultation with other relevant public authorities develop and maintain national food composition tables. The national food composition tables define information detailing the amount of nutrient contained in each 100 grams of an edible portion of existing food varieties and includes the composition of ingredients of prepared and processed food and of established recipes.

## 5.13 PROPOSED FUNDING OF THE COUNCIL

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The funds of the Council shall consist of-

- a) monies appropriated by Parliament;
- b) loans from any source;
- c) any charges and fees paid to the Council in the performance of its duties; and
- d) donations and endowments from any source.



# CHAPTER SIX

## SUMMARY AND RECOMMENDATIONS

## 6.1 SUMMARY AND CONCLUSION OF THE MAIN FINDINGS

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Based on the analysis carried out, and on the results from the interviews conducted with governments and other stakeholders, we can obtain an overview of the legal gaps on FNS in Somalia. This assessment focused on the core elements of the governing international commitments, legal framework, policy framework, and institutional and social participation framework. This legal assessment report summarizes the findings as follows: -

1. There is slow process in translating policy into legislation in the area of FNS. Policies in FNS in Somalia need to be urgently translated into legislation in order to ensure long term commitment to FNS. There is no law on food nutrition and security in Somalia to ensure legal protection on the right to food.
2. There is no platform for the participation of nutritional professionals in matters relating to nutrition and dieticians in Somalia. It is important to ensure that there are set standards of professional practice and ethics for nutritionists and dietetics in Somalia to ensure uniformity in practice.
3. Somalia should consider inculcating measures for reporting on FNS by submitting annual reports to parliament on the national food and nutrition security status of the country.
4. Somalia should fully consider implementing possible, the full set of WHO recommendations on the marketing of foods and non-alcoholic beverages to children. In particular, the implementation should aim to ensure that settings where children gather are free from all forms of marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt. Such settings include, but are not limited to, nurseries, schools, school grounds, playgrounds, family and child clinics and



paediatric services and during any sporting and cultural activities that are held on these premises.

5. Somalia should finalize the enactment process of the Breastmilk Substitutes Act in order to facilitate its full implementation and enforcement and subsequently develop the necessary regulations and enforcement mechanisms to ensure the full implementation of the Breastmilk Substitutes Act.

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## **Proposed Roadmap for FNS Bill**

<b>Key</b>	<b>Activities</b>	<b>Deliverables</b>
<b>1. Preparation of a legal Assessment Report</b>	1.1 Locate the most recent policy from OPM and existing policies and legislations from Parliament	Legal Framework Analysis Report
	1.2 Review the contents and identify legislative gaps and consolidate drafting instructions.	Presentation of Draft Legal Assessment Report on FNS to stakeholders
	1.3 Develop the interpretation of drafting instructions for consideration and consensus building	Incorporation of comments and Validation of report
<b>2. Discussions and consultations with key stakeholders to consolidate Drafting Instructions and Prepare Draft</b>	2.1 Discussions on scope of Bill	Report from Stakeholders
	2.2 Receive drafting instructions from the Authority	Drafting Instructions
	2.3 Consult with the relevant government agencies for in-depth understanding and interpretation of drafting instructions	
	2.4 Prepare Zero Draft Bill	Package and draft the recommendations as Final Drafting Instructions for the Draft Bill
	2.5 Meeting with government actors (key ministries such as agriculture, livestock, health, humanitarian) to present zero draft Bill for comments	
	2.6 Meeting with CSOs and other networks including academia to present zero draft Bill for comments	
	2.7 Collate all the recommendations and draft the Bill	Present Draft Bill