

# Relationship between Climate Change, Food Security and Food Policy in Kenya

by Maria Angela Wangui Maina\*

## Abstract

Africa is one of the most climate-vulnerable areas of the globe and is currently facing a drought that has been the focus of the international stage. Kenya is one of the greatly affected African countries that suffers drought as a result of climate change, which has rendered it food insecure. Many studies have shown that there is a direct link between climate change, food security and food policies within Kenya, especially where frameworks can greatly assist in adaptation, mitigation and preparedness to cushion nationals against such crises. This is a study that offers a look into the Kenyan national policy efforts towards climate change and food security, giving suggestions for their improvement to enhance the promotion of the constitutional right to food.

## Keywords

Kenya, food security, right to food, climate change.

## 1. Introduction

Climate change affects all of the earth's inhabitants. More specifically, the recent Climate Change Vulnerability Index (CCVI) identifies Africa as one of the most climate-vulnerable areas of the globe alongside South Asia<sup>1</sup>. This means that Africa is more likely to experience harm to its people, infrastructure and eco-

logical resources. These changes are currently manifesting in Africa and directly affect the lives of its inhabitants.

Kenya is currently facing a drought that has been the focus of the international stage. On 25 October 2022, the United Nations High Commissioner for Refugees (UNHCR), Filippo Grandi issued a call to global leaders to focus their efforts on addressing this matter, with a specific focus on Ken-

ya, which has suffered greatly because of the drought<sup>2</sup>. This matter is compounded by the fact that Kenya falls under the classification of food insecure, whereas 60 to 79.9% of the total population lacks access to a sufficient quantity of affordable, nutritious food<sup>3</sup>.

The Food and Agriculture Organization (FAO) notes that climate change is indeed directly related to food security since climate variability and increas-

\* LLB (Hons) Strathmore University, legal intern at Pavia e Ansaldo Studio Legale.

ing intensity of extreme events affect the stability of food supply, access and utilization, especially where populations are dependent on agriculture and natural resources<sup>4</sup>. In this case, agriculture currently remains one of the largest sources of income for both poor and non-poor households in rural Kenyan areas, yet there has been a decline in real value-added agriculture in the country since 2006 due to the effects of climate change<sup>5</sup>. As such, many studies referenced herein will show that there is a direct link between climate change, food security and food policies within the nation, in addition to where frameworks can greatly assist in adaptation, mitigation and preparedness to cushion nationals against such crises.

This study begins by establishing that the constitutional right to food equates to an assurance of food security. Thereafter, it offers a look into the national policy efforts towards climate change and food security, giving suggestions for their improvement.

Thus, this study is of great importance and serves to provide the reader with knowledge on the need for strong national policies and measures in Kenya to enhance the state of food

security amidst drastic climate change, which threatens the constitutional right to life and the right to food against the backdrop of uncertain climate patterns.

## 2. The Right to Food Equates to an Assurance of Food Security

The Sustainable Development Goals (SDGs) are a blueprint for global sustainability in the future. Specifically, SDG 2 focuses on achieving Zero Hunger by the year 2030 through the elimination of undernourishment, yet this mission is not as practically simple as the theoretical idea presents. Kenya, as the jurisdiction of focus within this study, has a long-winding history of food insecurity that is fueled by inflated food prices<sup>6</sup>, political instability and increasing poverty<sup>7</sup>. As of November 2021, 7.9 million people in Kenya (15.4% of the national population) lacked sufficient food for consumption<sup>8</sup>. Food insecurity in Kenya has been linked to ineffective and insufficient food policies, which are presently not enforced<sup>9</sup> and lack totality in addressing the three dimensions of food security (Availability, Accessibility and Adequacy) despite the recogni-

tion of the right to food within its Constitution<sup>10</sup>.

The right to food is not an abstract concept and is rooted in law. Beginning with international law, Article 25 (1) of the Universal Declaration of Human Rights (UDHR) stipulates that everyone has the right to a standard of living adequate for the health and well-being for himself and for his family, including food. This article is further enshrined almost identically in legally binding international law codifications such as Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Article 24 (2) (c) of the International Convention on the Rights of the Child (CRC), where the latter expressly adds the requirement for clean drinking water. Kenya has ratified both the ICESCR and CRC, thus indicating its acceptance of the general rules of international law as part of Kenyan law. Article 43 (1) (c) of the Constitution of Kenya 2010, which is the fundamental rule of national laws in the country, also expressly recognizes the right of its inhabitants to food. The aforementioned article indicates that “every person has the right to be free from hunger, and to

have adequate food of acceptable quality”<sup>11</sup>.

With these aspects in mind, food security, as defined in the 1996 World Food Summit, is a situation wherein “all people, at all times, have physical and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life”<sup>12</sup>. This definition sets out the three aforementioned dimensions of food security. Firstly, availability refers to the presence of food through natural resources or available for purchase. Next, accessibility requires that all should be able to obtain economic and physical access to food without the need to compromise other basic needs. Lastly, adequacy refers to the need for food to be able to satisfy dietary needs with the necessity that it supplies the required nutrients for physical and mental development as per each person’s situation, such as children and pregnant women<sup>13</sup>.

In light of the above, it is prudent to question whether the right to food equates to the assurance of food security in Kenya by the government. The answer is yes and the rationale can be found when one considers the Civil Petition No. 196/2001 of India. The peti-

tion which was lodged by the *People’s Union for Civil Liberties versus the Union of India and Others*, heavily questioned why warehouses are stocked with food, yet the people of India had no access at all and even faced chronic hunger and undernutrition. In this case, the Supreme Court of India expressly recognizes that the right to food is intrinsically linked to the right to life and dignity, causing the need for the government to be responsible. The Court then took it upon itself to monitor every scheme related to food and its implementation, which led to improved food programs that positively impacted the lives of malnourished children<sup>14</sup>. The Supreme Court of India in the case of *Chameli Singh versus State of Uttar Pradesh* reinforces its view on the right to food where it states that “in any organized society, the right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth”<sup>15</sup>.

Moreover, it is equally judicious to question how the law plays a role in cushioning nationals from the effects of

climate-induced food insecurity. For one, it is evident that it is a government’s duty to make good on its constitutional duty. The best way for this to be done can be drawn from the lessons in the case of *People’s Union for Civil Liberties versus the Union of India and Others*, which are:

- a. States must be held responsible for not ensuring the right to food and this demands prompt action from authorities.
- b. Judicialization of the right to food is a useful tool in realizing food rights<sup>16</sup>.

We must therefore consider that Kenya has been making policy efforts to combat the food crisis. These policies are reviewed in the subsequent section to determine if they are sufficient to meet this goal and where improvements may be made.

### 3. Overview: Current National Food Policies and Possible Areas of Reform

#### 3.1. National Legal Framework

##### 3.1.1. Constitution of Kenya 2010

As earlier stated, Article 43 (1) (c) of the Constitution

expressly recognizes the right of its inhabitants to “adequate food of acceptable quality”<sup>17</sup>. In consideration that Kenya is a State Party to the ICESCR and therefore the State has the duty to progressively realize the right to food and must expeditiously and effectively ensure the enjoyment of this socio-economic right<sup>18</sup>. Furthermore, Article 21 (4) of the Constitution notes that it is the duty of the State to take legislative, policy and other measures, including the setting of standards to fulfill its international obligations in respect of human rights and other fundamental freedoms. In this case, there must be a law safeguarding the right to food.

The Kenyan government rightfully appears to be aware of this core obligation with the national Judiciary serving as a watchdog for its enforcement. In the case of the *Consumer Confederation of Kenya versus Attorney General and 4 others*, the Court affirmed that it has jurisdiction to adjudicate economic and social rights that fall under the Bill of Rights (Chapter 4 of the Constitution of Kenya 2010)<sup>19</sup>.

Kenya has made significant efforts in terms of policy-mak-

ing, alongside the East African Community (EAC) regional policies. As such, here below are what I view to be the fundamental policy frameworks focusing on the area of this study.

### 3.1.2. Climate Change Act (2016)

This is the first national legal instrument that focuses on the achievement of climate resilience and on the lowering of national carbon emissions. The Act establishes mechanisms such as the National Climate Change Council in Section 5 and the Climate Change Directorate in Section 9; the latter is the leading government agency on national climate action. The Consortium of International Agricultural Research (CGIAR) gives the Climate Change Act a weighted average score of 77% on aspects of its integration in agricultural productivity and food security (availability, access and utilization)<sup>20</sup>.

### 3.1.3. National Climate Change Action Plan (2013)

It is the first national climate change plan that focuses on 5 years of action for adaptation and mitigation of

the effects of climate change. The NCCAP prioritizes the development of the national agricultural industry with specific actions to promote drought-tolerant crops, water harvesting and index-based weather crop insurance that will contribute to lowering carbon emissions. It is through the NCCAP that we see the link between climate change and the food industry, alongside the need to appreciate such a link in the bid to achieve the SDGs and attain national food security. The CGIAR gives the Action Plan an average score of 68% on aspects such as those of the Climate Change Act<sup>21</sup>.

### 3.1.4. National Climate Change Framework Policy (NCCFP) (2016)

The NCCFP was established to achieve the same outcome as the Climate Change Act. It specifically facilitates the coordination of coherent and effective responses to climate change through funding, planning and decision-making at national and county levels. Most importantly, the NCCFP is based on the recognition of the potential of the national agricultural industry to create

green jobs for Kenyans. The CGIAR gives this Framework Policy an average score of 70% on earlier mentioned aspects<sup>22</sup>.

### 3.1.5. National Food and Nutrition Security Policy (2011)

The Policy aims to address the state of food insecurity and malnutrition in Kenya by increasing food quantity, quality, accessibility and affordability, in line with the dimensions of food security. More so, the Policy emphasizes the need for climate change forecasting and adaptation to enable local communities to sustain themselves through agriculture. Through this policy, the government links the effects of climate change on food and nutrition security. Consequently, this Policy creates the Drought Management Authority and the Drought Contingency Fund to support drought-prone areas. The CGIAR gives this Policy a weighted average score of 34% on aspects of its integration in climate change (adaptability and mitigation)<sup>23</sup>.

The above fundamental actions are further supplemented by supporting policies, strategy plans and agencies (both local and international) that work

towards achieving these goals. It is evident that the above policies are being actively integrated based on the average scores given by the CGIAR, with the National Food and Nutrition Security Policy holding the lowest percentage. Yet, why is there constant food insecurity if all these systems and frameworks exist? Studies conducted by Kenyan researchers offer a look into why this is the case by providing potential areas for reform.

### 3.2. Potential Areas for Reform

The CGIAR effectively notes that the above are fundamental legal frameworks that prioritize climate change, agriculture and food availability in Kenya, together with other existing supporting policy efforts. Nevertheless, the CGIAR points out that there are overlaps in the focus areas of intervention which should be remedied by strengthening the design and implementation of policies coherently to enhance climate mitigation and adaptation in cross-cutting sectors<sup>24</sup>.

Another study conducted by the University of Nairobi recommends that the government should formulate a national strategy that addresses

the right to food for vulnerable groups in society, including women, the elderly, children, persons with disabilities and members of marginalized communities. What's more, the same study recommends that Kenyan courts should exercise their duty of evaluating whether policies, measures and laws made to address food shortage, are reasonable, comprehensive and coherent<sup>25</sup>.

## 4. Conclusions

From the review of the law and supplementary research studies, I believe that Kenya's current policy frameworks do not comprehensively address the promotion of food security. The low integration percentage of the National Food and Nutrition Security Policy is a reflection of the same. The current policy on food security does not provide for the core principles of food policy that are intended to promote food security<sup>26</sup>. This study makes the following conclusions:

- a. There must be active participation of the affected communities. Persons in arid and semi-arid areas of Kenya are the most affected by drought, yet they are also communities that rely on

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| <p>agriculture as a source of food and income. These individuals need to be considered when it comes to the enactment of food security policies, rather than on the sole focus of donations and grants that are more of short-term solutions to a long-lasting problem.</p> <p>b. Non-discrimination and attention should be given to vulnerable groups where Kenya faces an</p> | <p>arbitrary rise in food prices enabling the poor in society to afford food, which recently manifested at the beginning of the Russo-Ukraine war, both countries who are large exporters of wheat to Kenya. The current framework falls silent on policy interventions on the regulation of food prices to facilitate access to food by all citizens equally.</p> | <p>c. There needs to be accountability whereas Kenya constantly faces corruption scandals without the actors being held effectively accountable. For example, subsidized fertilizer.</p> <p>d. Unification and review of food policies and laws will ensure fulfillment of the core principles of food policy intended to promote food security.</p> |
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