



ADVISORY NOTE ON THE RIGHT TO FOOD IN THE GAMBIA

11th October, 2023

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TABLE OF ACRONYMS

ESCR.....	Economic, Social and Cultural Rights
ICESCR.....	International Covenant on Economic, Social and Cultural Rights
CEDAW.....	Convention on the Elimination of All Forms of Discrimination Against Women
CRC.....	Convention on the Rights of the Child
UN.....	United Nations
FAO.....	United Nations Food and Agriculture Organisation
UNICEF.....	United Nations Children’s Fund
UDHR.....	Universal Declaration of Human Rights
NHRC.....	National Human Rights Commission
NaNA.....	National Nutrition Agency
FSQA.....	Food and Safety Quality Authority
NDP.....	National Development Programme
ANRP.....	Agriculture and Natural Resource Policy
ACHPR.....	African Charter on Human and Peoples’ Rights
IHRDA.....	Institute for Human Rights and Development in Africa
CRPD.....	Convention on the Rights of Persons with Disabilities
SERAC.....	Social and Economic Rights Action
CESR.....	Centre for Economic and Social Rights

ACKNOWLEDGMENTS

This Advisory Note on the Right to Food in The Gambia has been prepared in line with the National Human Rights Commission's broad mandate to promote and protect human rights in The Gambia. In line with its other functions, this Advisory Note will assist the Government in formulating appropriate policies to guarantee human rights and fulfil its obligation under the Universal Declaration of Human Rights as well as other regional and international human rights treaties ratified by The Gambia.

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GLOSSARY OF TERMS (FAO DEFINITIONS).

1. Access

Access by individuals to adequate resources (entitlements) for acquiring appropriate foods for a nutritious diet. Entitlements are defined as the set of all commodity bundles over which a person can establish command given the legal, political, economic, and social arrangements of the community in which they live (including traditional rights such as access to common resources).

2. Access to Adequate Food

The right to adequate food is realised when every man, woman, and child, alone in community with others, always has physical and economic access to adequate food or means for its procurement.

3. Access to Food (Right to Food)

In the context of human right to food, accessibility of food entails both economic and physical accessibility: Economic accessibility implies that personal or household financial means to buy food for an adequate diet should be at a level to ensure that the satisfaction of other basic needs is not threatened or compromised.

Economic accessibility applies to any acquisition pattern or entitlement through which people procure their food.

Physical accessibility implies that adequate food is accessible to everyone, including vulnerable individuals and groups such as infants, small children, elderly people, the physically disabled, people terminally ill or with persistent medical-including mental-problems, and prisoners. Victims of natural or human -made disasters, armed conflict and wars, indigenous people and ethnic groups, people in remote areas and other disadvantaged groups may need special attention with respect to accessibility of food.

4. Food Safety

This is a situation that allows all people to have at all times, physical and economic means of access to innocuous and nutritious food that meets their nourishments demand and their preferences in order to have a sound and healthy life.

5. Food Security

Food security exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food that meets their dietary energy requirements and food preference for an active and healthy life.

6. Food Sovereignty

Food Sovereignty recognises that control over the food systems needs to remain the hands of farmers, for whom farming is both a way of life and a means of producing food. It also recognises the contribution of indigenous peoples, pastoralists, forest dwellers, workers and fishers in the food system. It ensures that food is produced in a culturally acceptable manner and in harmony with the ecosystem in which it is produced.

7. Food Insecurity

Food Insecurity exists when people lack secure access to enough safe and nutritious food for normal growth and development and an active and healthy life. It may be caused by the unavailability of food, insufficient purchasing power, inappropriate distribution, or inadequate use of food at the household level. Food insecurity, poor conditions of health and sanitation, and inappropriate care and feeding practices are the major causes of poor nutritional status. Food insecurity may be chronic, seasonal, or transitory.

8. Nutrition Security

Nutrition security means not only that people consume enough calories and nutrients, but that their diet is well-balanced and of good quality. To use nutrients efficiently, a person must be well cared for and relatively free of disease. Nutritional security thus depends on amongst other, food security, disease prevention and control, health care, and adequate provision of care at individual, household, and community levels.

9. Nutritious Food

The Global Alliance for Improved Nutrition (GAIN) has defined nutritious food as “ a food that, in the context where it is consumed and for the individual who consumes it, provides beneficial nutrients and minimises potentially harmful elements.” This definition aligns with

the FAO definition of the same and with the Voluntary Guidelines set out by the Committee on World Food Security on Food Systems and Nutrition.¹

10. Progressive realisation

The obligation to progressively realise guaranteed human rights acknowledges that some rights, including the right to food may be difficult in practice to achieve in a short period of time, and that States may be subject to resource constraints, but requires them to act as best as they can within their means. This does not mean that States may defer indefinitely efforts to ensure the enjoyment of the right to food. They have a duty to continuously move as expeditiously and effectively as possible towards the full realisation of the right to food for all.

11. Resilience

The ability to prevent disasters and crises as well as anticipate, absorb, accommodate, or recover from them in a timely, efficient, and sustainable manner.

12. Safe and Nutritious Food

Assurance that food will not cause harm to the consumer and will provide the expected nutritional value when it is prepared and/or eaten according to its intended use.

13. State Obligation

For each human right held by individuals, there are corresponding obligations on the part of others. Under international law, human rights obligations are primarily held by States. Obligations regarding human rights are spelt out in international human rights treaties. International law generally distinguishes between obligations of results and obligations of conduct. Obligations of conduct require specific actions to be undertaken or omitted, whereas obligation of result focuses on the outcome. In the context of the right to food, the obligation of conduct is to respect, protect and fulfil the right to food. The obligation of result refers to the right to food being realised.

¹ Committee on World Food Security (CFS) ‘Voluntary guidelines on food systems and nutritious’ adopted at the 47th Session of the Committee on World Food Security 8-11 February (2021) 6, para 19: Food and Agriculture Organisation ‘Voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security’ adopted by the 127th Session of the FAO Council November 2004 (2005) 38 para 10(3).

BACKGROUND OF THE ADVISORY NOTE

On 10 December 2023, the world will commemorate the 75th anniversary of the Universal Declaration of Human Rights (UDHR) which was adopted in 1948 and has been the catalyst for the formulation and adoption of binding human rights instruments at the UN and other regional levels, human rights education, and the struggle for lives of dignity, participation in governance and freedom from fear by groups, communities, and individuals all over the world. As part of this commemoration, the Commission examines how people in The Gambia enjoy or should enjoy the right to food which is a recognized human right under the UDHR and what the State can do to fully guarantee the realization of this right. This Advisory Note is also pertinent as The Gambia, like most underdeveloped countries, grapples with the consequences of global conflict on food supply in the world and the skyrocketing costs or prices of basic commodities which are affecting the right to food and ‘freedom from want’.

The National Human Rights Commission (NHRC) is an independent State Institution mandated to inter alia promote and protect human rights in The Gambia. It undertakes studies on matters concerning human rights and assists the Government to formulate appropriate policies to guarantee these rights. As part of its advisory role, the Commission reviews Bills and existing legislation to determine their compatibility with the 1997 Constitution, human rights standards, best practices and The Gambia’s obligations under ratified international and regional human rights treaties.

PURPOSE OF THE ADVISORY NOTE

Economic, Social and Cultural Rights (ESCR) constitute three interrelated components of rights that are interdependently linked with civil and political rights. At the core of social rights is the right to an adequate standard of living. The obligations imposed by these rights require, at a minimum, that the State creates the necessary enabling conditions, including laws, policies, and structures, for its people to enjoy or have access to necessities such as adequate food and nutrition, clothing, housing, and good health care.

The Right to Food has been accepted as a legally binding obligation by many States that have it enshrined in their national Constitutions and legislation. Notwithstanding, globally more than 800 million people are unsure of where their next meal is coming from², and more than 900,000 people worldwide are fighting to survive in catastrophic hunger.³ The latest food security assessment data of The Gambia revealed the worse level of food insecurity and malnutrition in The Gambia, with 207,000 people, approximately 8.6 percent of the population, face emergency levels of hunger between June and August 2022.⁴ Between 2016 and 2019, more than 18, 000 children between the ages of 0-5 were admitted and treated for Severe Acute Malnutrition in The Gambia. With an average recovery rate of 88%, the lives of more than 16,000 children were saved.⁵ UNICEF estimated that in 2021 more than 9000 children suffered from severe acute malnutrition due to food insecurity and the effects of COVID-19 in The Gambia.⁶

² World Food Programme, *A global food crisis*. Available here: <https://www.wfp.org/global-hunger-crisis#:~:text=Conflict%2C%20economic%20shocks%2C%20climate%20extremes,next%20meal%20is%20coming%20from..> (Last accessed 15th May 2023).

³ Ibid.

⁴ The Point Newspaper, 'Food security assessment data reveals worse level of food insecurity, malnutrition in Gambia' September 5, 2022. Available here: <https://thepoint.gm/africa/gambia/headlines/food-security-assessment-data-reveals-worst-level-of-food-insecurity-malnutrition-in-gambia#:~:text=%E2%80%9CThe%20latest%20food%20security%20assessment,between%20June%20and%20August%202022.%E2%80%9D>. (last accessed 11th August 2023).

⁵ UNICEF, "Promoting equity in nutrition health for children in The Gambia: As COVID-19 threatened to disrupt nutrition services, UNICEF intervened to avert a possible crises." Available here: <https://www.unicef.org/gambia/stories/promoting-equity-nutrition-health-children-gambia>. (last accessed 11th August 2023).

⁶ Ibid.

As of 2021, The Gambia, with a population of 2.4 million people, had a Gross Domestic Product (GDP) per capita of 835 USD.⁷ Despite the improvements in poverty reduction, the COVID-19 pandemic has reversed this gain which has pushed The Gambia's poverty rate from 48.6 per cent in 2015 to 54.4 per cent in 2020.⁸ To this end, high rates of inflation, driven by food prices, have impacted the poor and created a significant gap between the enjoyment of the right to food on paper and in practice. In 2015, nearly half of Gambians (48.6%) were considered to be poor, and thus unable to meet the basic cost of living estimated at GMD1,503 per person per month. Data from the 2020/21 Household Survey showed that more than half of Gambians (53.4% or 1.1 million) were poor- an increase of 4.8 percent points from the 2015 poverty levels.⁹ It also showed that poor households spent 65 per cent of their income on food¹⁰, and high food inflation impact negatively on their enjoyment of the right to food. Although stronger projected growth in The Gambia is expected to have a positive effect on poverty reduction in the coming years, these gains will be tempered by continued high food prices with lingering effects on poverty. There also exists a major hindrance in translating the legal commitments made in laws into development actions.

In The Gambia, Chapter Four of the 1997 Constitution, also referred to as the Bill of Rights, guarantees various fundamental rights and freedoms, including civil and political rights. However, it does not adequately guarantee economic, social, and cultural rights – most of these rights are not enforceable in any court.¹¹ The Constitution instead makes an implicit reference to the right to food under the Directive Principles of State Policy.¹²

The objective of this Advisory Note is therefore to provide an overview of the legal frameworks on the right to food in The Gambia and at the regional and international levels; highlight the gaps in the legal framework of The Gambia; proffer recommendations to the Government to

⁷ World Bank Group, *The Gambia Human Capital Review 2023*. Available here: [Gambia, The - Human Capital Review \(worldbank.org\)](#). (last accessed 9th June 2023).

⁸ Ibid.

⁹ Ibid.

¹⁰ World Bank Group, *Third Gambia Economic Update*, available here: [Third Gambia Economic Update - Accelerating Financial Inclusion to Unleash The Gambia's Growth Potential](#). (last accessed 26th June 2023).

¹¹ Section 211 of the 1997 Constitution

¹² Refer to p.13 for an explanation of Directive Principles of State Policy.

guarantee and render justiciable the right to food and suggest best practices for the attainment of the right to food in The Gambia effectively and adequately.

THE RIGHT TO FOOD A HUMAN RIGHT

The right to food is a human right. It protects the right of all human beings to live in dignity, and to be free from hunger, food insecurity and malnutrition. The right to food is thus about ensuring that all people, individually or collectively, have access to food that is quantitatively and qualitatively adequate and sufficient and the capacity to feed themselves in dignity. Consequently, all human beings have the right to food that is available, accessible, adequate, and sustainable, and ensure health and wellbeing. According to General Comment 12 by the UN Committee on Economic, Social and Cultural Rights, the elements constituting the right to food are as follows: sufficient food; adequacy; sustainability; innocuousness; respect for cultures; availability; economic accessibility and physical accessibility.

It is generally accepted that the right to food implies three types of State obligations- the obligation to respect, protect and fulfil. These obligations have been well defined in General Comment No.12 and addressed in this Advisory Note. These State obligations have also been endorsed by States, when the FAO Council adopted the Right to Food Guidelines in November 2004.¹³

Within the context of the right to food, the Government is expected to take actions that result in decreasing levels of hunger, food insecurity and malnutrition. It also means that government must protect people from the actions of powerful individuals that might violate the right to food. States must also, to the maximum available resources, invest in the eradication of hunger. Additionally, the identification of vulnerable, disadvantaged, and marginalised groups and action towards removing the factors determining vulnerability are paramount towards the progressive realisation of the right to food.

¹³ Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security. Adopted by the 12th Session of the FAO Council November 2004. Available at: <https://www.fao.org/3/y7937e/y7937e00.htm>. (last accessed 6th October 2023).

INTERNATIONAL AND REGIONAL LEGAL FRAMEWORK ON THE RIGHT TO FOOD

International Legal Framework

- **Universal Declaration of Human Rights**

The right to be free from hunger has been defined as the right “to have access to the minimum essential food which is sufficient and adequate to ensure everyone is free from hunger and physical deterioration that would lead to death.”¹⁴ The first formal reference to the right to food was made in the Universal Declaration of Human Rights (UDHR), which states that “Everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family, including food.....”¹⁵ Although the UDHR is a declaration of States' commitment to human rights, it is not a binding document. It has, however, gained recognition as a normative foundation of international law that provides for human rights, and together with the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights are referred to as ‘International Bill of Human Rights’. The UDHR serves as a solid basis for the promotion and respect of human rights in The Gambia, including the right to access adequate food. .

- **International Covenant Economic, Social, and Cultural Rights**

The Gambia is a State Party to the International Covenant on Economic, Social, and Cultural Rights (ICESCR) which it ratified in December 1978. The ICESCR guarantees the right to food as a legally binding right. It provides for the right to food in two paragraphs: *the right to adequate food as part of the right to an adequate standard of living; and the fundamental right to be free from hunger.*¹⁶ To further clarify what the right to food encapsulates, following a request from the World Food Summit held in 1996, the Committee on Economic, Social and Cultural Rights explained the obligation in General Comment No.12.

¹⁴ United Nations Human Rights, Office of the High Commissioner for Human Rights, Fact Sheet No. 34 “The Right to Adequate Food.” Available here: <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet34en.pdf>. (Last accessed 7th May, 2023).

¹⁵ Article 25 of the Universal Declaration of Human Rights.

¹⁶ Article 11 (1) and (2) of the International Covenant on Economic, Social and Cultural Rights.

Additionally, the Conclusion Observations¹⁷ on The Gambia's Initial Report on ICESCR addressed concerns about the high levels of food insecurity in The Gambia and about the prevalence of malnutrition, especially among children under the age of five. The Committee also addressed concern about the low agricultural production, which generates high food prices and significant reliance on food imports. To this end, the Committee recommended that The Gambia intensify its efforts, including under the National Nutrition Policy, to address chronic food insecurity, chronic malnutrition and the critical nutrition needs of children. The Gambia is also expected to take additional steps to improve agricultural production, including by ensuring that supports to farmers is provided on a non-discriminatory basis, targeting small-scale farmers in particular.

- **General Comment No. 12: The Right to Adequate Food (Art. 11)**

General Comment No.12 of the Covenant on Economic, Social and Cultural Rights is the main interpretative text of the human right to food and provides an authoritative interpretation of the right to adequate food.

It provides States Parties to the ICESCR with the normative content of the right to food and their obligations. Accordingly, the Committee provides that the right to food is realised when *“every man, woman, and child, alone or in a community with others, has physical and economic access at all times to adequate food or means for its procurement.”* It emphasises that the right to food *“shall not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins, and other specific nutrients.”*

The Committee considers that the core content of the right to food implies: the availability of food in quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture; and the accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.¹⁸ It indicates that adequacy is achieved when the food consumed is free from contaminants and meets all of an individual's dietary needs according to the sex, age, health status, physical activity and living condition without violating cultural and religious prohibitions.¹⁹ The

¹⁷ Concluding Observations on the Initial report of The Gambia: Committee on Economic, Social and Cultural Rights. E/C.12/GMB/CO/1. Available here: <https://digitallibrary.un.org/record/790210?ln=en>. (last accessed 10th October 2023).

¹⁸ The right to food within the international framework of human rights and country constitutions. FAO Handbook. Available at: <https://www.fao.org/3/i3448e/I3448E.pdf>. (last accessed 6th October 2023).

¹⁹ General Comment No.12

Committee also explains the obligation of States and provides guidance on the implementation of this right at the national level, including the adoption of national strategies *“to ensure food and nutrition security for all, based on human rights principles that define the objectives, and the formulation of policies and corresponding benchmarks.”*

- **Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights**

The Optional Protocol to the ICESCR allows persons whose economic, social, and cultural rights have been violated by their States to file complaints with the UN Committee on Economic, Social, and Cultural Rights. This is, however, applicable to States that have ratified this Optional Protocol. Besides creating an avenue for litigation of economic, social, and cultural rights, the Optional Protocol can also be used as a tool for advocacy to push for improvements in the States Parties’ judicial system, as well as for improvement in the policy and legal framework for the advancement and progressive realisation of the right to food. The Protocol reinforces that a person whose economic, social, and cultural right have been violated must have a remedy in their own country before pursuing a remedy at the international level. It includes three procedures: a complaints procedure; an inquiries procedure; and an inter-State complaints procedure.

The Gambia is, however, yet to ratify the Optional Protocol and hence its citizens cannot file a complaint before the Committee.

- **Convention on the Elimination of All Forms of Discrimination Against Women**

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), ratified by The Gambia in 1993, is the primary international human rights instrument dealing with the protection and promotion of women’s human rights. CEDAW deals with nutritional aspects of the right to food by requiring States to provide adequate nutrition during pregnancy and lactation, thus taking a “protective” rather than a human rights approach.²⁰ Article 14 of CEDAW, while elaborating on the rights of rural women, does not

²⁰ Article 12 of the Convention on the Elimination of All Forms of Discrimination Against Women.

explicitly mention the right to food; rather it refers to key components of the right to food such as access to land and agricultural credit.²¹

The CEDAW Committee in General Recommendation No.34 acknowledged the vital contribution of rural women in achieving food security, reducing poverty, malnutrition and hunger, and promoting rural development. The Recommendation encourages States Parties to ensure the realisation of the right to food and nutrition of all rural women within the framework of food sovereignty and ensure that they have the authority to manage and control their natural resources. It further calls on States Parties to pay particular attention to the nutritional needs of pregnant and lactating women, put in place effective policies to ensure that rural women have access to adequate food and nutrition, and consider the Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security.²²

- **Convention on the Rights of the Child**

The Convention on the Rights of the Child (CRC), ratified by The Gambia in 1990, protects the child's right to food in the context of the right to life, survival and development, healthy nutrition, and an adequate standard of living.²³

- **Convention on the Rights of Persons with Disabilities**

The purpose of the Convention on the Rights of Persons with Disabilities (CRPD) is to promote and protect equal enjoyment of rights for persons with disabilities and ensure that they are treated fairly and with dignity. The CRPD and its Optional Protocol were acceded to by The Gambia in July 2015.

Articles 28 of the Convention, which touches on adequate standard of living and social protection, calls on States Parties to recognise the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realisation of this right without discrimination on basis of

²¹ Article 14 (2) (g) "States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development, and in particular, shall ensure to such women the right: (g) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity, and water supply, transport and communications.

²² General Recommendation No. 34 (2016) on the rights of rural women, Committee on the Elimination of Discrimination against Women. CEDAW/C/GC/34. Available at: file:///C:/Users/HP/Downloads/CEDAW_C_GC_34-EN.pdf. (last accessed 6th October 2023).

²³ Article 24 of the Convention on the Rights of the Child.

disability. It further calls on States Parties to guarantee access to “affordable services, devices and other assistance for disability- related needs” and offer those “living in situations of poverty... assistance...with disability related expenses.”

Regional Instruments

- **The African Charter on Human and Peoples’ Rights**

The African Charter on Human and Peoples’ Rights (hereinafter referred to as the African Charter), adopted in 1981, is the primary regional instrument that protects human rights in Africa. It provides a wide range of socio-economic rights but does not expressly recognise the right to food. The African Commission on Human and Peoples’ Rights (hereinafter referred to as the Commission) which is entrusted with the responsibility to monitor and promote the implementation of the African Charter has, however, established jurisprudence on the interpretation of the African Charter vis-à-vis the right to food.

In its landmark decision in the *Social and Economic Rights Action Centre (SERAC) and the Centre for Economic and Social Rights (CESR) v. Nigeria*,²⁴ (the “Ogoni Case”), the African Commission on Human and Peoples’ Rights considered this communication which was a complaint about the violation of wide-ranging rights, including the right to food. The Nigerian Government was directly involved in oil production through the Nigerian National Petroleum Company (NNPC), a majority shareholder in a consortium with Shell Development Corporation (SPDC). The consortium exploited oil with little or no regard for the health or environment of local communities. It also neglected and failed to maintain its facilities, causing numerous avoidable spills within the proximity of the villages where the exploration was taking place. As a result, water, soil, and air became contaminated resulting in short and long-term health impacts, including skin infection.²⁵ The Nigerian Government condoned and facilitated these violations by placing the legal and military powers of the State at the disposal of the oil companies.

The Commission, in its examination of the communication, considered whether the then military Government of Nigeria had, through its actions and inactions, violated the rights of the Ogoni community. While the right to food is not explicitly enshrined in the African Charter

²⁴ Communication No. 155/96.

²⁵ Ibid.

on Human and Peoples' Rights, the African Commission read this right into the Charter and held that it was implicit in many other rights, such as the rights to life, health, and economic, social and cultural development. In its decision, the African Commission indicated that the right to food is inseparably linked to the dignity of human beings and is therefore essential for the enjoyment and fulfilment of such other rights as health, education, work, and political participation.

- **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (The Maputo Protocol).**

The Maputo Protocol, ratified by The Gambia in 2005, was adopted by the African Commission to ensure that the rights of women are promoted, realised and protected to enable them to enjoy fully all their human rights. Within the context of the Right to Food, the Protocol provides the right to food security for women to the extent that States Parties are obligated to take measures that ensure women have access to clean drinking water, sources of domestic fuel, land and means of producing nutritious food and to establish adequate systems of supply and storage to ensure food security.

- **African Charter on the Rights and Welfare of the Child**

Like the African Charter, the African Charter on the Rights and Welfare of the Child (Also referred to as the African Children's Charter), ratified in 2000, does not contain an explicit provision on the right to food for children. Instead, the African Children's Charter binds States Parties to provide adequate nutrition and safe drinking water in partial discharge of the duties engendered by the right to health.²⁶

- **Resolution on the Right to Food and Nutrition in Africa- ACHPR/Res. 431(LXV) 2019.**

After adopting Resolution ACHPR/Res, 374 (LX) 2017 on the Right to Food and Food Security in Africa, the African Commission adopted Resolution on the Right to Food and Nutrition in Africa.²⁷ Considering Article 14 of the African Charter on the Rights and Welfare of the Child which requires States to ensure the provision of adequate nutrition and combat diseases and malnutrition within the framework of primary healthcare through the application of appropriate technology for children and that some parts of Africa are burdened with a high prevalence of

²⁶ Article 14(2) (c) of the African Charter on the Rights and Welfare of the Child.

²⁷ ACHPR/Res.431 (LXV) 2019.

undernourishment due to economic and environmental challenges, the Resolution sets out and further reaffirms the Commission's position in ensuring that Member States achieve the full implementation of the right to food. Thus, it calls on all States Parties to the African Charter to, among other things:

- I. Take appropriate policy, institutional and legislative measures to ensure the full enjoyment of the right to food which includes constantly accessible and quality food that meets the requirement of nutrition and cultural acceptability;
- II. Promote and strengthen multi-sector and gender-inclusive platforms at the national level, with the full and meaningful participation of small-scale food producers, farmers, livestock farmers, and fishermen to develop, implement, and monitor policies towards the realisation of the right to food and nutrition;
- III. Ensure prisoners have access to adequate food to enjoy their physical and mental right fully;
- IV. Design policy responses and interventions in situations of protracted crisis, conflicts, and natural disasters to protect vulnerable, disadvantaged, and marginalised groups to realise their right to food and nutrition;
- V. End the practice of resource grabbing affecting farming, fisheries, forests, and pastoralist communities, and move towards the equitable management of these resources (natural, material, and financial) by strengthening community rights, benefit-sharing policies, and enacting strong and binding legislations;
- VI. Foster local and organic food production and consumption, including by banning the use of genetically modified organisms; and
- VII. Strictly regulate the importation of foreign food items as well as the promotion and marketing of industrialised and highly processed foods.

NATURE AND SCOPE OF STATE OBLIGATIONS ON THE RIGHT TO FOOD.

Under international and regional human rights norms and standards, States are obliged to respect, protect, and fulfil the right to food of all people living under their jurisdiction. States are obliged to ensure that everyone has access to the minimum essential food, which is sufficient, nutritionally adequate, and safe. The Gambia, being State Party to all the core international legal instruments, also has the obligation to both guarantee and fulfil this right. To achieve this, the Government is expected to adopt the appropriate policies and measures that are deliberate, concrete, and targeted to fully realise the right to food in the country.

The measures that are taken to fulfil the right to food, however, vary from one State to another. Hence, States have the discretion to decide which measures will be more appropriate and effective to realize the right to food. These measures include the adoption of legislation or administrative, economic, financial, educational, or social norms that are implemented in the short, medium, or long term. Notwithstanding, the Committee on Economic, Social and Cultural Rights has clarified that States Parties must “*move as expeditiously and effectively as possible towards the full realisation of the rights contained in the covenant which includes the right to food.*”²⁸

In fulfilling their obligations, States are guided by the principle of non-discrimination. States should ensure that everyone can enjoy the right to food without discrimination, irrespective of race, colour, sex, language, religion, political and other opinions, national or social origin, property, birth, or another status. Special measures may be adopted in certain cases to ensure that everyone enjoys the right to food, equally.

The Obligations to Respect, Protect and Fulfil

The *obligation to respect* the right to food implies that States should not take measures that would bar individuals from having access to adequate food. This obligation also imposes on States not to suspend legislation or policies that provide people with access to food unless fully

²⁸ Fact Sheet No. 16 (Rev. 1): The Committee on Economic, Social and Cultural Rights (Archive). Available here: <https://www.ohchr.org/en/publications/fact-sheets/fact-sheet-no-16-rev-1-committee-economic-social-and-cultural-rights>. (Last accessed 14th August 2023).

justified. A violation of the obligation to respect the right to food could occur if a government forcefully evicts people from a land that was a primary source of subsistence for them.²⁹

The *obligation to protect* implies that States must safeguard the enjoyment of the right to food against interference by third parties such as private individuals, private enterprises, and other entities. The African Commission on Human and Peoples' Rights draws two conclusions from this obligation:³⁰ First, States must regulate and monitor the activities of non-state actors, which may adversely affect the exercise of women's right to food security; and secondly, States must ensure that legislation which imposes a duty on private parties to respect the right to food security is implemented and appropriate remedies provided to victims. The remedies may range from administrative to judicial and quasi-judicial. To access these remedies, women victims should be able to approach the courts and tribunals, and also independent institutions such as Human Rights Commissions.

The obligation *to fulfil* comprises the obligation to *facilitate* and the obligation to *provide*. Within the context of the right to food, the obligation to facilitate means that States must engage in activities that strengthen people's ability to access means and resources to secure their livelihoods. States must identify vulnerable groups and implement policies to ensure their access to food or the means of obtaining it. When an individual or group is unable to enjoy the right to food by the means at their disposal, for reasons beyond their control, States must provide it.

A state's obligation to progressively realise socio-economic rights within its available resources was read into the African Charter and its applicability to the right to food security.³¹

The *obligation to promote* denotes that States must adopt measures to enhance people's understanding of women's right to food security and of mechanisms that are in place to protect the right. The Africa Charter and the Maputo Protocol impose on States the duty to educate their citizens, including women, on the rights, freedoms, and duties that are enshrined in those texts.³² Women have a fundamental right to be educated on food security. Awareness raising

²⁹ Land Tenure Working Paper 15, "Responsible Governance of Land Tenure: An Essential Factor for the Realization of The Right To Food." Food and Agricultural Organization of the United Nations. May 2010. Available here: <https://www.fao.org/3/AL382E/al382e.pdf>. (last accessed 9th May 2023).

³⁰ Institute for Human Rights and Development in Africa v. Democratic Republic of Congo, Communication 393/10, 9-18 June 2016 paras 101-102.

³¹ Socio-Economic Rights Principles para 13

³² Socio-Economic Rights Principles para 8, art 12.

has been considered an effective means through which states may see to it that their organs and private parties, especially rural areas, understand the normative content of their rights and mechanisms to protect them.

The existence of national plans and policies on food security shows that States are aware they should move expeditiously towards food security for women, which would be a proxy indicator for food security.

CONSTITUTIONAL AND LEGAL PROTECTION OF THE RIGHT TO FOOD IN THE GAMBIA

(1) The 1997 Constitution

The 1997 Constitution under Chapter 4 on Fundamental Human Rights and Freedoms (also referred to as the Bill of Rights) does not contain any specific provision on the Right to Food. However, section 216(4) on the Directive Principles of State Policy which is found in Chapter XX of the Constitution can be construed, even if not expressly stated, to include or recognise the right to food. This section provides that *“the State shall endeavour to facilitate equal access to clean and safe water, adequate health and medical services, habitable shelter, sufficient food and security to all persons...”*³³

However, the Directive Principles of State Policy as provided in Chapter XX, including the provision of section 216(4) of the Constitution, do not confer legal rights and hence a violation of economic and social rights may not be enforced in any Court of The Gambia. These principles can, however, be relied upon by the State when making policy decisions, laws, and in the administration of The Gambia. Additionally, Courts are also enjoined to have regard to the principles in interpreting any law based on them.³⁴

Although the State is mandated by section 216(4) of the Constitution to facilitate sufficient food and security to all persons, it does not make this right enforceable by any court of law. The non-enforceability of such a provision renders the right to food, to all intents and purposes, non-existent in the Constitution. The Enforceability of Directives Principles of State Policy, especially the right to sufficient food and security for all persons, will oblige the Government to carry out its responsibilities in a comprehensive and time-bound manner. It would also create some level of accountability on the side of the Government.

(2) The Prison Act

The Prison Act provides for the custody of prisoners and the regulation of the prisons. It was enacted in 1853 and amended several times with the last amendment in 2008, and thus does not capture current trends and realities of human rights principles, standards and best practices.

³³ Section 216(4) of the 1997 Constitution of The Gambia.

³⁴ Section 211 (b) of the 1997 Constitution of The Gambia “The principles of State policy in this Chapter shall form part of the public policy of The Gambia for the establishment of a just, free and democratic State. These principles shall not confer legal rights or be enforceable in any court.. (b) but the courts are entitled to have regard to these principles in interpreting any laws based on them.

Amongst other key provisions, the Prison Act makes provision for the custody of prisoners, including provisions for adequate supply and unrestricted access to food. The Third Schedule of the Act stipulates the dietary needs of prisoners. Subject to the recommendation of a medical officer, the dietary schedule of a prisoner may not be altered beyond one month unless his or her condition does not improve. However, the Act does not provide for the hiring of a dietician or nutritionist to ensure that the quality of food that is prepared is of good quality and safe for consumption. Thus, there is the need to have a dietician or nutritionist whose advice the medical officer could be soliciting when making recommendations for changes in the dietary needs of prisoners.

Although the current Prisons Administration has made efforts to improve the quality and nutritional value of food provided to inmates, more care and other standards should be observed in how the food of prisoners are prepared. While the Prison's Act requires prisoners employed in the kitchen, or otherwise handling food, to clean their hands at all times, it has been reported by the United Nations Development Programme in its Rapid Prisons Assessment Report that the majority of prisoners are still unable to eat the food served as most of the prisoners who prepare the food lack the skill and hygiene to cook food in large quantities.³⁵ Furthermore, inmates in all prisons complained of being served insufficient food. Some inmates at the Main Yard of the Mile II Prison complained that they normally receive their lunch at around 5pm instead of 2pm which is stipulated lunchtime.³⁶

The Act makes no provision for food preservation. However, there exists storage facilities though with limited space in most prisons in the country.³⁷ Consequently, the foods, especially the vegetables, become easily perishable or contaminated.³⁸

Budgetary allocations to prisons are made monthly. However, our findings revealed that 98 per cent of the monthly allocation goes into feeding which leaves other areas of prison

³⁵ United Nations Development Programme (UNDP) Report on "Rapid Prisons Assessment Report" at Page 12. Banjul, The Gambia. August 2019. Available at: <https://info.undp.org/docs/pdc/Documents/GMB/Prison%20report%20final.pdf>. (Last accessed 15th May 2023). See Also, National Human Rights Commission, "Monitoring Visits to Detention Facilities (Prisons and Selected Police Stations)" "While the inmates dicated that there have been improvements in the quality of food served, there is the need to increase the quantity served and ensure the food is nutritionally balanced."

³⁶ National Human Rights Commission 2020 Monitoring Visits to Detention Facilitates Report.

³⁷ Ibid

³⁸ Ibid.

administration inadequately funded.³⁹ Despite this, the quality of food provided remains below the required human rights standard. While there is the need to increase the budget allocated to the prisons in the national budget, good storage facilities should be provided in all the three prisons for food preservation.

(3) The Food Act 2005

The Food Act was enacted in 2005 to control the production, manufacture, sale, distribution, importation, and exportation of foods. It also establishes the National Nutrition Agency (NaNA) whose main function includes the coordination of the following: all nutrition and related activities, public information and awareness raising on food and safety issues, and research and investigation into all matters about food safety and control. However, with the enactment of the Food Safety and Quality Control Act, 2011, the following provisions of the Food Act were repealed: Parts IV, VII, VIII; Section 36(Prohibition of Sale of Food); Section 37 (Other Prohibitions); Section 42 (Inconsistency with other enactments); and Section 43(2) (Regulations). All these provisions are now under the purview of the Food Safety and Quality Authority (FSQA) of The Gambia.

The Act has, however, never been revised or amended since 2005 and does not therefore address or cover the current trends and realities needed to fully realise the right to food. While the National Nutrition Agency is doing a tremendous work in advancing the nutritional status of children, it is also faced with challenges, including inadequate resources, which inhibit the effective implementation of all its functions under the Act.

(4) Food Safety and Quality Control Act, 2011

The Food Safety and Quality Control Act 2011 deals with food safety and quality regime and institutes structures and control mechanisms to ensure the safety and quality of food and feed at the national level.⁴⁰ The Act provides for an independent Scientific Committee which is responsible for carrying out risk assessments and providing independent scientific opinions on food safety issues. The Scientific Committee replaced the National Codex Alimentarius and Sanitary and Phytosanitary Committee established under section 12 of the Food Act and performs the function of the Food Control Advisory Committee. It is responsible for the preparation of primary and secondary legislation relating to food and feed; monitoring the

³⁹ Ibid

⁴⁰ See Short Title of the Food Safety and Quality Act, 2011.

implementation of food and feed laws and regulations with a view to ensuring that they meet national objectives and comply with international commitments; advising the Government on the performance of the Authority and its structures, including the delegation of responsibility to other bodies, on policy with regard to food safety and quality matters.

(5) Gambia Consumer Protection Act 2014

The Consumer Protection Act was enacted in 2014 to protect consumers from unfair and misleading market conduct. It establishes the Consumer Tribunal of The Gambia.

The Act gives every consumer the right to safe, good quality goods and services, and food products. Every consumer also has the right to receive goods that are reasonably suited for the purposes for which they are generally intended and of good quality.⁴¹ To ensure that consumers receive safe goods from suppliers, the Act makes provisions for warranties and conditions of sale. It is required that except where excluded by contract, the nutrient content of food products should be spelt out in the package they are contained.⁴² This provision of the Act is intended to ensure that everyone consumes food that is safe.

Additionally, the Act makes provision against unfair trade practices. It prohibits a supplier or provider from adopting or indulging in a trade practice that brings about manipulation of price or conditions of delivery that affects the flow of supplies in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs or restrictions.⁴³

(6) The Women's Act 2010

The Women's Act, enacted in May 2010 and amended in 2015, implements the legal provisions of the National Policy for the Advancement of Gambian Women and Girls and incorporates and enforces the Convention on the Elimination of All Forms of Discrimination Against Women and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

The Act provides, amongst other key provisions, for the right to nutritious and adequate food. It states in section 48 that "Every woman has the right to nutritious and adequate food." It further states that the "Government shall take appropriate measures to-

⁴¹ Section 6 of the Gambia Consumer Protection Act, 2014.

⁴² Ibid at Section 8(f).

⁴³ Ibid at Section 12 (2).

- (a) Provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food; and
- (b) Establish adequate systems of supply and storage to ensure food security.”

The Gambia National Food Security Survey Report⁴⁴ however indicates that the prevalence of food insecurity was observed to be higher in female-headed households compared to male-headed households. The Report also indicates that 13.4 per cent of the population is food insecure in the country; 1.8 per cent are severely food insecure while 11.6 per cent are moderately food insecure.⁴⁵ Food insecurity in The Gambia increased from 5.6 per cent in 2011 to 13.4 per cent in 2021.⁴⁶ Amongst other factors, the reason for the increase in food insecurity in the country has been pegged at the increase in the prices of essential commodities since 2019, crop production decline-especially in rainfed farming communities and among petty traders. This has mostly affected women who cannot get enough to meet their basic food needs.⁴⁷

- **Children’s Act 2005**

The Children’s Act 2005 does not contain an explicit provision on the Right to Food for children in The Gambia, but its Section 6 provides that “Every child has the right to survival and development.” The right to survival and development is strongly linked to the rights of the child to the enjoyment of the highest attainable standard of health and health services, and to an adequate standard of living. The provision of nutrition and adequate food to children is key to the survival and development of a child.

- **Persons With Disabilities Act 2021.**

Similar to the Children’s Act of 2005, the Person’s With Disabilities Act 2011 does not contain an explicit provision on the Right to Food for person’s with disabilities. However, in section 4 of the Act, it provides that one of the Principles of the Act is to promote “provision of basic standards of living and social protections.” Section 59(1) of the Act also makes it clear that “ a person with disability shall be entitled to social protection without discrimination on the basis of his or her disability.” It further provides in 59 (2) (b) that the “Minister after consultation

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ Ibid

⁴⁷ Ibid

with the Advisory Council and Ministers responsible for labour, employment and finance, take appropriate steps to ensure that persons with disabilities enjoy access to social security and protection, including steps to access by person with disabilities, in particular the aged, women, children and youth, to social protection programmes and poverty reduction strategies.”

Social protection programs have a crucial impact in ensuring access to basic human that lead to an adequate standard of living for all persons, including those living with disabilities. The programmes provide concrete and effective instruments to increase levels of nutrition which translates into higher resilience and better ability to cope and manage risk.

- **National Nutrition Policy 2021 – 2025**

The National Nutrition Policy 2021 – 2025 is complemented by a Strategic and Business Plan that’s enable its implementation from 2021 to 2025 and ensure significant improvements in the nutritional status of The Gambia’s population. It also supports the fulfilment of the Government’s commitment to protect Universal Declarations on the Eradication of Hunger and Malnutrition amongst other key instruments. Its priority areas include Improving maternal nutrition, improving food and nutrition security at the national, community and household level, improve food standards, quality, and safety, etc. Notwithstanding, there remains a major challenge in the attainment of the right to food in The Gambia. Since 2020, many developments in nutrition and nutrition-related issues have emerged which need to be covered in national policies and action plans.

- **National Development Programme (2023 – 2027)**

The National Development Programme (NDP) aims to consolidate gains in Democratic Governance, Accelerate Green Economic and Social Transformation and Build Resilience to Shocks and Crises which includes programmes geared towards the prevention of food insecurity in the country. Hence one of the programme priorities of the NDP is to promote food and nutritious security, environmental sustainability and disaster risk reduction t , build resilience and minimise the adverse effects of climate change.

- **Agricultural and Natural Resources Policy 2017-2026**

Agriculture in The Gambia is rain-fed and accounts for 28% of the Gross Domestic Product.⁴⁸ The food self-sufficiency ratio is however pegged at about 50%.⁴⁹ The Agricultural and Natural

⁴⁸ National Development Plan (2023 – 2027).

⁴⁹ Ibid.

Resource Policy (2017 – 2026), in an effort to optimise this, aims to maximise the poverty reduction and enhance food, income, and nutritious securities through the optimal utilisation of the sector’s resources consistent with safeguarding the environment.

- **School Feeding Programme Policy 2015**

The Education Policy of The Gambia 2016-2030 places emphasis on the strengthening of school feeding programmes. It is against this backdrop that the School Feeding Programme was developed to set the agenda to create a road map to achieve this commitment made by the Government. The Policy aims to ensure that school going children in public schools have affordable nutritious school meals, promoting a sustainable school feeding programme, improved nutrition and health and encourage participation in the process of developing a nationally owned school feeding programme as the main policy priorities.

However, for this Policy to be effectively implemented, it should be integrated into other national policies dealing with Education, Agriculture, Health and Social Protection and other important policies. The sustainability of the school feeding programme should also be incorporated into the Policy and continuously revised as the priorities evolve.

- **National Social Protection Policy 2015 – 2025**

The National Social Protection Policy was designed to contribute towards the alleviation of poverty and vulnerability in the country in line with Vision 2020 and the 2012 – 2015 Programme for Accelerated Growth and Employment of the Government of The Gambia. The Policy was developed due to the existence of gaps in the social protection system, and which required modernisation and expansion in order to provide reliable and effective protection from multi-faceted shocks and stresses to build people’s resilience to adversity and hardship.

Environmental shocks and stresses, such as droughts, floods and over-exploitation of natural resources particularly in the form of deforestation, have been increasing in the country with important consequences on people’s food and nutritional security and general well-being.

If implemented effectively, the policy will promote the progressive realisation of human rights including the right to adequate food. The introduction of predictable and long-term social assistance measures targeted at extremely poor households and vulnerable individuals will support them in meeting their daily food requirements and essential needs.

THE ROLE OF COURTS IN THE REALIZATION OF THE RIGHT TO FOOD

The right to food forms part of economic, social, and cultural rights, which the State is required to take steps to achieve. As a State Party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and under Section 216 of the 1997 Constitution, the Government has an obligation to respect, protect and fulfil the right to food of all individuals in The Gambia.

Human rights obligations would have little meaning if rights holders cannot hold duty bearers accountable for the respect, protection and realisation of human rights. In a democratic society, political accountability is established through periodic, free and fair elections, and parliamentary scrutiny of the Executive branch of Government. Administrative accountability includes that of public officials to their superiors and to those whom they are mandated to serve.

Judicial and quasi-judicial accountability is established through legislation, its implementation and, in the final instance, the ability of a free and independent Judiciary or quasi-judicial body to uphold the law through the effective enforcement of judicial pronouncements, thus supporting both the separation and balance of power.

The Judiciary can play a key role in the advancement of the right to food by ensuring that the right is upheld and providing redress to individuals whose rights have been violated. While the right to food has been enshrined in international law since 1948, it is only over the past 30 years that the international community has sought to clarify the content and scope of the right and that States have begun to adopt the right into domestic legal systems. The right to food litigation is still at a nascent stage of development, with a growing but still limited number of domestic courts around the globe having expounded upon its tenets or made findings of violations. Nevertheless, the African Commission has made a significant decision in this regard in the “Ogoni case”.

Similarly, with regard to the justiciability of the right to food and other economic and social rights, the South African Constitutional Court has affirmed that “*at the very minimum, socio-economic rights can be negatively protected from improper invasion*”.⁵⁰

⁵⁰ Ex parte Chairperson of the Constitutional Assembly: in Certification of the Constitution of the Republic of South Africa 1996 (First Certification judgment) 1996 (4) SA 744 (CC), paras. 77 – 78.

This type of protection would be relatively easy to be justiciable in most jurisdictions. Negative protection of the right to food is similar to negative protection of other human rights and merely requires that the State refrains from interfering with efforts made by individuals to feed themselves - that is, simply to respect this right. Consequently, negative obligations do not necessitate the utilisation of State resources, nor do they require a complex analysis of entitlements. Even a restrictive approach to economic, social and cultural rights leaves some space for justiciability:

While Governments intentionally violate civil and political rights with considerable frequency and impunity, the deliberate infliction of poverty, famine, or ill health is far less common. When it does occur – when deprivations are deliberately imposed on a population in whole or in part, especially from discriminatory motives – sanctions are, of course, appropriate.⁵¹

This Advisory Note supports that the right to food and economic, social, and cultural rights, in general, are justiciable. It should be borne in mind, however, that within the context of the 1997 Constitution, arguments concerning the justiciability of the right to food may be made in several ways. Firstly, the right to food is closely related to the right to life - a civil and political right that is well-recognized in international and regional human rights law and under a number of national Constitutions.⁵² Secondly, this Advisory Note is not debating whether Gambian courts or quasi-judicial bodies such as the NHRC should be able to adjudicate State violations of Chapter 20 of the 1997 Constitution (Directive Principles of State Policy) or the ICESCR, but rather whether a competent court or quasi-judicial body would and should be able to make a legal judgement as to whether the right to food had been adequately respected, protected and fulfilled. The Judiciary can play a positive role in relation to the protection and promotion of all human rights, including the right to food.

⁵¹ Dennis, Michael J. and David P. Stewart, Justiciability of Economic, Social and Cultural Rights: Should There Be an International Complaints Mechanism to Adjudicate the Rights to Food, Water, Housing and Health? *American Journal of International Law*, VOL 98, No 3, July 2004, at 498.

⁵² See Art. 6 International Covenant on Civil and Political Rights which states: “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”; on the scope of Art. 6 see Human Rights Committee, General Comment 6: The right to life, 30 April 1982, para. 5, U.N. Document HRI/GEN/1/Rev. 6 of 12 May 2003, p. 128 where the Committee notes that “the right to life has been too often narrowly interpreted (...) The expression ‘inherent right to life’ cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive measures (...) [it] would be desirable [if States took] all possible measures to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics.”

On a conceptual level, the justiciability of the right to food in the 1997 Constitution receives support under international and regional human rights law. Reference is made to General Comment No.9 of the ICESCR in which the Committee states that:

*Everyone has the right to an effective remedy by the competent national tribunal for acts violating the fundamental rights granted him by the constitution or by law. Addressing this issue, the United Nations Committee on Economic, Social and Cultural Rights (CESCR) has advised that: The Covenant [ICESCR] norms must be recognized in appropriate ways, within the domestic legal order; appropriate means of redress, or remedies must be available to any aggrieved individual or group and appropriate means of ensuring governmental accountability must be put in place.*⁵³

Furthermore, through General Comment 12, the CESCR advised that any “*person or group who is a victim of a violation of the right to adequate food should have access to effective judicial or other appropriate remedies*”.⁵⁴

RECOMMENDATIONS

Considering its legal and international obligations under the various national legislation and ratified international and regional human rights instruments, the Gambia Government should:

Recommendation	Responsible Party
Harmonise all legislation and policies relating to the right to food with The Gambia’s obligations under the ICESCR and other relevant international and regional human rights norms and standards.	National Assembly and Ministry of Justice
Ratify the Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights.	Ministry of Justice
Expedite the submission of its long outstanding report to the Committee on	Ministry of Justice and Ministry of Agriculture

⁵³ Committee on Economic, Social and Cultural Rights, General Comment 9: The domestic application of the Covenant, U.N. Document E/C.12/1998/24 of 3 December 1998, para. 2 (hereafter “CESCR”).

⁵⁴ CESCR, General Comment 12: The right to adequate food, U.N. Document E/C.12/1999/5 of 12 May 1999, paras. 32-35.

Economic, Social and Cultural Rights and implement future Concluding Observations.	
Explicitly recognise and make justiciable the right to food and other economic, social, and cultural rights, as provided in the ICESCR, 1997 Constitution and other relevant national legislation. In this context, consider the reviving the 2020 Draft Constitution.	National Assembly and Ministry of Justice
Develop and adopt a comprehensive food and nutrition policy to streamline policies on agriculture, land, planning, finance, and other sectors that would contribute to the realisation of the Right to Food. This will also help counter growing food insecurity in the country.	Ministry of Agriculture
Regularly monitor the food and nutrition security situation in the country and assess the level of compliance with its regional and international human rights obligations.	Ministry of Justice, Ministry of Agriculture, and NaNA.
Take urgent measures to address chronic food insecurity, chronic malnutrition, and the critical nutritional needs of marginalized and disadvantaged groups, particularly children, and provide immediate support to them	Ministry of Agriculture, Ministry of Gender, Children & Social Welfare, NaNA.
Create credit programmes affordable for households living on or below the poverty line, especially women involved in petty trading and small businesses and women with disabilities	Ministry of Agriculture, National Social Protection Secretariat.
Support women to engage in commercial farming or to increase food production	Ministry of Agriculture, Ministry of Gender, Children & Social Welfare

<p>Increase the budgetary allocations to prisons so that the authorities can provide adequate and nutritious food for all prisoners.</p>	<p>Ministry of Finance & Economic Affairs</p>
<p>Review existing legislative frameworks relating to the right to food, including the Food Act and the Prisons Act, to bring them in line with current trends and realities for the to progressively realisation of the Right to Food in The Gambia.</p>	<p>Ministry of Justice and the National Assembly.</p>

CONCLUSION

This Advisory Note has shown that while the human right to food is a widely accepted legal and normative framework for tackling food insecurity, there are existing barriers that may hinder the attainment of this right. Despite The Gambia's ratification of or accession to the ICESCR and other international and regional instruments which guarantee the human right to food, there remain gaps in our legislative framework and implementation of the right to food.

As highlighted in the background and purpose of this document, this Advisory Note has been developed to highlight the absence or non-justiciability of the right to food in the legislative framework of The Gambia and come up with recommendations aimed at influencing Government policy and law-making to promote and protect the right to food in The Gambia. To attain this, it is critical that the human rights obligations of The Gambia guide the design and implementation of policies and programmes relating to the right to food with a view to the full realization of this right in The Gambia.