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We have also shared our reports on best practices and recommendations with other ministries.



African Women Studies Centre, University of Nairobi, P.O. Box 30197-00100; Tel.: +254 20-318262 Ext: 28075; Mobile 0728-907978, 0722-200918; Email: awsckenya@uonbi.ac.ke; Website: <http://awsc.uonbi.ac.ke>; Nairobi, Kenya.

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This is a worthwhile journey that we must walk because the promise of Article 43 (1) of the Bill of Rights must be translated into reality. This is what Kenyans expect.

Wanjiku Mukabi Kabira
Director, African Women Studies Centre
University of Nairobi



Executive Summary

African Women Studies Centre is a policy, training, research and advocacy institute whose mission is to ensure that African women's views and perspectives influence policies and programmes in order to promote the wellbeing of African peoples. Basic needs as basic rights for Kenyans are a priority programme for AWSC.

AWSC notes that one of the rationales underlying a country's realization of the basic rights is to address existing inequalities in distribution of wealth and resources. The people of Kenya negotiated for basic needs to be entrenched in the constitution. This was a battle led by civil society organisation and groups as well as ordinary Kenyans as they presented their views to the Ghai Commission. Their collective effort gave birth to Article 43 of the Bill of Rights. The policies that guide the implementation of this article of the Constitution need to be reinforced through recommendations of experiences of successful countries in realization of these basic rights. This is the focus of this project. The project targeted policy makers in various ministries whose portfolio falls within social and economic rights namely: Ministries of Health, Agriculture, Education, Housing, Water and Gender, Children & Social Development. Many other ministries/departments who also are relevant to this project.

The project sees majority of Kenyans are, according to World Bank definition, constitute men and women whose income levels cannot meet their basic needs as partners in this struggle. They included those who do not have social security, access to safe drinking water, adequate quality food, housing, quality health care and education together with others like the orphaned and vulnerable children and people living with disabilities.

According to the International Covenant on Economic, Social Rights, which Kenya is a signatory to; all human beings are entitled to Economic and Social rights. The chapter on the Bill of Rights in the Kenyan Constitution, 2010 provides for enjoyment of Economic and Social rights under Article 43 1 (a-f) on six sectors which include health, adequate food and of acceptable quality, housing, clean and safe water, social security and education. The Centre recognizes the need for political equitable will in governors' ensuring implementation of article 43 (1).



The objectives of this project were:

- Advocacy for effective policies and mechanisms for implementation of Economic and Social Rights;
- Advocacy for effective programmes aimed at addressing the special needs and specific rights of marginalized groups such as persons with disabilities, women, youth and minorities;
- Advocacy for equitable distribution of resources;
- Increased citizens awareness on the rights and responsibilities envisaged in Article 43 of the constitution;

The planned outputs of this project were:

- Recommendations on best practices and local policies and programmes related to Article 43 (1);
- Recommendations on implementation of article 43 (1) through Vision 2030 and Mid Term Plans;
- Stakeholders input into the recommendations on the implementation of ESRs among the marginalized groups, women, PWDs, minorities;
- Increased citizen awareness on social and economic rights;
- Increased awareness of the implementation of ESRs among policy makers;

The key areas of work were: development of policy and programme analysis tools, the development of recommendations in the water, education, social security, food, health and housing sectors and the sharing of these recommendations with the marginalized, the youth, women and the citizens as a whole. The recommendations were also shared with policy makers.

In the Implementation of this project AWSC carried out desk study and come up with best practices from various countries in the water, education, social security, food, health and housing sectors. Recommendations were drawn from these best practices and shared with people from marginalised groups and later with policy makers. In addition, AWSC shared the recommendation with the public through nine regional languages broadcast by KBC. AWSC



worked through Social Economic Rights teams that were led by: Dr. Mary Mbithi, Prof. Tabitha Kiriti-Ng'ang'a, Dr. Wanjiru Gichuhi, Dr. Joy Kiiru, Prof Elishiba Kimani, Prof. Wanjiku Mukabi Kabira, Dr. Margaret Jesang Hutchinson, Prof. Milcah Achola, Prof. Octavian Gakuru, Dr. Daniel Ichang'i, Dr. Gerrishon Ikiara, Prof Ciarunji Chesaina, Prof Octavian Gakuru.

AWSC also held consultations with a number of various sectors. These ministries include: Ministry of Education, Ministry of Housing, officials from the ministry of Gender, Children and Social services have also been very instrumental in the success of our lobby for provision of Social Security as a Socio-Economic Right. The recommendations and our input in the Social Assistance Bill received much excitement and enthusiasm from the ministry.

The project implementation was able to achieve all its output though some challenges were experienced.

The following report contains the entire process, the outputs as well as recommendations to on the various sectors of article 43.



PART 1: BACKGROUND, METHODOLOGY AND PROCESS

1.1 Background and Context

The African Women's Studies Centre is informed by the recognition that the experiences of African women in almost all spheres of life have been invisible. In order to capture all aspects of the African woman's needs and experiences in response to the multi-disciplinary nature of its studies, the Centre has three broad areas of operation, which appear as themes in its strategic plan. These are: Academic and Research Programmes; collaboration, Links, Exchange and Attachments Programmes; and outreach and policy division Programmes. The main objective for the Outreach Programme is to share research findings and to influence policy making and Programming in Africa in order to take into consideration the views and perspectives of African women on the same.

At present, AWSC is carrying out a project to advocate for the implementation of the International Covenant on Economic, Social Rights, which Kenya is a signatory to; all human beings are entitled to Economic and Social rights. This is further stipulated in article 43(1) (a-f) of the Constitution of Kenya 2010, *which states that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care; to accessible and adequate housing, and to reasonable standards of sanitation; to be free from hunger, and to have adequate food of acceptable quality; to clean and safe water in adequate quantities; to social security; and to education.*

The African Women's Studies Centre is a policy, training, research and advocacy institution established by statutes by the University of Nairobi in 2011. AWSC has sought to work others towards full implementation of Article 43 (1) of the constitution. Article 43 (1)(a-f) of the Constitution of Kenya 2010, states that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care; to accessible and adequate housing, and to reasonable standards of sanitation; to be free from hunger, and to have adequate food of acceptable quality; to clean and safe water in adequate quantities; to social security; and to education.



Article 43 (1) of the Constitution of Kenya 2010 states that “every person has the right-”

(a)	<i>To the highest attainable standard of health, which includes the right to health care services, including reproductive health care;</i>
(b)	<i>To accessible and adequate housing, and to reasonable standards of sanitation;</i>
(c)	<i>To be free from hunger, and to have adequate food of acceptable quality;</i>
(d)	<i>To clean and safe water in adequate quantities;</i>
(e)	<i>To social security</i>
(f)	<i>To education.</i>

The project targets the poor in the country as final beneficiaries who, according to World Bank definition, constitute men and women whose income levels cannot meet their basic needs. They include those who do not have social security, access to safe drinking water, adequate quality food, housing, quality health care and education together with others like the orphaned and vulnerable children, people living with disabilities, and people living with HIV & AIDS.

According to the International Covenant on Economic, Social Rights, which Kenya is a signatory to all human beings are entitled to Economic and social rights. In Kenya, the Chapter on the Bill of Rights in the current Constitution provides for enjoyment of Economic and social rights under Article 43 (1)(a)-(f) on six sectors which include health, adequate food and of acceptable quality, housing, clean and safe water, education and social security. In the same Article 43 sub-article 3, *the state is required to provide social security to persons who are unable to support themselves and their dependants*. These rights are a result of a lot of lobbying and negotiations by Civil Society Organizations, women’s organisations, religious groups and many other Kenyans who have struggled to ensure that basic needs become basic rights for all. The 2002 draft Constitution of Kenya Review Commission (C.K.R.C) report captures the views of majority of Kenyans whose desire is to see all Kenyans enjoy these basic rights. The various constituency reports from all over the country also reflect these views. Article 43 is therefore a reflection of the wishes of Kenyans. This desire is not limited to Kenyan people. Many other nations in our region and globally support



these rights as indicated in: African Union and Economic, Social and Cultural Rights Advocacy and Litigation in Southern Africa support the initiative of United Nations on Economic and Social Council's.

Some of the problems associated with social and economic rights in Kenya are lack of appropriate policies and mechanisms to ensure implementation; inequitable distribution of resources, bad governance, ineffective value systems, ethnic based politics, citizens' lack of awareness of their rights and corruption leading to widening gap between the rich and the poor. This has led to increased poverty, high mortality rates, general burden of disease, lack of food, lack of clean and safe water, poor housing, increased insecurity and general disharmony and apathy. In North Eastern province for example, one in four children suffer from acute malnutrition leading to higher child mortality. The situation is exacerbated by acute lack of drinking water leading to water borne diseases and death of animals that is the only survival for the region. In Nyanza province, there is growing inequality in land ownership and small landholdings leading to high levels of poverty. Other areas that have agricultural potential are also experiencing food shortages due to poor agricultural practices, lack of certified seeds and very costly inputs.

According to the World Bank statistics, it showed that is food security both in urban and rural areas whereby 10 million Kenyans faced starvation and an estimate of 3.8 million were urgent need of food. This was because of poor food distribution and marketing in the country (World Bank: 2010).

In the health sector, the situation is relatively poor as life expectancy has decreased to 44 years whereby 21% have no access to health services, 50% to safe water, and 54% to proper sanitation. Despite the government increasing its expenditure on health, neonatal, infant and child mortality rates have increased reflecting a failure to prioritize health and to spend the maximum of available resources on the realization of the right to health. The right to water too is not equally enjoyed by all Kenyans as two-thirds of the population faced water shortages whereby a twenty litre jerry can was sold at between Kshs 100-1500 by the vendors while more than half of population lack access to safe drinking water resulting to high cases of cholera (CESR Fact Sheet: 2008).



In housing, Kenyans have not fully realized their right as 70% of them in urban centers lack access to basic physical and social infrastructure and live in extreme poor hygienic conditions while those in rural areas live in houses of poor quality (CESR Fact Sheet: 2008).

Despite introduction of free primary education, teacher-student ratio has deteriorated affecting the quality of education because of the acute shortages of teachers rendered by increase enrollment in schools. Gender disparities also still exist due to less number of women who are literate. The Centre for Economic and Social Rights report showed that wealth and gender are key determinants of literacy in Kenya. Over 90 percent of the richest Kenyan men and women are literate, but only about 60 percent of the poorest 20 percent of Kenyans learn to read and write. (CESR Fact Sheet: 2008).

1.2 Methodology and process

The successful realization of the outputs of this project was as a result of the following activities.

1.2.1 Analysis and documentation of best practices in implementation of Economic and Social Rights

The project started with the preparation of policy and programmes analysis tools which ensured that issues of gender, diversity were taken on board. The tools were used to scrutinize and analyze policies and programmes and identify gaps and in addition draw recommendations that would be shared with policy makers.

The tools were used to carry out desk studies of best policies and programmes from selected countries as well as local policies and programmes. Countries with best practices in the implementation of ECOSOC were categorized by various international institutions like the World Bank and the United Nation's World Report. These practices were analyzed and subjected to technical review by experts. These experts included: Dr. Margaret Jesang Hutchinson, Senior Lecturer and Head of Horticulture Department, Prof Elishiba Kimani, Gender and Development studies, Kenyatta University, Dr. Wanjiru Gichuhi, Population Studies research Institute, Dr. Grace Omoni, College of Health Sciences, Prof Milcah Amolo Achola, Department of History and Archeological studies, Prof. Octavian Gakuru, Department of Sociology, Dr. Daniel Ichang'i, College of Architecture and Engineering, Dr.



Gerrishon Ikiara, Institute of Development and International studies, Prof. Ciarunji Chesaina, Department of Literature, Dr. Mary Mbithi, School of economics, Prof. Kiriti-Ng'ang'a, School of Economics, Dr. Joy Kiiru, School of economics, all from the University of Nairobi.

These technical committee gave their input on the best practices and drew recommendations for the successful implementation of Social Economic Rights as stipulated in article 43 (1) of the constitution. The experts were drawn from various departments in the University of Nairobi, Kenyatta University, Ministry of Agriculture, Ministry of Water, Ministry of Gender, Children and Social Security, Ministry of Housing, Ministry of Health, Ministry of Education. Extensive consultations with high-ranking officials in the government, academia and people with experience in the fields of education, health, water, food and agriculture, housing and social security was also done.

We held consultations with various government ministries in the various sectors. These ministries include: Ministry of Education where we focused on Basic Education Bill, 2012 as well as sharing best practices and our recommendations.

On Housing, AWSC involved the Ministry of Housing in discussing the Housing Act, 2011. This was followed up with a team of AWSC participating at a Housing workshop in Njoro titled 'Slum Upgrading Prevention and Formulation Policy' through the ministry's recommendation.

AWSC also shared the findings on Social Protection Strategy and the lessons that Kenya could adopt as best practice with the ministry of Gender, Children and Social services. Recommendations on Social Assistance Bill were also shared with the ministry. AWSC established links with the ministry with the various ministries. AWSC also shared the findings with other relevant ministries as well as the MTP 2013-2016 sector working groups.

1.2.2 Sharing of recommendations with the public through regional languages

The recommendations now enriched with input from various groups were now ready to be shared with the Kenyan population. We were able to mount a total of 9 radio programmes in different languages which were: Borana, Pokot, Turkana, Maasai, Embu, Somali, Rendille, Teso and Swahili and one on KBC channel 1. The input from the participants was used further to enrich the recommendations.



1.2.3 Audit of Vision 2030 and other local policies

The audit of the Vision 2030 and MTP 2008-2012 was done in order to inform MTP 2013-2017 for Implementation of article 43 (1). With extensive consultations with technical experts, relevant individuals from the ministries and consultations with stakeholders the recommendations were further submitted to the MTP 2013/16.

1.2.4 Sharing of the recommendations with the sector working groups

Connections to share the above recommendations on the various sectors in the MTP with the sectoral working groups which inform MTP 2013/16 were also established.

1.2.5 Sharing the best practices and recommendations with the stakeholders

A national workshop was organised to ensure the input of the marginalized, the youth and persons living with disabilities. This was done through a one day national workshop which drew its participants from different parts of the country. About a total number of 64 from more than 10 marginalized communities attended.

The input from the marginalized, the youth and the persons with disabilities was very important as this is part of the constitutional requirement, that in every policy and programme, the plight of the said persons should be taken into consideration. People's participation must be encouraged at all levels.

1.2.6 Sharing the best practices and recommendations with the policy makers

The final activity undertaken by the Centre under this project was the sharing of the recommendations briefs with the policy makers. These were mainly the Permanent Secretaries of various ministries and the Members of Parliament. The recommendations were shared with them and apart from their assured consideration to look into our recommendations for possible adaptation, the Centre was able to establish link with some of the ministries like that of Education and the Parliamentary Research Department. The Centre is to act as a resource centre for the ministries and the research department.

The *outputs of this project* were:

- Recommendations on best practices and local policies and programmes related to Article 43 (1).



- Recommendations on implementation of article 43 (1) through Vision 2030 and Mid Term Plans.
- Report and recommendations from stakeholders on the implementation of ESRs among the marginalized groups, women, PWDs, minorities.
- Increased citizen awareness on social and economic rights through media campaigns
- Increased awareness among policy makers on the implementation of Economic & Social Rights as reflected in Article 43.

The achievements of the outputs in the six sectors as a result of the work of were spearheaded by technical committees which were headed by professionals in the respective fields. Each head of a sector had a support team. In the Water sector, the team was headed by Dr. Wanjiru Gichuhi of Population Studies & Research Institute, Dr. Margaret Hutchinson of the College of Agriculture & Veterinary Sciences headed the food security team and was assisted by Dr. Mary Mbithi of the School of Economics, Dr. Daniel Ichang'i, College of Biological & Physical Sciences the Education team; Prof. Elishiba Kimani from Kenyatta University assisted by Dr. Helen Inyega from the College of Education & External Studies, Dr Grace Omoni from the College of Health Sciences.

The project also greatly benefited from another project by AWSC supported by SUNY-Kenya on the implementation of Article 43 (1)(c) on right to food. This project even negotiated from a budget to address food security programme by parliamentary budget committee.



Pictorial narrative on Methodology

1) Technical members presenting research findings on best practices during workshops on Economic social rights



Dr. Margaret Jesang Hutchinson,
College of Agriculture & Veterinary
Sciences, UoN



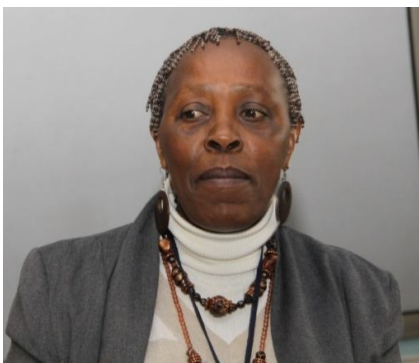
Dr. Wanjiru Gichuhi, Population
Studies & Research Institute, UoN



Dr. Grace Omoni, College of Health
Sciences, UoN



Prof. Wanjiku Mukabi Kabira,
Director, AWSC UoN



Prof. Elishiba Kimani, Educationist,
Kenyatta University



Prof. Tabitha Kiriti Ng'ang'a, School of
Economics, UoN



2) Participants at Technical committee meetings



Prof. Ciarunji Chesaina & Prof. Henry Indangasi



Mrs. Anna P. Mwangi

3) Participants at a National Consultations Workshop with stakeholders



Participants following proceedings at the National Stakeholder's Workshop



Group photo



Group work during the National Stakeholder's Workshop



Dire Dika Bilala participating at the National Stakeholder's Workshop



Ann Mwaniki & Zachary Muasya at the National Stakeholder's Workshop



Lydia Lenkonia participating at the National Stakeholder's Workshop



Participant at the National Stakeholder's Workshop



PART 2: RESULTS

Best Practices: Implementation of Article 43 of the Constitution of Kenya on Economic and Social Rights

2.1 Introduction

The Africa Women's Studies Centre interrogated countries with the best practices in implementing the six socio-economic rights as articulated in Article 43 of the Kenyan Constitution. These countries were selected on the basis of having similar characteristics to Kenya, i.e., they are either developing countries or countries that once faced the same challenges as we face. International ranking on the advancement of socio-economic rights was also a criterion. The study of these best practices resulted to the Centre drawing lessons learnt and recommendations that could improve our current Kenyan situation.

Moreover, the Centre further analyzed Local programmes, the Vision 2030 and the most recent local policies and/or bills in the six sectors using the policy and programmes analysis tools that were developed at the beginning of the project implementation. The recommendations that were developed as a result of the analysis were then shared with policy makers for adoption.

This section highlights the results of the project as per the outputs.

2.2 SELECTED BEST PRACTICES FOR SOCIAL SECURITY IN THE IMPLEMENTATION OF ARTICLE 43 (1)(e)



The African Women's Studies Centre investigated some best practices in social security and the provision of social protection. The research team looked into the ways in which a number of countries have implemented a variety of comprehensive social protection programmes. The countries analysed include: Belgium, Italy, Singapore, Malaysia, France, Brazil and Rwanda. It is noted that in 2011, the Tanzanian Health Insurance Scheme won the International Social Security Association good practice award for Africa. Its



National Health Insurance Fund (NHIF) also received the International Social Security Association (ISSA) Good Practice Award for Africa 2011 for improvements particularly for its facilities. The following is a summary of some of the best practices from which lessons can be learnt.

BELGIUM

Belgium has a very extensive social security system. The Belgian social security system is based on the payment by workers of social contributions. Foreigners also are entitled to certain allowances and to social services. The benefits enjoyed by foreigners are strictly dependent on the conditions under which they are resident.

Social contributions serve to finance the social security system. Each month the employer pays between 30 and 40% on top of their employee's salary into the social security fund. The employee also pays a proportion of their gross salary in social security contributions. This fund is then used to pay social security in the form of:

- ❖ Allowances in the event of sickness;
- ❖ Unemployment benefits;
- ❖ Allowances in case of incapacity for work through sickness or invalidity, accidents at work, industrial disease, family allowances and pensions.

The self-employed also pay and claim social security. Their contribution is a lower percentage than the joint contribution of employers and employees, but gives fewer rights. However, the self-employed may pay extra voluntary contributions which give them additional rights in certain cases. At the beginning, the self-employed pay "provisional contributions". The civil servants social security benefits have more allowances than other groups. It also makes a difference if you are a full time employee or on contract.

In addition, Belgium has:

- ❖ Income guarantee for the elderly;
- ❖ Guaranteed family allowance;
- ❖ Payments for people with a handicap and help to the elderly.



On Social services, everyone in Belgium is entitled to social services from the public social welfare centre, CPAS/OCMW. For asylum seekers and people without legal residence, there are limits to these services.

ITALY

Italy has an extensive social security system covering the vast majority of the population. Social insurance provides benefits for unemployment, sickness and maternity, accidents at work and occupational diseases, as well as old-age, invalidity and survivor's pensions, and family allowances. It doesn't include the National Health Service, which is funded from general taxation. The system is run by a number of state agencies, which have been brought together under the umbrella of the National Institute for Social Security. All resident employees and self-employed workers pay social security contributions with a few exceptions. Employee's contributions are deducted at source from their gross salary by their employer, who pays around two-thirds of pension contributions, while the remaining third is paid by the employee.

For other types of social insurance, the employee's contributions are negligible. The standard total social security contribution made by employees is around 10 per cent of their gross salary, while the employer's contribution is around 35 per cent of an employee's salary (making a total of some 45 per cent). There are different contribution rates for employees in industry, commerce and agriculture, and for workers, office staff, and managers, who also receive different benefits.

The self-employed must register and make contributions either to a separate organisation (called a *cassa*), which is a social security fund allied to their profession, or directly with the INPS. Self-employed people who make contributions to their own *cassa* include architects, accountants, lawyers, engineers, surveyors, medical specialists and other freelance professionals, who each have different rates of contributions. The self-employed who make contributions to INPS may be part-time employees, such as university students, freelance workers, including small businessmen, shopkeepers, traders, tenant farmers, sharecroppers and smallholders, or employees of relatively new industries (e.g. computer consultancies) who don't yet have their own *cassa*.



Since 2009, Italy's social security system has been identified as 'a best practice' by the International Social Security Association (ISSA).

SINGAPORE

Singapore's main social protection programme is the Central Provident Fund (CPF). Before 2000, Singapore faced a challenge, with employers submitting their monthly CPF contribution details and payments manually. This was through hardcopy forms and cheques. As a result of this, a large pool of data entry officers was required to transcribe the hardcopy forms into the computer system and to facilitate the clearance of cheques. In addition to that, the manual nature of the monthly submissions and payments often led to mistakes in the employee details submitted by employers. The process of crediting of the CPF contributions into members' accounts took very long as a result of the time taken correcting mistakes made by the data entry officers.

The country sought to have a faster and more reliable way of effecting the same, adopting an electronic submission (e-submission) system. This was effected through various innovative methods which catered to the different needs of different employer segments. This greatly improved the operations of the fund making the programme a best practice.

Among the key contributors of success of this transformation is the provision of different e-platforms for employers with different needs with large employers having the possibility to make their submissions electronically via file transfer from the payroll systems. The smaller employers, who are not IT-Savvy, are offered a platform which does not require a computer with internet access. Employers who do not have computers can use any of 600 multi-application transactional terminals, widely located in the country. Another remarkable convenience is an option to perform e-submissions via their mobile phones. This is in addition to innovative software and Publicity campaigns for the programme. Specific benefits of the transformation include:

- ❖ Every social security scheme would need an efficient and cost-effective collection system.
- ❖ Enhance their collection processes (faster processes).
- ❖ Save more time.



- ❖ Reduction of errors.

RWANDA

Social Security Fund for Rwanda's (SSFR) clients are located all over the country. Before 2007, the total number of contributors was 182,962 and beneficiaries totaled 29,301. Most services then were only provided at the headquarters in Kigali. From 1983 to 1989, SSFR had only 10 branches and four sub-branches countrywide which also were not linked to the Headquarters by any IT means. There was no decision making at the then available sub-branches, adding to limited services, including payment of contributions and reception of benefits. The branches only processed dossiers and sent them to the headquarters. Clients would then travel to the capital Kigali and sometimes not even receive an immediate solution to their inquiries. The branches had issues ranging from unqualified and inadequate number of staff (only 20 per cent were qualified degree holders), to lack of an IT infrastructure and electricity.

Due to the above challenges, there was also the problem of a huge backlog of un-entered data into the system. All remuneration declaration dossiers from 1962 to 1996 (7.8 million) were in hard copies, dilapidated, torn into pieces and incomplete, mainly due to the poor IT infrastructure. This led to poor services. As a major challenge, early in 2006, SSFR decided to make radical reforms aimed at decentralizing all services to the nearest points for the clients by changing its organizational structure and putting up mechanisms for opening up fully equipped and operational branches in all districts of the country.

With the new practice of decentralization in place, compliance of employers has greatly improved. This has been due to sensitization and better service delivery. Collection of contributions has increased by 56.4 per cent, benefit claims processing time has been reduced from two months to two weeks, total benefits pay outs have increased by 12 per cent and the registration of clandestine employers in 2007 increased by 147.3 per cent compared to 2006. Above all, the practice is now easier to implement as opposed to before.

Decentralization of the services by the security fund has facilitated improvement of:

- ❖ Service delivery,
- ❖ Reduction of bureaucratic handling of claims,



- ❖ Increased coverage rate and
- ❖ Increased collection of contributions and benefits payments.

In addition, Rwanda has:

- ❖ Promoted inclusive social economic development,
- ❖ Utilized the rights based approach for provision of social security, and.
- ❖ Ensured that all Rwandese are covered with maximum benefits possible for retirement and key pre-retirement benefits such as housing and education, for professional risks benefits, sickness benefits, maternity benefits, and health care.
- ❖ Eventually unemployment benefits will be provided when social and economic conditions will allow the implementation of this social security branch.

Branches of social security in Rwanda include the pension branch, public pension, provident fund private pension, occupational hazards branch, health care branch, maternity and sickness branches and unemployment benefits.

In terms of financing, the pension branch's benefits are primarily financed by the employer and employee contributions. The contribution rate is 6%, equally shared between employer and employee among others. Employers pay a compulsory contribution of 2% of each employee's salary to the NSSF to finance Professional Risks Branch benefits.

With respect to governance and management, the RSSF, is under the Ministry of Finance and Economic Planning, which coordinates its activities with the Ministry of Social Affairs and Labour. It is intended that the National Bank supervises the NSSF's asset management activities. A law to ensure transparent governance has been put in place.

MALAYSIA

Social protection programmes in Malaysia can be classified into two categories: social security and social insurance programs. The programs cover the social security retirement benefits of two major groups of employees: government civil servants and private sector workers. In addition, civil servants are protected under the pension scheme, a defined benefit program based on length of service and last drawn salary, while private sector workers are protected under the Employee Provident Fund (EPF), a defined contribution retirement scheme with shared contribution of employee and employer.



The bulk of the Social Insurance Program falls under the Social Security Organization, which covers employees with a monthly income of RM 3,000 or less. In addition, workers are also protected under the work related compensation schemes. Despite the tangible benefits to their members, the existing social protection programmes have proven to be inadequate to provide comprehensive coverage to their members, leaving many susceptible to poverty, particularly during the 1997 Asian Financial Crisis.

Since 2008, Malaysia's EPF adopted IT Service management system based on an Information Technology Infrastructure Library (ITIL). This has greatly improved the operational management efficiency and effectiveness of the Fund. Since then, Malaysia (particularly its Provident Fund) has been cited by the International Social Security Association (ISSA) as a good practice.

The Malaysian social security programmes ensure that the strategies used, take into consideration respect and dignity, self-reliance and participation of all stakeholders. The programme provides:

- ❖ Care and protection
- ❖ Health financing
- ❖ Community care.

AWSC has looked at the social security programmes of the above countries and identified lessons that we could learn from these experiences.

2.2.1 Lessons Learnt in the provision of Social Security

From the countries quoted above, among many others, we can draw lessons that would be useful as Kenya implements Article 43 (1)(e). Among key best practice lessons of most importance are the following:

- i. Use of IT, particularly in e-submissions
This can improve effectiveness and reduce costs, improve on management, increase coverage and generally enhance the management efficiency of social security programmes.
- ii. Provision of *different e-platforms which are convenient and easy to use.*



With the different groups of employers, conversion of employers to e-submission and provision of various e-platforms which are easy and convenient for the employers to use would promote efficiency and greater coverage.

- iii. Imposition of processing fees for larger employers who do not use IT, can contribute to increased compliance with IT use requirements.
- iv. Participation in submission reforms by all stakeholders.
- v. Ensuring direct use of internal resources and the value of a "bottom-up" decision making process.
- vi. Decentralization can contribute to:
 - ❖ Improved service delivery
 - ❖ Reduction of bureaucratic handling of claims
 - ❖ Increased coverage rate.
- vii. Increased collection of contributions and benefits payments.
- viii. Taking into account social changes in designing social security programmes. This will ensure development of more usefulness of the programmes to the public.
- ix. Implementation of community care social security programmes can enable families to continue providing care to older persons in the face of changing social structures.
- x. Channeling social protection allocations through community care programmes.

2.3 SELECTED BEST PRACTICES FOR EDUCATION SECTOR IN THE IMPLEMENTATION OF ARTICLE 43 (1)(f)



The United Nations publishes a Human Development Index every year, which consists of the **Education index**, GDP Index and Life Expectancy Index. These three components measure the educational attainment, GDP per capita and life expectancy respectively.

The Education Index is measured by the adult literacy rate and the combined primary, secondary, and tertiary gross enrollment ratio.



The adult literacy rate gives an indication of the ability to read and write, while the GER gives an indication of the level of education from kindergarten to postgraduate education.

Education is a major component of well-being and is used in the measure of economic development and quality of life, which is a key factor determining whether a country is a developed, developing, or underdeveloped country.

The latest index was released in the Human Development Report in October 2009. Australia, Finland, Denmark, New Zealand, Cuba and Canada ranked the best in the world. In Africa, Libya, Gabon, South Africa and Namibia were ranked the best, while in Asia, Korea, Kazakhstan and Japan were the best.

A different ranking on Best practices –Education is done by Legatum. In the 2011 Legatum Prosperity index, education has been quoted as a ‘building block for prosperous societies’. The Education sub-index measures countries’ performance in three areas: access to education, quality of education, and human capital.

The Education sub-index demonstrates how access to education, as measured by levels of educational enrolment rates that are equal for both girls and boys, allows citizens to develop their potential and contribute productively to their society. In addition, it shows that human capital stock, which is measured by the average levels of education in the workforce, is essential for promoting private sector research and development as well as producing useful knowledge for a society. Because of the importance of citizen’s own perceptions of the educational opportunity available to them, the sub-index uses both objective and subjective variables to assess the quality of education in a given country. Global data on education is limited and, therefore, the Education sub-index uses pupil to teacher ratio, as well as measures of citizens’ perception of education, to assess quality.

This sub-index is built on research on economic growth that has found human capital to be an engine for growth, making a case for the non-diminishing effect of education on rising GDP levels. While the relationship between higher levels of education and wellbeing is less clear-cut, research shows that basic education enhances people’s chances in increasing their satisfaction with life.



2011 Legatum ranked Australia, New Zealand, Finland, Norway, Denmark and Korea as highest in the world. In Africa, South Africa, Tunisia, Algeria and Egypt were ranked as the best.

The following selected countries provide some wide variety of best practices that Kenya could adopt to enhance the provision of quality and relevant education to all its citizens.

SOUTH AFRICA'S EDUCATION

In *South Africa* Over the last 17 years, government has doubled investment in education. Access to primary and secondary schooling has reached near universal enrolment figures. A total of 98% of children from seven to 15 years are enrolled in schools; 88% are six-year olds, and 70% are children aged four and five in early childhood development centres. South Africa has a 3 tier system of education starting with primary school, followed by high school and tertiary education in the form of (academic) universities and universities of technology.

The South Africa's government has taken the following initiatives in promoting Education for All:

- Under the South African Schools Act of 1996, education is compulsory for all South Africans from the age of seven (grade 1) to age 15, or the completion of grade 9. General Education and Training also includes Adult Basic Education and Training.
- South Africa has a vibrant higher education sector, with more than a million students enrolled in the country's 24 state-funded tertiary institutions: 11 universities, five universities of technology, and six comprehensive institutions.
- Starting from the 2011 academic year, government introduced free education for the poor at undergraduate level. Students in Further Education and Training colleges who qualify for financial aid do not pay academic fees. This has assisted in increasing access to the colleges for students from poor families as well as help the country to meet its needs for intermediate and technical skills.
- The National Schools Nutrition Programme feeds about 7-million schoolchildren every day, including all those attending primary schools in 13 rural and eight urban poverty nodes. The programme was extended in 2009 to 1 500 secondary schools around the country, feeding 1-million secondary school pupils from grades 8 to 12.
- Children cannot be refused entrance into a school on the grounds that the parents cannot afford to pay the fees.



- If both parents earn a combined annual salary of less than ten times the annual school fee, they qualify for the fee to be waived.
- Under the programme, the Department of Education has also established almost 2,100 school gardens with the support of the Department of Agriculture, local government structures and a number of NGOs.
- Government has increased access to Higher Education to the poor by, among other things, converting loans into bursaries for qualifying final-year students.
- Education takes up the largest share of government spending- 21 percent of non-interest allocations and receives the largest share of additional allocations.

CUBA

In *Cuba* education is free for all its citizens. Increased enrolment at all levels of education has seen the youth illiteracy rate in Cuba is close to zero. The student to teacher ratio is 12:1.

Other strategies that make Cuba a best practice include:

- School attendance is compulsory from ages 6 to 15 or 16 (end of basic secondary education) and all students, regardless of age or sex, wear school uniforms with the color denoting grade level.
- Cuba has 47 universities and total university enrollment is approximately 112,000 citizens. University education is free to all students in Cuba. The education provided at these universities in Cuba is of a high standard and the teachers are often Doctorate degree holders. Many students from other countries come to receive their further education in Cuba due to the cheaper costs and good standards of education on offer. University graduates in Cuba are expected to serve two years community service in the discipline in which they received their education, usually in poor rural communities in Cuba, and for a very low wage.
- Education expenditures continue to receive high priority, as Cuba spends 10 percent of its central budget on education, compared with 4 percent in the United Kingdom and just 2 percent in the United States.
- In Cuba School meals and uniforms are free. There is a strict maximum of 25 children per primary-school class, many of which have as few as 20. As of 2010, secondary schools are striving towards only 15 pupils per class. Many schools open at 6.30 am and close 12 hours later, providing free morning and after-school care for working parents with no extended family.
- Mobile teachers" are deployed to homes if children are unable to come to school. Over half of Cuba's 150,000 teachers have a master's degree.



- Students and volunteers go to rural areas to teach other country men to read and write. Rural women receive schooling and job training if they choose to, which allow them to work outside of agriculture. For women working as sex commercial workers in the cities, the programs to reeducate them are created. Separate but similar programs are created for maids, offering schooling and job training along with free daycare and housing, which allow the women full opportunity to rebuild their lives.
- Every municipality in the country has university classrooms, in which a growing number of subjects is taught. The municipalisation of higher education has increased registration to 300,000 students who study on 732 campuses. This has provided new opportunities for any young person or adult to take university courses.
- The principle of establishing links between work and study: This is the unity of theory and practice, with the aim of eliminating the prejudices that derive from the division between manual and intellectual labour
- More than 99 percent of girls and boys enroll and complete primary school. Gender disparity in education has been eliminated.

AUSTRALIA

Australia enjoys a worldwide reputation for academic excellence, offering internationally recognized qualifications with immediate employment and career development opportunities. The Organization for Economic Co-operation and Development (OECD) currently ranks Australia's education as the eighth best in the world and. According to UNESCO figures, Australia has one of the highest ratios of enrolment in primary and secondary education in the world.

Each state government manages the school system within their state. This means that they provide funds and regulation for their schools. Both public schools and private schools exist in each state. The curriculum taught in each state or school may vary but the learning areas are the same in all.

Each state has a Vocational Education and Training (VET) or Technical and Further Education (TAFE) system. VET prepares people for work in a career that does not need a university degree. Each state manages their system and meets at a national level to coordinate their effort. VET is transferable between all states. Study done in one state gains the same status in another state. Typically, a VET/TAFE course takes two years of study.



The national government provides the funding for universities in all the states. Each is independent in its governance. They set their courses and course content. A professional body must endorse a course for it to run. Typically, a university course takes three or four years of study.

There are programmes for intellectually gifted children. Under Gifted Education Programme (GEP) children are placed in classes in selected primary schools and receive an advanced curriculum that matches their abilities. They are taught by specially trained teachers.

MEXICO

Conditional Cash Transfer (CCT) programmes typically provide a certain amount of cash to poor households on a regular basis on condition that beneficiaries fulfill some obligation (s) aimed at human development, such as sending their children to school. This has increased enrolment and participation of households in education of their children. In Mexico, the programme pays high cash transfers to mothers for girls' enrolment, which has increased enrolment of girls in schools and helps to reduce early marriages and child labour. Mexico spends about 5 percent of gross domestic product on education.

NORWAY

Overview of the Norwegian Education system

Education for all is a basic precept of Norwegian educational policy. Children and young people must have an equal right to education, regardless of where they live, gender, social and cultural background or any special needs. All public education in Norway is free of charge, while kindergartens have parental fees.

Structure of the system:

Kindergartens

The Government has the overall responsibility for quality development, management and financing of the kindergarten sector, and allocates earmarked funds for the running of kindergartens.



The County Governors act as links between the Ministry of Education and Research and the kindergarten sector. The County Governors implement kindergarten policy through development work, administrative tasks, supervision and guidance for municipalities.

The municipalities are responsible for providing and running municipal kindergartens, as well as for approving and supervising both public and private kindergartens in the municipality. The municipalities must also ensure that the kindergartens are operated within their approval framework and that the content complies with legislation, regulations and the framework plan. In addition the municipalities have an active responsibility for providing guidance. Municipal authorities must ensure that public subsidies are paid on an equal basis to all the approved kindergartens in their municipality. Kindergarten owners are responsible for the contents of the individual kindergarten. The Parents' Council for each kindergarten determines a year plan ensuring the participation of parents and staff in the framing of the educational contents. Kindergarten owners are responsible for employing adequate and qualified staff.

Primary and Secondary Education and training

The state bears the overall responsibility for the Education Act with regulations, contents and financing of primary and secondary education and training. The County Governors are to act as links between the Ministry of Education and Research and the Directorate for Education and Training on the one hand and the education sector in municipalities and counties on the other. The County Governors are responsible for supervision and dealing with complaints related to regulations, participation in quality development, information, guidance and various administrative matters.

The municipalities are responsible for operating and administering primary and lower secondary schools, whereas the county authorities are responsible for upper secondary education and training. Legislation and regulations, including the National Curriculum, form a binding framework, but within this framework the municipal and county authorities, schools and teachers can influence the implementation of the education and training. Each school has a head teacher and various boards, councils and committees.



The Norwegian Directorate for Education and Training is an executive subordinate agency for the Ministry of Education and Research. The Directorate's main tasks are to promote quality development, quality assessment, analysis and documentation in primary and secondary education and training, and to perform administrative tasks connected with primary and secondary education and training, in addition to bearing the overall national responsibility for supervision of primary and secondary education and training.

2.4 SELECTED BEST PRACTICES FOR HOUSING SECTOR IN THE IMPLEMENTATION OF ARTICLE 43 (1)(b)



A few developed countries were also identified because of the progress they have made in this area. The analysed countries include: Brazil, China, Mexico, Singapore, Morocco, South Africa, the Russian Federation and Austria. The following is a summary of best practices that we have analysed.

BRAZIL

Brazil faced a major challenge on the Access to land and security of tenure for the urban poor in Belo Horizonte. Belo Horizonte is one of the largest metropolitan areas in Brazil with 5.1 million inhabitants. ***In Brazil access to land and security of tenure is a very critical aspect to the integration of slums into formal cities and the improvement of living conditions for the urban poor.*** The granting of secure tenure is generally acknowledged as the first and most critical step towards slum improvement. Belo Horizonte has 177 slums and 63 public housing projects, totaling 240 poor neighbourhoods, with approximately 500,000 inhabitants – about 22% of the total population of the municipality. To address these challenges, Brazil has taken the following measures: Developed the pro-poor land law 'the PROFAVELA'. This law was developed in compliance with enabling legislation at the federal level; ***the local authority suspends and relaxes, on a temporary basis, relevant laws, by laws and standards to facilitate improvements and land tenure regularization.***



CHINA

Like many developed and developing countries, access to housing especially for the low income groups has for a long time been a big challenge. The economic boom witnessed by Chinese cities induced investment in the high and middle segments of the housing market. This has posed problems of affordability and accessibility for families with limited incomes and savings.

To address the challenge of access to housing, China: Liberalized the housing sector according to the market principles of supply and demand; Implemented a policy of stimulating supply and demand for housing through; Provision of equity grants for people living in sub-standard housing to facilitate home ownership; Provision of fiscal incentives for real estate developers to provide housing within a negotiated price range; Engaged in research and developed models of low cost housing.

MEXICO

Mexico is one of the most urbanized countries in Latin America with over two thirds of its 104 million people residing in cities. Despite having a relatively high GDP per capita (about US\$6250) 44% of the urban population lives in asset poverty and 24% of urban households live in slums and informal settlements.

To address the housing challenge, the Mexico reviewed its housing law, coming up with a new house law, which provided for: Adjustment of the existing land use laws and regulations to facilitate urban development; Assigning clear roles and responsibilities between state and municipal governments; Ensuring the active participation and buy-in by the social and private sectors of the economy; Establishing a body to coordinate the implementation of the national housing policy; Adopting fiscal, financial and other instruments to facilitate access to housing by the low income population.

THE RUSSIAN FEDERATION

Russia faced a major challenge with a war that destroyed Grozny, the capital of Chechen Republic. The war had a massive damage to all infrastructures of the city of Grozny during ten years. 80% of dwelling, cultural and scientific objects were destroyed. In this situation 100 thousands of residents of Grozny were forced to leave their houses in connection with



military operations, hoping to come back home. After people left, Grozny found itself in extremely and anti-sanitary conditions, without water-supply, electricity and heating.

The Russian Government thus set up the Grozny project for Post-conflict restoration of the city of Grozny, “*The city without any signs of war*”. The government of Chechen Republic created an efficient staff in accordance with resolution for restoration of destroyed Republic, which led construction and restoration works.

Among infrastructure reconstructed under this project were: residential houses, educational facilities, security, sanitation, water, pension and social services.

MOROCCO

To address the issue of urban slums, Morocco came up with a Programme on Land and Housing- Settlements upgrading. The programme is called “*Cities without Slums*”. The programme was launched in 2001 by Moroccan Royal Directive and runs until 2012 and is being implemented by the Al Omrane Group (a state-owned property company). The two strategic objectives of the Al Omrane group are *Action against sub-standard settlements and promotion of Social Housing*.

Al Omrane is a major player in sustainable development and is a key instrument of public authorities’ strategy for decent housing, poverty reduction and urban inclusion. The programme is doing this through enabling households to have access to *partly subsidized decent housing*, equipped with all basic elements of urban comfort at a minimal cost. Among interventions carried out under the programme are: Relocation of slum households on equipped land parcels for the Auto construction of their houses (80% of cases); Re-housing via access to a low-cost housing units, intended in priority to the elderly, single-parent households and other vulnerable populations. Through this programme access to housing have greatly been improved: By end of March 2010, 154,000 households had benefited from housing units. *This included 62,000 households in some 40 centers which were already declared slum free*; Slum population decreased from 8.2% of total urban population (in 2004) to 3.9% (in 2010).



SOUTH AFRICA

The South African town of Johannesburg has almost 3.9 million inhabitants. Many of its inhabitants lack access to basic services, including housing. The housing challenge is accentuated by continued migration into the country.

In 2004, Johannesburg Social Housing Company (JOSHCO) was “appointed as the implementing agent for social and institutional housing developments in the City of Johannesburg. This is the Municipal Rental Housing entity of the city of Johannesburg, governed by an independent board of directors. Its core mandate is to develop affordable mix density affordable rental housing and to manage such housing. Its Mandate is to provide affordable and quality rental housing to the people of Johannesburg. It is funded through provincial subsidies, national and municipal grant funding as well as loan funding. It targets households with an income of between R1500 – R7500 per month. Among the key achievements of the programme includes: *the extension beyond shelter provision into community development, covering areas such as violence against women and children; youth; the family; early childhood development; and measures to reduce crime within communities.*

SINGAPORE

Singapore faced an acute housing shortage. After independence many families lived in overcrowded slums and squatter colonies in unsafe and bad conditions, with no sanitation, water or basic facilities. Social disharmony and frustration among the different communities of ethnic groups were strong, while riots and strikes were common.

Responding to this crisis, the newly-elected government set up a new housing authority, the Housing and Development Board (HDB), in February 1960 to spearhead the provision of sanitary and affordable housing to the population. Public housing was the first priority for the new Government, and HDB received full financial, legislative support and political backing to carry out its mission.

HDB’s immediate focus was to build as many low-cost housing units as possible, in the shortest time. It therefore designed basic but functional flats, with adequate living space, and



equipped with piped water, electricity and proper sanitation. Key achievements include: ***Within a period of 10 years, the severe housing shortage was largely resolved.***

2.4.1 Lessons learnt in the housing sector

From the countries quoted above, among many others, we can draw lessons that would be useful as Kenya implements Article 43 (1)(b). Among key best practice lessons to achieving improved access to decent housing are the importance of the following:

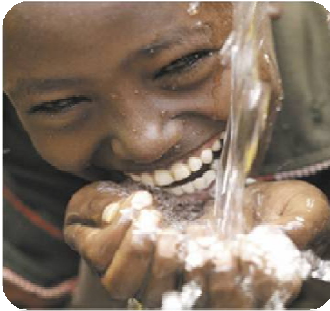
- i. Providing access to land and security, including to slum dwellers.
- ii. Suspending and relaxing on a temporary basis, relevant laws, by laws and standards to facilitate improvements and land tenure regularization (as was the case in Brazil).
- iii. Implementing a policy of stimulating supply and demand for housing.
- iv. Reviewing of housing law to ensure land use laws facilitate urban development.
- v. Assigning clear roles and responsibilities between state and municipal governments.
- vi. Ensuring active participation and buy-in by the social and private sectors of the economy.
- vii. Establishing a body to coordinate the implementation of the national housing policy.
- viii. Adopting fiscal, financial and other instruments to facilitate access to housing by the low income population.
- ix. In cases of a post-conflict situation, it is important to lead reconstruction, eliminating any reminders of the conflict, e.g. ***“The city without any signs of war”*** in Russia.
- x. Development of a government programme to relocate slum households to equipped land parcels and to construction houses for them.
- xi. Providing low-cost housing to target population including the elderly, single-parent households and other vulnerable populations.
- xii. Development of an independent institution (company) to implement government programme on housing.



- xiii. Political will and government commitment at various levels to ensure implementation of public housing programmes through financial and legislative support and political backing.
- xiv. Setting up a fund for construction and urban renewal with the fund being used for land procurement for social housing, for urban renewal and for subsidized housing improvement.
- xv. Setting up a programme for renewal and improvement of urban houses.
- xvi. Promotion of research in housing sector taking into account low cost housing, necessary precautions in cases of disasters such as earthquakes, lightning and flooding, among other disasters.



2.5 SELECTED BEST PRACTICES FOR WATER AND SANITATION FOR THE IMPLEMENTATION OF ARTICLE 43 (1)(d)



The African Women Studies Centre investigated some best practices in water management, water harnessing and water conservation. The research team looked into the ways in which countries in Africa with water problems similar to those of Kenya have made headway in water and sanitation management in their countries. A few developed countries were also identified because of the progress they have made in this area. The following is a summary of some of the best practices from which lessons can be learnt.

TUNISIA

According to the Joint Monitoring Programme by the World organization and UNICEF, between 1990 and 2004, access to water to the Tunisian population, increased from 81% to 93%, while the access to sanitation increased from 75% to 85%. Tunisia has achieved the highest access rates to water supply and sanitation services among the Middle East and North African countries through a sound infrastructure policy. 96% of urban dwellers and 52% of the rural population already have access to improved sanitation.

Tunisia is a water stressed country with water availability below average. The relatively high vulnerability of Tunisia's water resources led to numerous programmes and projects aiming at improving water use efficiency through the Tunisian National Policy Strategy, which is centred around three major points including:

Water demand management through:

- Preserving water resources;
- Ensuring economic efficiency; and
- Preserving social equity by a good water distribution.

Integrated water resources management through:

- Usage of groundwater during periods of drought;



- Recharging of groundwater to reduce overdraft and degradation; and
- Usage of treated waste water and brackish water.

Resource and environmental protection through:

- Quantitative conservation through reinforcement and improvement of water capture and storage; and
- Qualitative conservation of water resources and ecosystems through pollution reduction, monitoring, and cost evaluation.

EGYPT

Egypt's main source of freshwater is the River Nile which supplies 97 % of all renewable water resources in Egypt. Average rainfall in Egypt is estimated at 18 mm or 1.8 billion m³ per year. Egypt is classified as a water scarce country as it has less than 1000 m³ of fresh water per year per capita.

Egypt has tried to overcome the problems related to water scarcity through:

- Developing new water resources through harvesting of rainfall and flash floods; re-use of drainage water; extraction of both shallow and deep groundwater; and re-use of treated wastewater.
- Improving the efficiency of the present use of water resources through use of a fair cost sharing systems; increasing efficiency of water use; improving water quality management in the industrial, domestic and agricultural sectors; implementing environmental management systems; improving the water sector institutional, legislative and financial management; decentralization of water management; and conducting institutional reform activities at all levels.
- Ensuring appropriate implementation of policy instruments.
- Improving the water resources management systems through people's participation in water management, institutional strengthening and Co-ordination of the various stakeholders.

SOUTH AFRICA

The Republic of South Africa was ranked 102 out of 107 countries which have the best water management programmes. South Africa has an average annual rainfall of 500mm, characterized by high annual variability and unpredictability, (43% of the rain falls on 13% of the land), and almost 60% of the country is semi-arid to arid.



After the end of Apartheid South Africa's newly elected government inherited huge services backlogs with respect to access to water supply and sanitation as well as sustaining service provision over the long term. About 15 million people were without safe water supply and over 20 million without adequate sanitation services in 1990. An estimated 18 million South Africans did not have access to basic sanitation in 2002.

In addressing these problems, South Africa enshrined the basic right to sufficient water in its Constitution, stating that "Everyone has the right to have access to (...) sufficient food and water". Through enactment of several reforms and policies, including the '*Republic of South Africa Constitution (Act 108 Of 1996)*', a human right dimension for access to adequate and sustainable water supply and services was ensured and enshrined in the Bill of Rights.

This guarantees the right of access to basic water supply and sanitation, and also provides a regulatory framework and establishment of water services institutions such as water boards and water service providers, among others. It creates a comprehensive legislative framework for the provision of water supply and sanitation services to support life and personal hygiene and recognizes the need to operate in a manner consistent with the broader goals of water resources management. It encourages cooperative governance with emphasis on capacity building at all levels. Other strategies include:

- *National Water Policy of 1997 (DWAF, 1997)* which defined ownership and allocation of water. It declares that all water irrespective of where it occurs in the hydrological cycle is public water, and that the national government will act as a public trustee.
- *National Water Act of 1998 (Act 36 Of 1998)*. This was founded on 2 pillars: sustainability and equity; it, amongst other things, required the establishment of a National Water Resource Strategy (NWRS) to set out a national framework for managing water resources.
- *National Water Resource Strategy (DWAF, 2004a)* which provides the national implementation framework and divides the country into 19 water management areas.
- *The National Water and Sanitation Programme*, an international partnership aimed at enhancing accessibility to safe and affordable water supply and sanitation for the poor.



The government of South Africa thus made a strong commitment to high service standards and to high levels of investment subsidies to achieve those standards. Since then, the country has made satisfactory progress with regard to improving access to water supply: It reached universal access to an improved water source in urban areas, and in rural areas the share of those with access increased from 66% to 78% from 1990 to 2008. South Africa also has a strong water industry with a track record in innovation.

SAUDI ARABIA

The Kingdom of Saudi Arabia is located within an extremely arid region where the average rainfall is low and the surface water is very limited. There are no perennial rivers. However, low rainfall quantities across the Kingdom create limited surface runoff. This surface water is the result of rain that floods and flows in the wadis for short duration.

There are four distinct sources of water in Saudi Arabia, namely:

- Non-renewable groundwater from the deep fossil aquifers
- Desalinated water
- Surface water
- Renewable groundwater from shallow alluvial aquifers.

About 50% of drinking water comes from desalination, 40% from the mining of non-renewable groundwater and 10% from surface water, especially in the mountainous South-West of the country. In recognition of her limited water resources, Saudi Arabia embarked on numerous plans for water conservation, among them:

- Significant investments in seawater desalination, water distribution, sewerage and wastewater treatment.
- A computer programme for monitoring groundwater established to check water levels and movements throughout the Kingdom.
- Fines and penalties including imprisonment for polluting water or other environmental resources. Forms of pollution include disposal of waste oil, batteries, industrial or cosmopolitan waste, hazardous waste, or other pollutants affecting water or soil.
- Water conservation measures were also put in place including awareness campaigns through the media and educational pamphlets.



- In addition, in Riyadh a leakage control program has been carried out and a special, higher water tariff has been introduced.

2.5.1 Lessons Learnt in the Water sector

From the countries quoted above and others such as Brazil, Indonesia, among many others that the research team reviewed, we can draw lessons that would be useful as Kenya implements Article 43 (1)(d). Among key best practice lessons are the importance of the following:

- Development of programmes to control water leakage.
- Introduction of water tariffs which are fair for conservation of water.
- Supply of free basic water for a certain volume of water, above which an escalating block tariff is introduced.
- Re-use of waste water for flushing toilets, landscaping and irrigation as well as in industries.
- Developing new water resources through harvesting of rainfall and flash floods; re-use of drainage water and extraction of both shallow and deep groundwater.
- An operative and efficient response system to water users queries and needs, for example, through customer hotlines.
- Rewarding water companies that improve their performance through provision of incentives.
- Greater financial investment in the water sector.
- Integrated management of water resources, particularly the enhancement of transferring excess water volumes from rainy periods to seasons of drought.
- Use of the human rights approach in the provision of water and in water management.
- Political will and clear policy framework in the water provision and management.
- Improved efficiency of the present use of water resources through improving water quality management in the industrial, domestic and agricultural sectors.
- Implementing environmental management systems.
- Improvement of the water sector institutional, legislative and financial management.
- Decentralization of water management.
- Conducting water related institutional reform activities at all levels.



- Ensuring appropriate implementation of water related policy instruments.
- Improvement of water resources management systems through people's participation in water management, institutional strengthening and co-ordination of the various stakeholders.
- Introduction of strict fines and penalties for polluting water or other environmental resources. Forms of pollution include disposal of waste oil, batteries, industrial or cosmopolitan waste, hazardous waste, or other pollutants affecting water or soil.

Enhancement of public campaigns on the importance of hygiene and construction of safe latrines that do not pollute underground water resources or rivers and other surface water resources.

2.6 SELECTED BEST PRACTICES IN FOOD SECURITY FOR THE IMPLEMENTATION OF ARTICLE 43 (1)(c)

(This section of study was done with support from SUNY-Kenya in a project with AWSC)



While food insecurity is about people not having enough food, ending food insecurity and hunger is about government getting involved through policies, programmes and strategies or other social intervention schemes targeting those affected and the vulnerable. The need for inclusive development necessitates countries to develop social policies, schemes and programmes to provide social protection to the vulnerable members of the community such as the poor, the elderly, the disabled and the unemployed.

As an attempt to address the food insecurity issue, several countries have implemented food security programmes and have contributed tremendously to reduction of food insecurity and hunger incidences. Table 3 shows the Global Hunger index of some selected countries, which have implemented food security programmes, and as consequence have significantly contributed to reduction in food insecurity and hunger.



Table 3: Best practices in addressing food insecurity and hunger

Country	GHI*				
	1990 (with data from 1988-92)	1996 (with data from 1994-98)	2001 (with data from 1999-2003)	2011 (with data from 2004-2009)	RANK 2011/81
Egypt	7.8	6.6	4	4
Gabon	8.4	6.8	7.3	5.2	1
India	30.4	22.9	24.1	23.7	67
Kenya	20.6	20.3	19.9	18.6	50
Malawi	29.7	27.1	22.4	18.2	49
Malaysia	9	6.7	6.6	4
South Africa	7	6.5	7.4	6.4	13

Source: IFPRI 2011

**Values less than 5.0 reflect low hunger, values between 5.0 and 9.9 reflect moderate hunger, values between 10.0 and 19.9 indicate a serious problem, values between 20.0 and 29.9 are alarming, while, values of 30.0 or higher are extremely alarming.*

From the Table above, Egypt and Malaysia have managed to move away from a situation of moderate hunger to one of a low hunger between 1988 and 2011. Gabon, India, Malawi and South Africa have done relatively well with respect to reduction in hunger index as compared to Kenya.

Brazil, India and South Africa are a part of the BRICS group of countries (Brazil, Russia, India, China and South Africa, which have been considered to be the fastest growing developing countries. Brazil is one of the most successful developing countries today with respect to food security, rural development poverty eradication. We briefly discuss the experience of some of these countries are discussed below.

BRAZIL'S ZERO HUNGER PROGRAMME

The Brazil Fome Zero (Zero hunger) programme was launched in 2003 with aim of addressing Brazil's food insecurity, but was later expanded to include guarantee the Right to Food. The programme involves 53 initiatives implemented by 11 different ministries and comprises mainly four main issues of access to food; strengthening family agriculture;



income generation; and partnership promotion and civil society mobilization. The programme addresses all the pillars of food security including food availability, access to food and food utilization. The most popular of these initiatives are the Bolsa Familia program (family grant) and the national school-feeding programme.

- **The national School feeding initiative**

This initiative is a National School Meals Programme, providing over 47 million free meals a day at students who are under 18 years in public schools. In 2006, the country enacted a law establishing a National Food and Nutritional Security System.

- **The Family Grant (Bolsa Familia)**

This is a cash transfer programme, which distributes small amounts of money on a monthly basis to families which are food-insecure, with most of them not having a regular income. The programme benefits 12.5 million families across the country an equivalent of more than 48 million people, which represents about 25% of the country's population.

Beneficiaries of this programme include families with incomes of (US\$40) per person per month or families with incomes per person of between (US\$40) and (US\$81) who have children. The basic grant provided is (US\$39) per family per month, plus an additional (US\$12) per child under 16 and (US\$19) per adolescent, up to a maximum of (US\$115). Women were the preferred recipients of the grants and generally are, although some recipients are men. Conditions for grant include:

- Children remain at school and attend classes 85% of the time for 6-15-years-old and 75% of the time for 16-17-year-olds.
- They observe basic health procedures, such as vaccinations required for children from 0-6 years old.
- Pregnant and breastfeeding mothers follow pre- and post-natal examinations.

Families not complying with the conditions can lose the benefits or have them suspended. The programme budget has increased since 2004, from some US\$2.2 billion to some US\$7.2 billion per year in 2009.



- **Food Acquisition Programme**

Under this programme, food from smallholder farmers' or their organisations is purchased by a government agency at market prices and distributed to local social organisations or to food-insecure people.

The programme provides a guaranteed market for smallholder farmers at fair prices. Most of these small holder farmers are located in rural areas with less developed roads and at valgaries of the middlemen. The programme has acted as a stimulus for the production of more food. The programme pays 30% more for agro-ecological products, which provides an incentive to promote sustainable agriculture. Key benefit is that the programme provides free of charge, high-quality, locally produced food in the quantity and frequency needed for people who are food insecure.

One of key challenges is that in practice this premium price is not universally applied.

Some of the achievements of this programme include:

- Reductions in child mortality (dropped 73% since 2002),
- Reduction in levels of malnutrition, and,
- Reduction in poverty.
- Reduction in inequality.

These initiatives fall under the four basic dimensions of Brazil's zero hunger strategy: emergency actions, increase of basic food supply, improvement of incomes, and the provision of cheap food. Implementation is on a structural (State) level as well as the regional and local levels including the popular restaurants or the food banks.

Factors contributing to success of these programmes include:

- i. Participation by civil society

Pressure from, and engagement of, civil society organisations ensured the nutrition security was at the centre of government policy. One key actor has been the Brazilian Forum of Sovereignty, Food and Nutritional Security established in 1998. This is a national network of social movements involved in food and nutrition policy.

- ii. Government establishment of a National Food and Nutritional Security Council



The Council is composed of both public and civil society representatives. The Council recommends designs and monitors public food policies.

INDIA'S NATIONAL EMPLOYMENT SCHEME

The National Rural Employment Guarantee Act (NREGA), passed in Parliament in August 2005 as national legislation and renamed the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) is the main poverty alleviation programme in India. India is the first developing country to enact national social security legislation, protecting the legal entitlement to work.

The law guarantees 100 days of work to each rural household with an aim of to increasing the income of poor villagers. The daily wage is fixed at (US\$2) per day. Workers undertake labour-intensive tasks such as digging irrigation canals, de-silting ponds, repairing water tanks, building roads, among other. Upon registration, workers expect to be given work on public worksites within 5kms of their village within 15 days of registering. Basic facilities including safe drinking is provided for them. Wages are paid within a fortnight either at a time-rate, based on the number of days worked, or at a piece-rate, based on the measurement of work completed.

Within six months of the Act coming into force, the programme began to be rolled out in a phased manner across the country, with each state having to launch a 'National Rural Employment Guarantee Scheme' (NREGS), and by 2007-08, the programme covered all the 621 districts of the country. Central government funds 90% of the programme but implementation falls to state governments.

The programme has expanded, with a current annual outlay of around US\$9 billion being still less than 0.75% of India's GDP and 4% of the 2009-10 budget.

Key characteristics of this programme include: universal and not targeted entitlements; the implementation was decentralised; and there was participatory accountability. Success factors of the programme include:

- Labour-intensive job creation,
- Social inclusion (the elderly were left out),



- Women's empowerment,
- Rural empowerment,
- Stemming migration,
- Rise in rural wages and,
- Creation of 'green' jobs.

Key challenges of the programme include: less than 100 days work days, households could receive on average 54 days of work, less than agreed payments, payment delays and the challenges of corruption and accountability.

MALAYSIA

As far as Malaysia is concerned, it adopted a pragmatic approach linking food security (mainly focused on rice which is the basic staple and political crop) and economic growth (growth with redistribution) at both the macro and micro levels. At the macro level, the approach involves leveraging policy control over sectoral composition of income growth as well as stabilization of food prices. At the micro level, it involves rural development, focusing on:

- Rural education/human resource development - accessible to the poor and females.
- Rural clinics – health care, family planning; and
- Home economics, nutrition education.

The approach comprises three components including: rapid growth of the macro-economy, poverty eradication through rural economic growth (pro-poor growth) and stability of the food system.

Malaysia's prevalence of undernourishment and child mortality rate have been low for several decades, but the prevalence of underweight in children under five has been considerably higher.

From 1990 to 2005, the proportion of underweight in children markedly decreased, from 22.1 to 7.0 percent. This impressive reduction in child underweight can be attributed to rapid economic growth as well as government and non-government nutrition interventions targeted to women and young children.



Historically, nutrition and health have been priorities for the government, and more recently, the country has put in place comprehensive national plans for nutrition. Major nutrition interventions include food aid for the families of poor and malnourished children, supplementary feeding programs for preschool and primary school children, micronutrient supplements for pregnant mothers, and nutrition education activities.

MALAWI'S FERTILIZER SUBSIDY PROGRAMME

The Malawi fertilizer subsidy scheme, the Farm Inputs Subsidy Programme (FISP) smallholder farmers was established in 2005. The aim of this programme is to raise household and national food security through increased farmers' use of inputs. The programme targets 1.5-1.7 million farmers each year i.e. about half the country's Farmers. Farmers are provided with two coupons to buy fertilizer at a subsidized price. Initially the programmed targeted maize and tobacco farmers, but has expanded to include cotton, coffee and tea growers. The coupons are distributed by the Ministry of Agriculture to districts and traditional authorities, including village chiefs, who distribute the coupons to identified recipients.

Key achievement of this programmed include:

- Increase in food production particularly maize production due to increased productivity, currently the national food production exceeds national demand for maize.
- Decreasing maize prices.
- Increased agricultural growth.
- Stimulation of rural areas.

Malawi still experiences hunger, corruption and diversion, neglect of key services to farmers (60% of Ministry of Agriculture budget goes to the programmed) with little going to extension service, and 2% to agriculture research). Failure to target women, targeting issues and crowding out the private sector are other key challenges of this programmed.



SOUTH AFRICA'S INTEGRATED FOOD SECURITY STRATEGY

South Africa is one of the over 20 countries which have entrenched the right to food in its constitution. South African Constitution adopted in 1996, states that “everyone has the right to have access to ... sufficient food and water ... The state must take reasonable legislative and other measures, within its available recourses, to achieve the progressive realization of each of these rights.” In 2002, the country developed a strategy to address food insecurity dumped Integrated Food Security Strategy.

The strategy objectives include (Department of Agriculture, 2002) to:

- Increase household food production and trading,
- Improve income generation and job creation opportunities,
- Improve nutrition and food safety,
- Increase safety nets and food emergency management systems,
- Improve analysis and information management system,
- Provide capacity building,
- Hold stakeholder dialogue.

The strategy approach is broadly developmental rather than agricultural development in scope, but does not explicitly mention the right to food. Ministry of agriculture is the lead institution in the implementation of the strategy.

The strategy aimed at achieving all the food security dimensions of food availability, food access, nutrition, food safety and sustainability. The implementation is based on the four pillars of production and trading, increasing income opportunities, nutrition and food safety and safety nets and food emergencies.

The scope of these pillars of implementation is discussed in Table 4.



Table 4: Overview of the IFSS Implementation Structure

Pillar	Scope	Beneficiaries	Main programmed
Pillar 1: Production and trading	To ensure that identified food--insecure populations gain access to productive resources to produce food.	Vulnerable groups (e.g. female headed households, young people, disabled), small-scale farmers, emerging farmers and Commercial farmers.	Comprehensive Agriculture Support Programme, budget 2010/11: US\$119 million.
Pillar 2: Income opportunities	To ensure that people have access to income and job opportunities to enhance food related purchasing power.	Vulnerable groups (mainly young people and food-insecure poor households).	Expanded Public Works Programme, budget 2010/11: US\$54 million.
Pillar 3: Nutrition and food safety	To ensure that food insecure people are empowered to make appropriate decisions around nutritious and safe food.	Mainly poorest (community poverty levels) 1st and 2nd quintile primary and secondary schools	National School Nutrition Programme, expanded budget 2010/11 US\$500 million.
Pillar 4: Safety nets and food emergencies	To ensure that the state provides relief measures which could be short- to medium-term and on a sustained basis.	Vulnerable groups, children, elderly, disabled and those in destitution.	National Social Security Scheme, budget 2010/11: US\$12.4 billion, including US\$96 million for Social Relief from Distress.

Source: (Koch, 2011)

Some progress has been made particularly with respect to decrease in hunger and poverty; however it has been observed that the programme has not achieved most of its objectives (Koch, 2011). Disparities in food security have continued to persist distinguishing factors being geographic location, gender and race. The rural areas, where 70% of the poor live, have the highest incidences of food insecurity.

Key challenges encountered in implementation (FAO, 2004) include:



- Gaps existing between national and provincial legislation,
- Inadequacies in the administration,
- Delays in payment of grants to some recipients,
- Uneven access to grants,
- unequal service delivery standards,
- Budget uncertainties,
- Financial challenges,
- Significant persistent fraud in some provinces.

Key Strengths in the programmes

There are some key strengths in the above mentioned policy programmes that contributed to success story. Key of these strengths which should be looked at in relation to Article 43, 1 (c) of the Kenyan Constitution include:

- **Government commitment and promotion of the Right to Food**

Governments, particularly of those of Brazil, India and Malawi, discussed above showed political commitment to introduce and deepen the programmes and promote the Right to Food. Brazil's adopted framework law on the Zero hunger programme giving the programme the highest-level of political commitment.

In India, the National Rural Employment Guarantee legislation already places responsibility on the government to deliver on work guarantees, showing the strength of rights-based legal entitlements, which are difficult to revoke or reduce. Workers were empowered to use the media, the courts and social audits to ensure the fulfillment of their entitlements.

- **Decentralized implementation and participation**

Peoples' participation in implementing policy was very crucial. Decentralization enabled political commitment from the top to be combined with social pressure from below to ensure that the right to employment is respected in the letter and the spirit of the law in the case of India.



- **Institutions for implementation**

The countries particularly Brazil and India were able to innovatively create institutions which aimed at advancing the realization of the right to food. The institutions included both public and civil society representatives.

- **Pressure from civil society to introduce and improve the programmes**

Civil society organizations have played a key role in introducing the programmes and in pressing governments to promote the Right to Food in the three countries.

- **Cost-effective programmes**

The annual budget for India's employment guarantee of around US\$9 billion is less than 0.75% of GDP and 4% of the 2009/10 budget, even though the programme now covers all 621 districts of the country. The Zero Hunger programme in Brazil amounts to just 1% of the national budget. Many public works programmes around the world have proved to be an affordable food security intervention with the cost rarely being more than 1- 3% of GDP. Public works programmes can increase GDP through the circulation of money, especially since poor people have a high marginal propensity to spend.

2.6.1 Lessons Leant from the Case Studies of Food Secure Nations

The above case study reveals the following about countries with best food policy practices

- i. Countries such as Brazil, South Africa, Egypt and the European countries have mainstreamed the four food security pillars (food availability, accessibility, utilization, and stability) in their national food security policies. This approach has enabled them to properly address food security objectives.
- ii. The above policies have seven primary components, which clearly defines how they approach food security objectives. Some of the common features of the above examined policies include: (1) background (2) objectives (3) food pillars (4) implementation plan (5) anticipated implementation challenges (6) budget for food security (7) monitoring and evaluation strategies. This framework is comprehensive, and it can be adopted by other countries which seek to achieve food security.
- iii. The countries examined have substantial budgetary allocations for food security.



- iv. Their strategies for achieving and maintaining food security are closely monitored by both government and non governmental bodies through multiple evaluation tools.
- v. Achieving food security requires a multifaceted approach which encompasses both **agriculture and social welfare programs** that enhance food availability and accessibility.



2.7 SELECTED BEST PRACTICES IN HEALTH CARE SERVICES FOR THE IMPLEMENTATION OF ARTICLE 43 (1)(a)



Health care is defined as the ‘diagnosis, treatment and prevention of diseases, unless injury and other physical and mental impairments in humans. It refers to work done in providing primary care, secondary care and tertiary care as well public health. Access to health care services varies across countries, groups and individuals largely influenced by social and economic conditions as well as health policies in place.

The following is a summary of some policies implemented by other countries to achieve their visions of health care for citizens health financing is arguably the most challenging factor in health care delivery. We have chosen to focus on health care financing.

FRANCE

France is ranked as the best in the world. Infant mortality rate is 3.929 per 100,000 live births; Average life expectancy of 79.4 years. Emergency treatment is offered free; Government reimburses 75-80% of expenditure on medical services; Due to re-imburement patients have freedom to decide on where to receive health care services; Health care system is financed by 13.5% payroll tax income, and 95% is paid by the employers; French insurance system is based on a principle of solidarity to the ill person; The insurance system is run by a non-profit agency; Incentives by French government pay full University fees for medicals students; The government also pays two thirds of the social security taxes for the doctors; Children under 16 years are exempted; Quality Assurance- A National Agency for accreditation & Health (ANAES) Publishes practice guidelines and drug prescriptions, Negotiates prices with manufacturers and compensation schedule with doctors.

ITALY

Italy was ranked 2nd best by WHO (2000) in its provision of Health care to the people. Average life expectancy is at 81.77 years. In Italy, the Doctor Patient ratio is 3.9: 1000. Infant mortality rate is 3.38 per 1000 live births.



One of the basic principles of the Italian health care system is solidarity with the most vulnerable people effectiveness and appropriateness of health interventions

The Ministry of Health funds the regions and the regions fund the Local Health Authorities.

Expenditure on health has risen from 7.9% in 1990 to 8.7% in 2007 of the Gross Domestic Product (GDP). Of the total expenditure in 2007, 77% was used in Public's health. Taxes to finance the health care system are obtained from tax levied on companies and taxation from salaries of public sector workers and in addition from the regional tax.

JAPAN

Japan has the cheapest health system in the world. Life expectancy in Japan is at 82.25 years with a population of the elderly (over 65 years) is 20% and highest in the world.

The State makes decisions in every sector including insurance plans; Taxes are paid by employers and employees based on income; Income based premiums are paid by the self employed.

CANADA

Canada was ranked by WHO in 2000 30th in the world. The infant mortality rate is 3.9 per 1000 live births. Life expectancy is ranked at 81.39 years.

Health care in Canada is financed primarily through taxation, both provincial and federal, personal and corporate income taxes. Federal funding is transferred to the provinces as a combination of cash contributions and tax points (taxing power). To receive federal funds, however, provincial insurance programmes must adhere to the principles in the Canada Health Act. Public sector funding represents about 72% of total health expenditure. The remaining 28% is financed privately through supplementary insurance, employer-sponsored benefits or directly out-of-pocket.

SINGAPORE

Singapore is ranked six in the world according to the WHO report on countries that offer best health care systems infant mortality rate as of 2011 is 2.32 per 1000 live births. Life expectancy is at 82.14 years. Health care is the government's responsibility.



Unique features

Compulsory savings by the Citizens; A National fund that takes care of chronic illness.

66% of the health's spending comes from the private sources.

MOROCCO

One of the priorities of the state health is to ensure the entire population equality and equity in access to care.

A basic compulsory health insurance (AMO) based on the principles and techniques of social insurance for people gainfully employed, of pensioners, former resistance fighters and members of the Liberation Army and students medical assistance program (RAMED) based on the principles of social assistance and national solidarity for the benefit of the poor population.

Funding for health care benefits is based on the principles of solidarity and equity, to ensure the entire population of the Kingdom access to such services.

Children with mental or physical disabilities are considered dependents regardless of age.

GHANA

The law makes it compulsory for all Ghanaians to join a health insurance scheme in Ghana.

There Are Three Types Of Schemes Available Under The Law:

- The District-Wide Mutual Health Insurance Scheme.
- The Private Mutual Health Insurance Scheme.
- The Private Commercial Health Insurance Scheme.

The Government supports the District Mutual Health Insurance Scheme concept to ensure that:

- Opportunity is provided for all Ghanaians to have equal access to the functional structures of Health Insurance.
- Ghanaians do not move from an unaffordable 'Cash and carry' regime to another unaffordable Health Insurance one.
- A sustainable Health Insurance option is made available to all Ghanaians.



- The quality of healthcare provision is not compromised under Health Insurance.

Financing of the Scheme

Since the socio-economic condition of all residents in Ghana are not the same and the contributions must be affordable to all to ensure that nobody is forced to remain in 'cash and carry', there could be no standard contribution for all Ghanaians in the country. This also means that contributions payable could vary from one district to the other as even the disease burden is also not the same in all the districts.

It must be noted that, all Ghanaians, are going to pay 2.5% Health Insurance Levy on selected goods and services to put into a National Health Insurance fund to subsidize fully paid contributions to the District Health Insurance Schemes.

Contributions are payable in line with one's ability to pay. For the informal sector, community health insurance committees are to identify and categorize residents into social groups to enable individuals in each group pay in line with ability to pay.

By law, the core poor or indigent who are considered as adults and unemployed and receive no consistent financial support from identifiable sources will be exempted, from contributing to any District Mutual Health Insurance Scheme. Children under 18 years, whose parent(s) or guardian(s) pay their own contributions, are exempted from paying any contribution.

An efficient social grouping validation will be in place in all Districts/Sub-metro, to ensure that the real core poor is listed for Government to pay their contributions from the National Health Insurance Fund. Other residents will pay in line with their social category.

UGANDA

During the post-independence era (1962-1971) Uganda was one of the countries with best health indices and a vibrant health care system in Africa. Two decades of civil unrest followed and the health care system collapsed. After the war, GoU started reconstruction and rehabilitation programmes first focusing on putting in place the political and economic environment conducive to growth. Since early 1990s, GoU has given high priority to improvement of the health status of people as evident in the development and implementation of the first NHP and the Health Sector Strategic Plans (HSSP) I and II. Health indicators



remain poor and disparities exist with northern Uganda, because of civil unrest, having the worst.

Financing of health services in Uganda is expected to provide adequate resources for the health sector over the next decade. Efforts shall be made to explore alternative health financing mechanisms like health insurance but take into consideration equity concerns.

Among other things Kenya has initiated the implementation of the Kenya Health Insurance Fund as an attempted to make the 'health for all' objective a reality.

4.7.8 Lessons learnt in the health sector

- An efficient service delivery system that maximizes health outcomes is necessary.
- Devolution of services for example all medical procedures such as laboratory tests and x-ray services should be provided locally.
- Improvement of planning capacities and use of information systems to manage and distribute financial, human and infrastructural resources based on actual needs.
- Importance of inter-sectoral approach to health at the county and district levels.
- Adequate and equitable distribution of human resources for health care.
- Adequate allocation of resources.
- Social and financial risk protection assured.
- Provision of good health insurance services.
- Compulsory savings by the Citizens in order to facilitate provision of universal health care and to promote support of health services from private sources.

This chapter has provided summaries of best practices in the six sectors related to Economic and Social Rights. The details of the best practices and lessons learnt appear in other separate reports. The next section presents an analysis of local programmes and vision 2030.



PART 3(A): ANALYSIS OF LOCAL POLICIES AND PROGRAMMES

3.1 Introduction

This section looks at the local policies and programmes related to Economic and Social Rights and implementation of Article 43. They are presented according to the sectors. The section analyses various aspects of Vision 2030.

3.2 Agricultural Policies in Kenya in relation to Article 43 (1)(c)

About a half of Kenya's estimated 35.5 million people are poor, and some 7.5 million people live in extreme poverty, while over 10 million people suffer from chronic food insecurity and poor nutrition. Nearly 30% of Kenya's children are classified as undernourished, and micronutrient deficiencies are widespread. In recent years, it is estimated that at any one time about two million people require food assistance. During periods of drought, heavy rains and/or floods the number of people in need could double.

Agricultural policies in Kenya can broadly be divided according to the degree of Government involvement in the running of the sector starting with increased participation before and immediately after independence to minimal participation in the 1990s and reforms and public-private partnerships from 2003 to date. The enhanced role of Government in the policy process had a clouding-out effect on the private sector leading to reduced competition, efficiency and agricultural production.

Colonial agricultural policies and laws were established with the main objective of regulating or controlling participation of the African peasant in commercial agriculture and thus ensure profitability for the settler community with the Africans providing cheap labour on the settler farms thus reducing competition for market of their produce.

Since independence agricultural policies and legislation have been substantially reviewed or revised in order to reverse the original intentions of the colonial era. It should however be noted that policy review is a continuous process given the periodic and sometimes unexpected changes taking place either in the country or elsewhere in the world such as the impact of globalization or trading requirements. For instance, the liberalization of the



economy and impact of drought/floods in the country have necessitated the sector to initiate reform of sectoral policies/legal framework so as to respond to the new challenges. Policy changes have often not been followed by necessary change of legislation thereby causing implementation constraints. The sectoral policy on food security for example is geared towards local production of food items while liberalization may tend to contradict it by exposing the local farmers to unfair competition through the dumping of subsidized imports.

3.2.1 National Food Security and Nutrition Policy¹

The National Food Security and Nutrition Policy (FSNP) provide an overarching framework covering the multiple dimensions of food security and nutrition improvement. It has been purposefully developed to add value and create synergy to existing sectoral and other initiatives of government and partners. It recognizes the need for multi-public and private sector involvement, and that hunger reduction and nutrition improvement is a shared responsibility of all Kenyans. The policy and associated actions will remain dynamic to address contextual changes and changing conditions over time. This policy is framed in the context of basic human rights, child rights and women's rights, including the universal 'Right to Food'.

FSNP Policy issues

1. *It is the policy of the government that all Kenyans, throughout their life-cycle enjoy at all times safe food in sufficient quantity and quality to satisfy their nutritional needs for optimal health.*

The broad objectives of the FSNP are:

- To achieve good nutrition for optimum health of all Kenyans.
 - To increase the quantity and quality of food available, accessible and affordable to all Kenyans at all times.
 - To protect vulnerable populations using innovative and cost-effective safety nets linked to long-term development.
2. The FSNP addresses associated issues of chronic, poverty-based food insecurity and malnutrition, as well as the perpetuity of acute food insecurity and malnutrition associated with frequent and recurring emergencies, and the critical linkages thereof. These issues are:



- (i) **Food availability and access:** *The government policy objective is to increase the quantity and quality of food available and accessible in order to ensure that all Kenyans have an adequate, diverse and healthy diet.*
- (ii) **Food safety and quality control:** *The government policy objective is to ensure safe, high quality food by creating public awareness on relevant issues, and by setting, promoting and enforcing appropriate guidelines, standards and a regulatory framework.*
- (iii) **Nutrition improvement:** *The government policy objective is to achieve good nutrition for optimum health of all Kenyans. Enhancing food access, providing special nutrition interventions for specific groups with high risk, and creating awareness and skills to provide nutritious foods to all family members and especially children and promoting healthy lifestyles throughout the life cycle are among other major government objectives.*
- (iv) **School nutrition and nutrition awareness:** *The government policy objective is to have all Kenyans knowledgeable about good basic nutrition required to live a healthy and active life, with clear and substantive roles for relevant government ministries, the media and other key stakeholders. Efforts will focus on improved nutrition and nutrition education in schools. School gardens and school feeding programmes will improve children's nutrition and help build healthy eating habits. Building capacity amongst service providers in all sectors, enhancing nutrition-related adult education amongst the general population, and mounting effective public awareness campaigns are essential. Well founded and internationally accepted dietary guidelines adapted for Kenya will consolidate key nutritional information in a single user-friendly package.*
- (v) **Food security and nutrition information:** *The government policy objective is to build capacity and ensure the availability of quality and timely food security and nutrition data, information and analysis for better formulation and management of integrated food security and nutrition policies, programmes and action.*
- (vi) **Early warning and emergency management:** *The government policy objective is to protect vulnerable populations and address food insecurity concerns in developing capacity for purposes of early warning and emergency management using innovative and cost-effective safety nets and emergency relief programmes linked to long-term development.*
- (vii) **Institutional and legal framework financing:** *The government policy objective is to ensure an adequate institutional and legal framework, and to mobilize sufficient resources in order to achieve the objectives of the national Food Security and Nutrition Policy (FSNP).*



(viii) **Strategic approaches for policy implementation, monitoring and evaluation:** A strong, logical and realistic strategic framework is required, with associated programmes and action plans. Actions must be purposefully linked and coordinated with one another and with sectoral initiatives of government and partners at national and sub-national levels. An essential component of the implementation strategy is to create strong and lasting advocacy mechanisms. Particularly important is the role of the media. An important component of the implementation plan will be the phasing of programme activities. The FSNP will be implemented in a manner that acknowledges changes in people's food security and nutritional status and conditions over time. In this manner, the strategy will remain dynamic and programmes will reflect the changing context, knowledge and requirements. An effective monitoring and evaluation system will help identify particularly successful and effective initiatives, and will guide the strategic re-phasing of the programme over time.

Policies for the Future

Perhaps the inward looking national policies in the past have missed external push and thus have not delivered the desired results as noted before. Outward looking policies may be could be the missing link between the results we have been realizing over the years and what is desirable. In this connection, it is proposed that ideas from other regions of the world and by African experts be examined.

The agricultural sector according to the Kenya Vision 2030 is expected to grow at a pace of about 6-8 percent per annum propelled by the flagship projects that include reduction in the cost of farm inputs, improved farm prices, provision of higher value addition, improved marketing and implementation of policies to revitalize the sector. The area under crop production will be expanded in the next five years, by an additional 1.2 million hectares of land brought under irrigation. Five disease-free zones will be created in different parts of the country to improve the health and quality of livestock and to facilitate export of livestock and livestock products into the world market.

Policies of the future must take cognizance of the fast-moving global environment including climate change, scarcity of energy sources, rise in temperature and ever increasing number of people in need of food. The world is faced with unprecedented challenges of rapidly increasing global temperatures resulting in the global warming phenomenon, scarcity of energy sources and the search for alternatives such the biofuels, the recent meltdown of



global economy and unabated increase in population. The world population estimated at 7 billion is expected to reach 9 billion in 2050, at the same time, Kenya's population is expected to grow from the current estimation of 40 million to 70 million.

The implementation of Copenhagen Protocol on carbon emissions will address the global warming phenomenon while improved efficiency and development of renewable alternative energy sources will relieve pressure on need for biofuels that are using food products as raw materials. The reduction in the use of food products for biofuels will lower food prices making it readily available to the estimated 860 million people who go to bed on empty stomach globally. Policies aimed at prudence in global economic management will be able to address the economic meltdown while reduced birth rates will tackle the increase in population growth. The multilateral trade agreements are increasingly being replaced by Economic Partnership Agreement between individual countries to the disadvantage of weaker trading partners.

The New Partnership for Africa's Development (NEPAD) Comprehensive Africa Agriculture Development Programme (CAADP) initiative is expected to guide agricultural development in the continental through Regional Economic Communities. Through CAADP Compacts, African governments have committed themselves to invest agricultural resources in priority areas identified in the documents. The Kenya CAADP Compact launched in 2010 and implemented through the Agricultural Sector Development Strategy has identified five strategic thrust for the overall development of the sector and food security. These include increasing productivity and promoting commercialization and competitiveness of all crops, livestock, marine and fisheries, and forestry; increasing market access through the development of cooperatives and agribusiness; developing and managing national water resources, land resources, forestry, and wildlife in a sustainable manner; reforming agricultural service, credit, regulatory, processing and manufacturing institutions for efficiency and effectiveness; and promoting private sector participation in all aspects of agricultural development.



3.3 Analysis of the Kenya National Health Policy 2012-2013 in relation to Article 43 (1)(a)

A health policy provides the long term intent of the Government, towards attaining its health goals. The first Kenya Health Policy Framework (KHPF), 1994- 2010 attained notable progress in a number of areas, in a changing and challenging environment. The knowledge and experience acquired by the sector, together with the global, regional and local development trends guided the development of this policy.

It aims at consolidating the gains so far attained, while guiding achievement of further health gains in an equitable, responsive and efficient manner. It is envisioned that the ongoing government reforms and the general global political goodwill the country is enjoying, together with anticipated sustained economic growth are expected to facilitate achievement of the defined health goals.

It is noteworthy that within the broader government development framework enshrined in Vision 2030, the central role of health as a key pillar in driving Kenya to be a globally competitive and prosperous nation with a high quality of life equal to that of a middle income country, by 2030 cannot be underestimated. In addition, the constitution of 2010 provides an overarching conducive legal framework for ensuring a more comprehensive and people driven health services, and a rights – based approach to health is adopted, and applied in the country. All the provisions of the constitution will affect the health of the people in Kenya in one way or another. However, two critical chapters introduce new ways of addressing health problems, and have direct implications to the health sector focus, priorities and functioning: The Bill of Rights, and the devolved Government.

This policy is being developed at a time when the Global development effort towards MDG attainment is coming to a close. In addition, other global initiatives such as those targeting Non Communicable Diseases, Social Determinants approach to health, managing emerging, and re-emerging health threats like are gathering momentum. Efforts to harness global efforts towards these, and other global health goods are defined, such as through global Aid Effectiveness commitments (Rome 2003, Paris 2005, Accra 2008, and Busan 2011).



To technically inform the development process of this policy, a dual evidence-based and consultative process was undertaken over a period of two years. First, a comprehensive, and critical analysis of the status, trends and distribution of health goals in the country and secondly the contribution of the previous policy framework, and the sector actions towards achieving the current status of health goals was analyzed. The outputs from these processes are available, as background information, for this policy.

These two critical processes informed the approach in development and definition of this policy's objectives and orientations. Under the stewardship of the government extensive consultative process with stakeholders (Government Ministries/agencies, Development Partners (multilateral and bilateral), and implementing partners (Faith Based, private sector, Civil Society) was undertaken in order to gain consensus on divergent views.

3.3.1 Recommendations to the Health Policy 2012-2030

Policy orientation 1: An efficient service delivery system that maximizes health outcomes. (Chapter 5 page 21)

- The AWSC proposes devolution of services for example all medical procedures such as laboratory tests and x-ray services should be provided locally at the county.
- Improve planning capacities and use of information systems to manage and distribute financial, human and infrastructural resources based on actual needs.
- Strengthen the inter-sectoral approach to health at the county and district levels.
- Encourage the establishment of local health councils to improve the role of stakeholders and build their capacities to set priorities.
- Promote health systems and epidemiologic research at both the national and county levels.

Policy orientation 2: Comprehensive leadership that delivers on the health agenda. (Chapter 5 page 24)

- One proven technique to raise quality of services is by enhancing community participation.
- Service upgrade would benefit from the creation of a 'Citizen's Health Charter' that is prominently exposed at all health facilities, and which clearly spell out the level and



quality of services the users can expect, as well as redress mechanisms for poor service.

- Adopt management protocols in order to curb the cost of services and to improve the quality and accessibility of care.
- Strengthen technical and managerial capacity and the maintenance of infrastructure to support decision making regarding the introduction of truly innovative technologies.
- Promote greater management autonomy for health facilities and greater results orientation among operational teams to improve performance in the health sector.
- Establish measures to improve management of the health care system.
- Adopt a gender aware management system that encourages women participation in the management of health services.

Policy orientation 3: Adequate and equitable distribution of human resources for health. (Chapter 5 page 25)

- Human resources for health can be improved through long-term strategic planning for human resources development as part of the national policy and strategic planning functions.
- Redesign the way health professionals are trained with emphasis on evidence-based practice, and provide more opportunities for interdisciplinary training.
- Modify the ways in which health professionals are regulated and accredited to facilitate changes needed in care delivery.
- Encourage more pro-active recruitment measures by the boards of nursing schools.
- Stress the positive aspects of the profession to the public,
- Provide salaries and incentives at all levels of medical practice to match market levels to prevent health care staff from moonlighting or taking on second jobs.

Policy orientation 4: Adequate finances mobilized, allocated and utilized, with social and financial risk protection assured. (Chapter 5 page 26)

Health insurance

- The government should support the unemployed who cannot gain insurance cover.
- Encourage citizens to buy supplemental insurance to reduce their out-of-pocket costs and cover extra expenses such as private hospital rooms, eyeglasses, and dental care.



- The cost of treating and managing chronic diseases, such as cancer, diabetes, and critical surgeries, such as a coronary bypass should be subsidized by the government to make them more affordable to the citizens and vulnerable groups.
- Price controls and increased government spending can be used to hold down the health burden on patients through a combination of strategies.

Managing health resources

- The efficiency of the health care financing system needs to be strengthened through a health financing framework with rigorous examination of financing alternatives and transparent, effective and efficient budgeting, accounting and audit systems.
- Develop a sound financial management system to optimize the use of resources.
- Adopt cost and management accounting and information system to support the move towards an insurance based system.
- Improve financial management through capacity-building in hospital management to increase efficiency and improve performance.

Policy orientation 5: Adequate Health information, for evidence based decision making.

(Chapter 5 page 26)

- Establish a central department for health information; maintain a statistical database and statistical data flow for key health indicators.
- Implement international classification of mortality, sickness and injuries.
- Promote utilization of statistical systems and train health officials on gathering health information.
- Build expertise in conducting health surveys at national and municipal levels, build a strong library infrastructure.
- Coordinate epidemiological investigations with specialized centers; monitor and evaluate the performance of health information system.
- Engage community based health organizations such as women groups in collection and dissemination of health information.
- Strengthen health information through documentations of women's experiences in provision of health services.

Policy Orientation 6: Universal access to essential health products and technologies.

(Chapter 5 page 26-27)



- Develop affordable and competitive pharmaceuticals industry.
- Adopt cost saving measures by rationalizing ministry procurements and supply of drugs.
- Develop an alternative means to supply affordable generic drugs with limited markups for MOH to enter into long-term supply contracts which entail huge savings for buyer and producer.
- Develop the domestic pharmaceutical industry and reduce government involvement in the production of pharmaceuticals while strengthening its role as a financier.
- Work toward harmonious development of the supply of health services at different levels of care, ensuring complementarities between the public and private sectors.
- Provide home based care to patients with chronic diseases.
- There should be a health policy for taking care of the elderly.

3.4 Analysis of the Basic Education Bill

3.4.1 Introduction to the Basic Education Bill

The Education Bill 2012 comes in the context of numerous proposals to harmonize laws and regulations relating to education in Kenya. The Bill seeks to implement the Constitution of Kenya 2010 with respect to the right to education for all Kenyans, the children's right to free and compulsory education, and the devolved structures of governance. As part of compliance and ensuring that the education sector is aligned to the Constitution and Vision 2030, the Bill establishes devolved governance and management structures in the education sector. This it is hoped will go a long way in ensuring equity and good governance of quality education services in all parts of Kenya.

All major policy and strategic developments in the Education Sector have since independence been developed through the work of successive Commissions, Committees, Working Parties and Task Forces. Major policy interventions were the introduction of Free Primary Education in January 2003 and Free Day Secondary Education in 2008. Thereafter, there was a national education conference whose recommendations led to the development of Sessional Paper No. 1 of 2005, which forms the current education policy. The Sessional Paper No. 1 of 2005 on Education and Training has led to major reforms in the education sector. These reforms have enabled Kenya to make significant progress towards attaining the Education for All (EFA)



and Millennium Development Goals (MDGs). To date, the main focus has been on improving levels of access, retention, equity, quality, relevance, and the overall efficiency of the education sector. Vision 2030, launched in 2008 and the new Constitution, 2010 made it necessary to re-align the education sector.

3.4.2 Challenges addressed by the Basic Education Bill.

In recognition of the important role played by the education sector in Kenya, The Basic Education Bill 2012 has addressed many of the challenges facing the education sector in Kenya. This is in line with the new constitution and re-affirms the right of all Kenyans to Basic Education (Articles 53(b) and 54(b) of the Constitution, 2010).

Among the challenges that the Basic Education Bill has addressed include;

- 1) Compliance and alignment with the new Constitution and Vision 2030.
- 2) Limited access and inequity in the provision of education and training.
- 3) Inadequate governance and management structures, systems and processes.
- 4) Deteriorating standards and quality and doubts associated with the relevance of the curriculum.
- 5) Financing of Education.
- 6) Inefficiency, poor coordination, misappropriation and limited accountability for FPE resources.
- 7) Failure by parents/guardians to deliver their children to school.
- 8) Schools imposing fees unlawfully.

3.4.3 Strengths

The basic education Bill provides for;

- ✓ Compulsory primary and secondary education;
- ✓ Free tuition;
- ✓ Establishment of;
 - a) Primary and a secondary schools, non formal and mobile schools, and adult and continuing education centers, within a reasonably accessible distance within a county;



- b) Appropriate boarding primary schools in arid and semi-arid areas, hard-to reach and vulnerable groups as appropriate; and
 - c) Academic centres, or relevant educational institutions to cater for gifted and talented learners;
 - d) Special and integrated schools for learners with disability
- ✓ No denial of admission;
 - ✓ No payment of fee for admission;
 - ✓ Incentives and prohibition of holding back and expulsion;
 - ✓ Prohibition against physical punishment and mental harassment to the child and;
 - ✓ Rules, regulations, responsibilities and obligations of various stakeholders in the education sector

3.4.5 Recommendations:

1. Expand access to pre-primary/ECDE education by providing capitation grant.
2. Employ and deploy pre-primary/ECDE teachers.
3. Provide standardized syllabus for pre-primary/ECDE.
4. Carry out public education and awareness on certain cultural practices like early marriages and tending to livestock which forces girls and boys out of school.
5. Establish an education structure that is in line with the international best practices e.g in Singapore, which lessens the rigidity in the transition from one level to the other, and expands curriculum choice as recommended by the Education Taskforce report of February, 2012.
6. Avenues for up scaling and promotion of innovativeness, inventiveness, creativity, technology transfer and an entrepreneurial culture e.g. No funds to support and upscale cottage industry inventions.
7. Provide adequate infrastructural facilities, especially classrooms to accommodate all children.
8. Provide teachers with a thorough understanding of the inclusion model of learning and teaching, through capacity building and in-service training in line with the new curriculum.
9. Give incentives such as “Conditional Cash Transfers” (CCT) to encourage enrolment and retention of children in nomadic/pastoral areas by adopting best practices from Mexico and Brazil. Pastoralists prefer keeping their children looking after animals instead of sending them to schools. This is because they see education as not



economically viable because it takes almost 16 years for the child to attain the 1st degree and get a job while a cow can be sold after two or three years.

10. Punish parents and teachers who violate section 33. (2) Which says no pupil admitted in a school, subject to subsection (3) shall be held back in any class or expelled from school.
11. Provide timely remittances of the grant, as delays forcing school management to impose levies to purchase urgently needed learning materials at the beginning of each year.
12. Provide an education system that is not examinations oriented.
13. Provide better remuneration and conditions and terms of service for teachers working in hardship regions for motivation, including the guarantee of teaching posts outside these areas after completing a four-year contract. In addition, the resource/teaching centres should be equipped with relevant instructional materials.
14. Give preference to information technology in upgrading education system in Kenya all the way from nursery to higher institutions- for instance all learning institutions should have computer labs.
15. Put in place a coordinated, systematic and human right-based national response to violence against children; one which takes account of gender and gives special attention to vulnerable groups of children.
16. Schools in the informal settlements and rural areas need special consideration for a school feeding program, improved sanitation facilities, enough play materials and time to foster development of motor skills, social and emotional skills as well as cognitive skills.
17. Schools in informal settlements and rural areas should be given the first priority in upgrading of school facilities and equipment
18. Strengthen mobile schools for nomadic pastoralists

3.5 Analysis of the National Social Protection Policy, June 2011

3.5.1 Background and Context

Social protection has been implemented in Kenya in many different forms for many decades, including various programmes created in response to emergencies. The establishment of the National Social Security Fund (NSSF) and the National Hospital Insurance Fund (NHIF) in 1965 and 1966 respectively, was part of the Government's efforts to cushion workers against future vulnerabilities. However, these interventions have tended to be created in a piecemeal



and uncoordinated manner. Following a meeting in Livingstone, Zambia in 2006, under the auspices of the African Union, the Government of Kenya began the process of formulating a national social protection framework. This entailed holding national consultation meetings involving representatives from Government ministries, non-state actors (NSAs) such as the private sector, community groups, and voluntary organizations, and development partners as well as exploring international best practices in the provision and financing of social protection. This process has enabled the Government to identify several key comprehensive actions in the areas of social assistance, social security, and health insurance. The consultations also identified several key barriers that were preventing many people from accessing social protection services, including stigma and discrimination on account of gender, disability, age, nationality, area of residence, and poor wellbeing (for instance, having a particular disease).

It is estimated that about 46.7 percent of Kenyans (16.3 million people) are food poor and cannot meet the cost of a basic food bundle. Poverty rates are higher in rural areas (49.7 percent) than in urban areas (34.4 percent). However, the national numbers camouflage significant regional differences. For instance, poverty incidence in the Coast and North Eastern Provinces is estimated to be 70 and 74 percent, respectively compared with 22 percent in Nairobi and 31 percent in Central Province (Kenya Integrated Household and Budget Survey, 2005/6). In addition, the vulnerability to poverty of female-headed households is about 14 percent compared with 5 percent for male-headed households. Households that include orphans and vulnerable children (OVC) tend to be highly vulnerable and to have few resources. The incidence of vulnerability of child-headed households is 96 percent higher than the recorded poverty rate. All their vulnerability is accounted for by lack of endowments. Households headed by older people are substantially vulnerable to poverty. The vulnerability of many Kenyans to the risks of unemployment, diseases, and climate change make it crucial for the Government and its partners to put in place measures to promote sustained economic development as well as the development of human and social capital. Therefore, the ultimate goal of social protection is to ensure that all Kenyans live in dignity and are given the opportunity to exploit their capabilities for social and economic development. This goal is reflected in Kenya Vision 2030, which aims to provide a “high



quality of life for all its citizens by the year 2030. The Vision is built on three pillars economic, social, and political.

3.5.2.1 The Constitution and Social Protection

Article 43 of the Constitution expressly guarantees all Kenyans their economic, social, and cultural (ESC) rights, including basic rights to health, education, food, and decent livelihoods. It explicitly asserts the right “of every person... to social security” and binds the State in Article 43(3) to “provide appropriate social security to persons who are unable to support themselves and their dependants.” This implies social protection in its totality: social assistance; social security; and health insurance. The constitutional right to social security, in both the wide and narrow sense, is closely interlinked with other social protection rights. These include the right to the highest attainable standard of health, such as the right to healthcare services. It also includes the rights to equality and freedom from discrimination, human dignity, freedom of movement and residence, reasonable working conditions, fair administrative actions, access to justice, and the resolution of disputes in a fair manner and through public hearing before a court or independent and impartial tribunal or body. Finally, Article 21 of the Constitution commits the State to working towards the gradual realization of the social and economic rights and binds the State “to observe, respect, protect, promote, and fulfill the rights and fundamental freedoms in the Bill of Rights.” For this to be achieved, the State is expected to take whatever legislative, policy, and other measures as necessary, including the setting of standards. The Constitution also emphasises the application of international agreements ratified by Kenya. For example, Kenya is a signatory to the Universal Declaration of Human Rights (1948), which recognizes social protection as a fundamental human right for all citizens of the world.

For the purposes of this Policy, social protection refers to: *Policies and actions, including legislative measures, that enhance the capacity of and opportunities for the poor and vulnerable to improve and sustain their lives, livelihoods, and welfare, that enable income-earners and their dependants to maintain a reasonable level of income through decent work, and that ensure access to affordable healthcare, social security, and social assistance.*



3.5.3 Overall Objective of the Policy

The overarching goal of social protection is *to ensure that all Kenyans live in dignity and exploit their human capabilities to further their own social and economic development*. To attain this goal, the following broad policy objectives are to be pursued:

3.5.4 Specific Objectives

- Protecting individuals and households from the impact of adverse shocks to their consumption that is capable of pushing them into poverty or into deeper poverty.
- Supporting individuals and households to manage these shocks in ways that do not trap them in poverty by reducing their exclusion and strengthening their ability to graduate from social assistance and to become financially self-sufficient.
- Cushioning workers and their dependants from the consequences of income-threatening risks such as sickness, poor health, and injuries at work as well as from the threat of poverty in their post-employment life.
- Promoting key investments in human capital and physical assets by poor and non-poor households and individuals that will ensure their resilience in the medium term and that will break the intergenerational cycle of poverty.
- Promoting synergies and integration among social protection providers as well as positive interactions among stakeholders for the optimal functioning of this Policy.

3.5.5 Guiding Principles

The implementation of social protection in Kenya will be based on the Constitution, which guarantees the rights of the citizens and mandates the Government to put these rights into practice. The Bill focuses on the following principles: *Leadership and integrity; Good governance; Evidence-based programming; Gender mainstreaming; Equity and social justice; Common standards; Public participation; Adequacy, affordability, and sustainability; Flexibility and responsiveness to changing contexts*.

Social Assistance

The Government and its development partners are currently implementing several social assistance interventions targeted to specific categories of beneficiaries. These interventions include: Cash transfers are categorized into Orphans and Vulnerable Children Cash Transfers (OVC-CT), Older Persons Cash Transfer (OPCT), Hunger Safety Net Programme (HSNP),



and Urban Food Subsidy; Food distribution such as School feeding, Expanded school feeding General emergency relief; Public works such as Kazi kwa vijana (KKV); Grants Njaa Marufuku, People with severe disabilities, Safe motherhood Health vouchers.

Social Security

The multiplicity of old age pension schemes in Kenya has created a variety of institutional approaches that are in need of closer coordination. Except for the current Civil Service Pension scheme, all of the retirement benefit schemes are contributory. The Retirement Benefits Act 1997 (amended in 2006) set up the Retirement Benefits Authority (RBA), which is charged with the “regulation, supervision, and promotion of retirement benefits schemes, the development of the retirement benefits sector and for connected purposes.” The RBA has many achievements to its credit including supervising and regulating retirement fund schemes and industry. Under the auspices of the RBA, a recent attempt to provide retirement protection to some informal sector workers has been reasonably successful. Sickness and maternity benefits are currently provided on the basis of individual employer liability (as required by the Employment Act of 2007). Employers are also individually liable for the payment of compensation in the event of an occupational injury or disease (Work Injury Benefits Act, 2007). The Ministry of Labour is responsible for the administration of the workmen's compensation system, approving settlements and paying benefits from funds deposited with it by employers.

Analysis of Social Security

Currently, Kenya does not have an unemployment insurance scheme. The laws and policies in the social security sub-sector are aimed at protecting contributors and beneficiaries. The NSSF only provides lump sum benefits, and there is no provision for annuitization. Therefore, there is need to convert the NSSF into a fully-fledged pension scheme with an improved benefit regime. Although the NSSF now covers all categories of employers, effective coverage still remains low. In addition, given the low monetary ceiling on contributions, the current level of benefits is inadequate; therefore, benefit formulas should be revised accordingly. Similarly, a case has been made for reforming the Civil Service Pension scheme. Advocates of this reform envisage a separate pension scheme to which both the



Government as the employer and covered civil servants will contribute 15 percent and 7.5 percent of their earnings, respectively.

Health Insurance

Although several schemes in Kenya offer healthcare, the primary scheme is the National Hospital Insurance Fund (NHIF). The NHIF Act No 9 (1998) regulates the NHIF. The NHIF covers salaried workers on a compulsory basis (about 2 million contributory members with about 10 million dependants). Informal sector workers and those who are sponsored by individuals or institutions can join on a voluntary basis, and 700,000 such workers are so far covered.

Overall Assessment of and Recommendations to Social Protection

It is clear that the Government and its partners have implemented various interventions to ensure that the poor are cushioned while those who are financially able contribute to medical and retirement schemes as well as social security schemes (where appropriate together with their employers). However, most of the laws and policies that initiated these social protection schemes were developed prior to the enactment of the current Constitution and the development of Vision 2030. The social security sub-sector faces several challenges that include

- low effective coverage;
- limited range, scope, and adequacy of benefits; limited funding;
- Mismanagement of resources, and poor record keeping. There is need for reforms to ensure these schemes are consistent with the rights-based goals set out in the Constitution and to safeguard contributors' investments.
- The limited coverage, penalties for late contributions that are punitive to the poor and unemployed, inefficient collection mechanisms, and long drawn out payment processes remain major challenges for this sub-sector.
- There are many interventions in the social assistance area, but their effectiveness has been undermined by a lack of coherence.
- The laws and policies targeting specific social groups have tended to be passed in response to narrow concerns, which means that they are not effective across all sectors.



- Some of the laws and policies have design issues that would need to be addressed before this National Social Protection Policy can be fully realized.
- The NHIF faces a number of challenges, including reimbursement policies, which have encouraged longer stays in hospitals (especially private hospitals), the growing increase in the value of claims, an uneven distribution of payments in different categories of hospitals, and reimbursements that are skewed in favour of private hospitals and nursing homes rather than government or mission facilities. There are also administrative inefficiencies that have contributed to high overhead costs.

Some of the challenges that need to be overcome to ensure the successful implementation of this Policy are outlined below.

a) Closing coverage and access gaps: There are huge gaps in the coverage of Kenyan social assistance, social security and health insurance systems. This is the result of the narrow coverage provided for in the current legal framework, which is largely limited to formal sector and salaried workers. This means that the approximately 8 million informal sector workers and those living in rural and remote areas have inadequate access to the protective and promotive aspects of social protection.

b) Reducing the heavy burden on employers and the excessive liability on the public purse: It is evident that the social insurance system in Kenya is characterized by a heavy burden on employers and an excessive liability on the public purse.

c) Reducing fragmentation: The social security system in Kenya is highly fragmented, involving many different institutions and a large number of line ministries. Therefore, streamlining of retirement and health insurance schemes is needed, which will happen if social insurance arrangements for which employers are currently responsible are integrated into a public scheme. There is also a need to carefully consider what would be the role, place, and functions of occupational and private-based schemes and institutions (including insurance institutions) within such a revamped system of social protection, especially as the NSSF and the NHIF are to operate as fully fledged national institutions providing adequate benefits.

d) Complying with international standards: There is a need to set up an appropriate and accessible social security adjudication framework (including an impartial and independent external appeal framework), which complies with the requirements of the Constitution and



international law. Because of Kenya's membership of the EAC, the country should harmonize its social security benefit levels with the rest of the region.

e) Extending independent regulation: There is also a need for more extensive and better independent regulation arrangements in Kenya.

f) Increasing the scope and adequacy of benefits: Social security institutions could offer additional benefits such as maternity protection on a social insurance basis to increase the protection, predictability, and sustainability of such benefits. Also, in many respects, the benefits paid by social security institutions, in particular the NSSF, are inadequate and inequitable.

g) Addressing discrimination: Social security and health insurance schemes are also characterized by various forms of discrimination, such as direct and indirect forms of gender discrimination, insufficient provision for non-citizens in accordance with international and regional (EAC) standards, and disparities in the contribution framework of the NHIF among others.

h) Incorporating prevention, integration and rehabilitation: Social protection programmes need to include elements to help those affected by a risk-creating condition, such as unemployment or employment-related injury, to be reintegrated into the labour market.

i) Involving and consulting stakeholders: Finally, there is a need to properly involve and consult stakeholders in social protection programming. These include organized business and labour because they are most directly affected by any change to the social security and health insurance framework. Also, insurance and other affected institutions need to be consulted, given the impact that any reform will have on their role.

Social Assistance This Policy will help stakeholders to review the effectiveness, targeting strategies, and delivery mechanisms of their social assistance programmes in order to enhance their impact. A range of policy measures and interventions, presented below, can be used to extend social assistance targeted to the poor and vulnerable members of the society.



Safety nets and consumption transfers to sustain livelihoods and build human capital:

Social transfers are mainly in form of direct cash. The amount given for cash transfers should be increased annually to meet the current economic needs.

Asset protection and rehabilitation to re-establish livelihoods: Efforts should be made to ensure that the people's property is protected and for those who lose their assets, mechanisms should be put in place to support them. Some of the key recommendations are outlined below.

- Provide food, shelter, water, and health services in response to emergencies
- Provide asset rebuilding services such as restocking, access to inputs, and resettlement for rehabilitation purposes.
- Provide direct feeding programmes for those vulnerable to malnutrition, meals and nutritional support to schools, the older persons and pre-school-age children with supporting training in good nutritional practices, skills transfer and health services, and food distribution during emergencies such as famine and flooding (in the relief phase).
- Redistribute food in the country to ensure that areas requiring food get it in a timely manner.
- Provide food for work and targeted subsidies to enable the poor to access basic services such as food and inputs.
- Support the extension of the coverage of micro-insurance to safeguard assets.

Social Security

Retirement schemes: There is need to extend coverage of retirement schemes to informal sector workers and to increase the range and adequacy of NSSF benefits. Other benefits to be considered include maternity, unemployment insurance, and work injury arrangements. Workers should be allowed to transfer their retirement benefits among and across the different schemes when they change jobs. Preferably, this should be compulsory to ensure that appropriate benefits are available to workers when they eventually retire. Any forms of gender discrimination and disparate treatment should be eliminated to comply with the Constitution and international agreements.



Sickness benefits: There is a need to align the minimum provision for sickness benefits in the Employment Act (2007) with internationally accepted minimum standards and the constitutional right to reasonable working conditions in relation to the period of sickness.

Maternity protection: Maternity benefits (mainly in the form of remuneration) should be provided through a restructured NSSF. Conversion Bill Measures will be introduced to ensure that appropriate pre-natal and post-natal care, which is now available to female workers, is enhanced and their working conditions improved.

Employee injury and disease benefits (workers' compensation): The following measures are proposed:

- Extending coverage to excluded workers, in particular those in the informal economy.
- Introducing rehabilitation into the employment injury and healthcare system in accordance with the draft National Occupational Safety and Health Policy as well as the integration of preventive and rehabilitative health services into the healthcare system as part of a national framework that will link to the private provision of rehabilitation services in Kenya.
- Establish a public or national scheme or use existing schemes, in either case limiting or excluding employees' individual civil liability.
- Ensure legislative interventions on occupational diseases as most have long latent periods and may be diagnosed long after the worker has stopped working.
- Periodic rather than lump sum payments should be given to any affected workers who only have employment injury and disease benefits to live on.

Unemployment protection:

An unemployment insurance scheme provides workers who lose their jobs with temporary financial assistance to tide them over and helps them to re-integrate into the labour market. This kind of scheme is funded by contributions from both the employer and employee. The benefit offered is short-term and should be paid when the workers unemployment is involuntary. An actuarial evaluation should be undertaken to determine the level of the contributions, the eligibility requirements, and the size and duration of the benefit package. The Government, working with all other stakeholders, should:



- Strengthen the existing social security regime and establish comprehensive social security arrangements that will extend legal coverage to all workers, whether in the formal or informal sectors, and their dependants.
- Undertake research into and consider viable options for extending coverage to those who work informally and their dependants in consultation with key stakeholders, including those in affected communities and sectors.
- Devise ways to make membership of social security schemes compulsory and enforce and monitor the compliance of those who are able to contribute.
- Review and adjust governance and management arrangements to ensure that governance is representative of the interests of the Government, employers, and workers and that the management of the schemes is streamlined, cost-effective, and transparent.
- Introduce more coordination and integration between programmes as well as modernization where appropriate to ensure the efficient collection of contributions, widen geographic access to quality service delivery, and ensure the effectiveness of benefit payments.
- Develop synergies within social security and across the social protection spectrum, by harmonizing benefits where feasible and by coordinating and integrating a system of providing multi-pillar retirement schemes provisioning, supported by integrated coordinated information systems and reliable contributor and beneficiary databases.
- Support effective standard-setting by independent regulators with an extensive regulatory and supervisory mandate.
- Promote the adoption of legislation, policies, and implementing measures aimed at replacing, where appropriate, lump-sum benefit payments with regular payments indexed to the cost of living.
- Increase the adequacy of benefits by setting target replacement rates close to minimum social security standards, raising contributions to appropriate levels (having reviewed rates and contributory ceilings), curbing excessive administrative costs, incorporating (where appropriate) the preservation and portability of benefits, and ensuring that adequate returns on investments are passed on to contributors and beneficiaries.
- Extend the range of social security benefits to cover such key areas of need including unemployment and comprehensive pre-natal and post-natal care for mothers and babies.



- Align social security schemes, laws, arrangements, and interventions with the Bill of Rights in the Constitution and, in so doing, ensure that any discrimination or unequal treatment is eliminated.
- Determine the most appropriate role to be played by occupational schemes in extending social security coverage to those who can contribute to their own post-retirement welfare and security and risk mitigation.
- Include mechanisms for rehabilitating and re-integrating unemployed workers into the job market in the design and implementation of social security schemes to avoid having to fund any unnecessary unemployment benefit.

Health Insurance: There is a clear need to reform the co-payment system to engage more hospitals in the contracting system and to cover the entire informal economy. These and other reforms will require the NHIF to be transformed into a social health insurance scheme and eventually into a fully-fledged health scheme. There are several issues that need to be considered in this context: *Coverage; Post-retirement health coverage; Improving the benefit regime; Liability to pay for medicine and sickness benefits; Health insurance regulator.*

The Government, in collaboration with other stakeholders, should:

- Re-establish the NHIF as a fully-fledged comprehensive national health insurance scheme, which covers all Kenyans, and to which those who can afford it must contribute.
- Establish a framework for enabling those who are not able to contribute to access a core package of essential health services, including maternity care and treatment for HIV/AIDS and related diseases.
- Extend the range of benefits provided by the NHIF, including outpatient care, specialized treatment and quality of care assurance, sickness benefits, and mandated post-retirement health coverage.
- Ensure that benefits made available by the NHIF and other medical schemes are adequate and are geographically and demographically accessible.
- Streamline institutions by removing all duplication and inconsistencies between healthcare providers.
- Establish a health insurance regulator to improve standard setting, regulation, and supervision in the health sector.



- Provide a supportive framework for private sector participation in the health sector and determine the exact role, place, and function of medical benefit (insurance) schemes in relation to the NHIF and Government interventions in healthcare.

The Implementation of Social Protection

Rationale for Coordination and Integration: One of the key challenges facing social protection policymakers and stakeholders in Kenya is the fragmentation of programming, which has led to duplication and inconsistencies in the operation and implementation of interventions throughout the country. Therefore, it is vital to streamline and coordinate this programming and to bring stakeholders together in an effective partnership to agree on the way forward for social protection at both the national and county levels. In order to ensure the coordination of social protection initiatives at the national, county, and sub-county levels, a framework should be devised within which social protection interventions throughout the country will be implemented. At the national level, a National Social Protection Council (NSPC), with its own Secretariat, should be the body in charge of coordination, and there will be similar agencies at the county level, which will be guided by common standards developed by the NSPC.

Recommendations

- Poor and vulnerable households should have access to basic social services including education, water and sanitation, and essential health care benefits such as maternity benefits. The Government should ensure that the delivery system is effective and that the financing of the benefits is adequate.
- Children of poor and vulnerable families should enjoy income security at least at the poverty level through family/child transfers aimed at helping them to access nutrition, education, and healthcare.
- Targeted income support should be provided to the poor and unemployed in active age groups especially through cash-for-work and other labour-intensive programmes.
- A national social health insurance scheme should be initiated that will protect both formal and informal sector workers as well as the unemployed from the economic liability of health shocks.
- The older people and people with disability should have income security through pensions and transfers granted at least up to the poverty line level.
- Workers should be cushioned by viable and predictable social security schemes.



- Appraise the existing mandates requiring Government departments to provide free services and fee waivers to specific groups and measures to ensure these mandates are being put into practice in the provision of education, health, and social services to specific groups.
- Introduce a universal pension scheme for older persons.
- Encourage and support informal schemes (such as community savings and insurance schemes) that enhance welfare.
- Investigate ways to extend social security and health insurance coverage to the self- and informally employed.
- Reform and extend existing social security schemes and reviewing the Civil Service Pension scheme as well as other retirement benefit schemes.
- Introduce targeted subsidies to those unable to contribute to formal insurance schemes.
- Encouraging and supporting occupational-based insurance schemes.
- Reform and expand the NHIF to serve as a fully fledged national social health insurance scheme.
- Redirect relevant current social security benefits for which all employers are individually liable into a unified social security framework.
- Strengthen the provision of social welfare services to the poorest and most vulnerable.
- Establish employment guarantee schemes for the poorest families.
- Introduce an unemployment insurance framework for Kenyans to tide over individual workers during times of unemployment and to re-integrate them into the labour market.
- Provide safety nets and conditional transfers to those who remain unsupported and unemployed.

Institutional Framework

Currently, social protection interventions are managed by several different line ministries, including the Ministry of Gender, Children, and Social Development; the Ministry of Labour; the Ministry of Public Health and Sanitation; the Ministry of Medical Services; the Ministry of Special Programmes, the Ministry of Agriculture, and the Ministry of Education. This has led to fragmentation and a lack of coordination and synergy in the social protection system.

In response to the need for a more coordinated approach to social protection, the Government



shall establish a National Social Protection Council (NSPC) to coordinate and oversee the development, implementation, and integration of social protection strategies, programmes, and resources.

The National Social Protection Council The National Social Protection Council, to be established by an Act of Parliament, will bring together key stakeholders in the area of social protection. Its membership shall consist of representatives of the Government ministries engaged in social protection, and of organized business, employers, and workers, social security organizations, and of CSOs and FBOs. The Council will be a forum in which the stakeholders will jointly agree on social protection policies and actions. It will also oversee the implementation of this Policy.

Financing/Budget

Sources of Funds for Social Protection include: **Government Funding**

Article 20 (5) of the Constitution declares that it is the duty of the State to allocate sufficient resources to ensure the achievement of constitutional rights. In the case of any right listed under Article 43 (ESC Rights) and in allocating resources, the State must give priority to ensuring the widest possible enjoyment of the right given the prevailing circumstances, including the vulnerability of particular groups or individuals. Given that social protection is recognized as a critical part of human development, the Government shall make deliberate and concerted efforts to identify new and additional resources to support the national budget for this sector. The Government support will include multi-year budget commitments based on periodic social budgeting and ring-fenced funding to finance cross-sectoral and coordinated programmes. The Government shall provide resources from the national budget to support the National Social Protection Policy according to need and based on the affordability of new social protection programmes. Others include: **Non-State Actors' Funding; Private Sector Funding; Employers and Workers; Development Partners; Community Funding and Voluntary Organizations.**

Recommendations

1. Widen the scope and coverage of social security services to all the citizens;



2. Harmonize social security schemes in the country so as to eliminate fragmentation and rationalize contribution rates and benefit structures;
3. Reduce poverty through improved quality and quantity of benefits offered;
4. Institute a mechanism for good governance and sustainability of social security institutions through establishment of a regulatory body;
5. Establish a social security structure that is consistent with the ILO standards but with due regard to the socio-economic situation in the country; and
6. Ensure more transparency and involvement of social partners in the decision making with respect to social security institutions
7. The Government should enhance the capacity to attend to the social assistance programmes that constitute services such as primary health; primary education, water, food security and social welfare services to vulnerable groups such as people with disabilities, the elderly and children in difficult circumstances on a *means tested basis*.
8. Moreover, the government should create an enabling environment for other institutions such as Non Governmental Organisations (NGOs), charitable organisations, families and mutual assistance groups to supplement the government's effort in the provision of such services.
9. Mandatory social security institutions that should operate under the social insurance principles in accordance with minimum acceptable standards and benchmarks.
10. Supplementary schemes should be established to cater for different social services like health, pensions and other types of insurance over and above those provided by mandatory and social assistance programmes. These schemes should be run by employers, private companies, professional bodies and community-based organisations (CBOs).
11. Improve and extend social Welfare Service should be to enhance accessibility to disadvantaged groups including people with disabilities, the elderly and children in difficult circumstances.
12. Devise means of extending coverage to the informal sector such as agricultural, mining, fishing and small businesses.
13. There should be an act to support the formation of mutual assistance initiatives by the NGOs, CBOs and other groups operating at community level.
14. Enable Employers, financial institutions, professional associations, insurance companies, social security institutions and other organisations to establish supplementary schemes to provide social security benefits over and above those provided by mandatory and social assistance programmes.



15. Enhance awareness and sensitisation of the society regarding the important and provision of social security services as a right.
16. Social security schemes should have a standard minimum number of benefits offered and indexed to the current levels of earnings of contributors.
17. Develop legal mechanisms to provide for reciprocal agreements with other countries for transfer of social security benefits across nations.
18. Establish mechanisms to ensure that all salaried employees and individuals, who can afford to contribute to the mandatory schemes, do so to ensure enhancement of benefits.
19. Implement the proposal of the national draft “Social Protection Strategy 2009-2012”, which recommends implementation of a comprehensive CT programme covering all the vulnerable groups in the country, with the following recommendations:
20. Adjust the implementation period of the programme from 2009-2012 to 2012-2017 to coincide with the second Kenya’s Medium Term Plan for the Vision 2030.
21. Allocate more budgetary resources to fully finance the implementation of a comprehensive CT programme for all the vulnerable groups at a monthly payment of Kshs 2,000 per house-hold, instead of Kshs 1,000 per house-hold. This would more than double the proposed allocation for the programme from Kshs 12 billion per year, accounting for over 6% of the government expenditure and more than 2% of the country’s GDP for the 2012/2013 financial years.

3.6 Analysis of the National Water Policy, 2011

3.6.1 Introduction

The water and irrigation subsector has focused on “assured water resources availability and accessibility by all”. Internationally, Kenya is classified as a chronically water scarce country with its water per capita standing at less than 650m³ against the world recommended level of 1000m³ according to second annual progress report (2009-2010). The sector contributes to national development by promoting and supporting integrated water resources management to enhance water availability and accessibility so that by 2030, no Kenyan should be without access to an improved water source and sanitation.

The current draft 2011 **National Water Policy (NWP)** was drafted in 2011 in line with the water sector mandate, vision and mission of the Water and Irrigation Ministry. It takes a right based approach as informed by the Constitution of Kenya 2010 which clearly outlines in the



Bills of Rights, Article 43 the need for citizens to *rights to water and sanitation*. Furthermore, it has emphasized the Integrated Water Resources Management (IWRM) in its approach. It is informed by the reforms and gains to the National Water Policy of 1999 and the Water Act of 2002. These reforms over the years have also informed the development of the Water Sector Strategic Plan 2010-2015 which was envisioned *to institutionalize a stakeholder and participatory approach to the management of water affairs in the country (NWP, 2011)*. It is organized to include: the preamble; the background, rationale and context for the policy; the three major components of water affairs which include; water resources management; domestic water supply and sanitation (WSS); and water for production services. It presents institutional setting, coordination and communication environment and the policy implementation mechanisms.

3.6.2 Gender and food security audit of the draft 2011 National Water Policy

This gender and food security audit is based on the draft National water policy for 2011. The audit is organized in manner reflecting the organization of the gender and food security analysis aware tools which are based on a range of several questions posed to assess the comprehensiveness of the Water Policy document and designed to contribute towards enhanced equitable access, availability, quality, affordability and sustainability of water resources, management and service provision. The questions are asked around the policy framework categorization as follows:

- i) Background and Context for the Policy
- ii) Justification of the Policy
- iii) Overall goal of the policy
- iv) Objectives of the Policy
- v) Proposed Policy Interventions:
- vi) Challenges of Policy Interventions
- vii) Budget Policy Implications
- viii) Institutional Framework for Policy Implementation
- ix) Gender Equity and Diversity



As the nation progresses on the achievements of the Vision 2030, and the implementation of the 2010 new Constitution, it is paramount to ensure that gender and diversity including food security in all aspects of the water sector are thoroughly addressed. To this end, this audit subjected the generated gender and food security aware tools developed by AWSC to the outlined components of the National Water Policy. Great disparities among women, men, boys and girls and other marginalized groups do exist in water accessibility, availability, quality, affordability and sustainability. These inadequacies are also observable in matters related to food security at the household – county - and national - levels. The audit will also provide strengths and weaknesses of the policy and recommendation.

3.6.3 Background and Context of the Draft NWP, 2011

Overall, the draft National Water Policy, 2011 is very thorough, comprehensive and reflects intense consultations. The background and context has addressed aspects of the reform agenda and challenges in the last decade following the Water ACT 2002 which was informed by the 1999 National Water Policy. The NWP noted that it is keen to enhance the efficiency and effectiveness of this policy, as a mechanism for addressing the mandates of the Constitution of Kenya, 2010, to address the needs of citizens. It has gone a step further to analyze the Articles of the Constitution that it intends to delivery on and the functions. The devolution and privatization are addressed and clearly specifies that *“the role of County governments is expected to be in the domain of WSS service provision with special reference to the management of water sub-catchments”*.

It was noted that the past reforms in the water sector have managed to contribute 9% to GDP in 2010/2011 and that water-related data and information have improved significantly, thus being able to inform the public. There is also mention of the existence of the Water Services Trust Fund (WSTF) which is a financing mechanism which is poverty focused and gives directions especially in addressing capacity building on the ground. The challenges of fragmented institutional arrangement which may hinder progress are highlighted. The challenges of climate change, water storage, rainwater harvesting and storage including decreasing per-capita water availability have been mentioned.



Despite the comprehensive approach of the NWP on the background and the context, when the gender and food aware analysis tools were subjected to the section, we realize that it was short of explicitly informing about the impact on gender equity and enhanced food security. Therefore, there is need for the draft NWP to:

- a) Provide gender disaggregated data on water and irrigation dimensions and disparities as grounds of policy formulation at the household – county and national levels.
- a) State gender mainstreaming as context within which Vision 2030 will achieve its goals
- b) Disaggregated data on water and irrigation for ensuring food security and sustainability as well demonstrate inter-linkages and interrelationships with other sectors for ensuring food self sufficiency.
- b) Demonstrate which categories of the poor are the WSTF able to uplift.

3.6.4 The Rationale and Justification of the NWP, 2011

The rationale behind the Policy is informed by past reforms, need for alignment to the Constitution and global best practices. It states that “*The constitution spells out that (a) water is vested in the people, and water and sanitation is a right (bill of rights based on human rights), (b) development of water resource and national public works is a function of national government, ... natural resources; and (c) environmental conservation as well as county public works and services including storm water management and water and sanitation services is the function of county government and to be carried out in an efficient/ effective way*”. It has also considered emerging challenges and past successes in the water sector. However, when the justification is analyzed using a gender and food security angle, several shortcomings are noticed. The Policy rationale and justification should:

- a) Justify gender (men, women, boys and girls) and diversity mainstreaming and sustainability in all aspects of water resources, planning, development and management.
- b) Justify expansion and development of natural resources and irrigable land by roles of men, women, boys and girls including division of labor in agricultural production for ensuring food security at the household, county and national levels.



- c) Provide gender and diversity disaggregated data on accessibility, availability, quality and affordability of water resources and services.
- d) Provide justification for sustainability in the development of water resources for economic and social benefits justified.

The Overall Draft NWP, 2011

Although the issues of inequalities are entrenched in the Constitution and the legal framework which the Policy have embarrassed, the Policy does not clearly articulate how they will be addressed. Thus it is important to address:

- a) How efficient, equitable, and optimum utilization of the water resources for sustainable food security, economic and social benefits will be ensured particularly at the household and county levels.
- b) How the unequal distribution of assets among men, women, boys and girls including marginalized groups affect the provision and maintenance of all water supply and sanitation services?

3.6.5 The Objectives of the Draft NWS, 2011

In addition to the institutional, setting, coordination and communication and the policy implementation aspects, the Policy objectives are organized in three main component – water resource management; domestic water supply and sanitation and water production purposes.

The objectives included:

- *“Ensure sustainable development and management of water resources of Kenya”.*
- *“Promote sustainable and affordable access to safe water and sanitation to all with special focus on the rapid urbanization and changes rural environment”.*
- *“Strengthen capacity building (human and institutional) as well as the development of appropriate coordination and communication framework”.*
- *“Strengthen capacity building (human and institutional) as well as the development of appropriate coordination and communication framework”.*
- *“Mobilize adequate funding for the sector”*

Although the need to uphold gender considerations, participatory approach and devolving activities to the lowest levels, are highlighted, in the guiding principles, the objectives are short of:



- a) How gender (men, women, boys and girls) equity in provision and maintenance of all water resources and sanitation in a sustainable and efficient manner will be ensured.
- b) How the central role of women, men, girls and boys in the sustainable conservation and utilization of the water resources will be achieved.
- c) How gender and diversity responsive agricultural production for of the household, county and national food security will be maintained.
- d) How a gender and diversity responsive monitoring of national minimum standards for the rights to water and sanitation will be guaranteed.

3.6.6 The Identified Priority Areas of Interventions for NWP, 2011

Abroad spectrum of interventions is proposed in the five areas of intervention: But there are still grey areas that need to be addressed.

- a) The interventions need to ensure how full involvement of women and other vulnerable groups in planning, management, implementation, decision making and training in all aspects of water provision among the urban low-income areas and the rural pro- poor.
- b) The inter-linkage and integration of water resource and sanitation interventions with other sectoral development agenda in an equitable manner need to be clear.
- c) Involvement of water sector stakeholders and capacity building need to show how it will be gender responsive and how food security awareness will be addressed.
- d) Issues of property ownership and control based on gender disparity particularly in water harvesting and storage need to be ensured.
- e) The pro-poor and urban low income consumers need to be given a face.

3.6.7 The Challenges of Policy Intervention of the draft NWP, 2011

The challenges in the water sector are broad, costly and requiring a lot of commitment. The Policy has attempted to address them but there is still room for improvement:

- a) Incorporate distillation and recycling of water to avoid wastage in addition to usage of stored water in dams for agricultural activities and sustainability in farming to reduce dependency on rain water and ensure food security.
- b) Increase water towers' protection and conservation to reduce deforestation, drainage of wetland, destruction of green water storage and increase water availability by emphasizing gender and youth responsive approaches and incentives.



- c) Encourage gender responsive approaches in water harvesting, industrial production systems for improved livelihoods.
- d) Scale up on the basis of gender the marginalized areas to ensure adequate water availability, and linking water and irrigation and upgraded and integrated technology for increased sustainability of food security.
- e) Instill incentives, mechanism and regulations to ensure water quality in rivers, lakes and ground water.
- f) Increase densification of water points in order to reduce time and distance to access to water to relieve women and girls from the time intensive activity.

3.6.8 The Budget Framework of the NWP, 2011

The budget requirements for the water resource management at the county level, domestic water supply and sanitation and water production purposes including institutional setting, coordination and communication and Policy implementation require enormous budget. The budget has to ensure that there is:

- a) Adequate county and national budget is allocated to the gender and diversity specific interventions in water accessibility, availability, quality, reliability and sustainability.
- b) Sufficient budgetary allocation for the implementation of short, medium and long-term irrigation development plans disaggregated by gender and diversity.
- c) Adequate budgetary allocation in the water sector for gender responsive wastewater treatment and disposal centralized sewer systems.

3.6.9 The Institutional Framework of the draft NWP, 2011

The reforms based on the Water Act, 2002, in the water sector in the last decade have been significant. Institutions, systems, standards and regulations for ensuring “water for all” have been put in place. However, policy gaps should ensure that:

- a) Adequate presentation of men and women in the regulatory enforcement agencies should be ensured.
- b) Appropriate socially and gender responsive connection policies to accelerate sewer systems should be put in place.
- c) Various institutions and stakeholders at all levels including national, county governments, NGOs, and private sector should ensure equitable utilization of water resources.



- d) Equitable participation of women and men in the development and management of small and large scale irrigation schemes and other related legal institution for food security should be the focus.
- e) Increase regulator and implementation functions in order to reinforce improved funding and planning for economic water use and reduce water conflict.

3.6.10 Monitoring and Evaluation Framework for the draft NWP, 2011

M&E is important assess progress and impact of projects. The policy has to ensure that:

- a) The comprehensive database linking water activities to GIS platform should provide disaggregated data by gender and the youth in the water sector.
- b) M&E data in all reports should be disaggregated by women, men, girls and boys.

3.6.11 Gender and Diversity

Gender and diversity should be addressed in all areas of the water sector to ensure equity in all levels of the policy framework.

3.6.12 Recommendations for the National Water Policy, 2011

1. Renewable fresh water per capital was 647 m³ in 1992 and is projected to fall to 235 m³ by 2025 the supply should be matched with population increase and the gender component in aspects from designing, implementation and M&E.
2. There should be gender mainstreaming component on activities that involve water harvesting.
3. There should be public awareness based on a human rights approach for water based on the needs and roles of men, women girls and boys including vulnerable groups on all aspects of water.
4. Gender based violence that mainly affect women and girls hinder their participation in water and irrigation based development especially in situations of low property ownership rights.
5. There should be gender experts incorporated in each aspect of water and irrigation to ensure development of gender responsive policies.
6. Need to develop a comprehensive National Environment Policy showing inter-linkage with the water sector.
7. The Population and Development Policy should be inter-linked with the National Water Policy given the fast population growth in Kenya



8. Ocean Management Policy to guide the development of the coastline, especially maritime transportation, marine fisheries industry, and recreational opportunities should ensure that gender disparities are addressed and the policies explicitly demonstrates how local food security will be maintained and how the gains will benefit the local people.
9. Accrued benefits from the water sector should show touchable local success stories especial in poverty reduction and increased gender and diversity equity.

3.6.13 Conclusion

This document strives to mainstream gender equity and food security in all aspects of the draft National Water Policy, 2011 and the community. In this regard gender equity is being addressed by making changes and incorporation of different views based on the policy framework. Many efforts have been incorporated to mainstream gender and food security concerns.



PART 3(B): A BRIEF ANALYSIS OF KENYA'S VISION 2030 AND MTP 2007-2013

AWSC was able to analyze Vision 2030, local programmers and policies and MTP 2008-2012 and came up with the following sectoral recommendations to inform MTP 2013/17:

3.1 The Social Security Sector

3.1.1 Comments

It is worth noting that the MTP recognizes the need to take deliberate efforts to reduce vulnerabilities for the entire vulnerable target. The MTP also articulates the Government commitment to ensuring that the country upholds the basic rights of children in line with internationally recognized standards. However, the MTP does not give mechanisms for dealing with the above identified challenges in reducing vulnerability among citizens. Moreover, the MTP does not provide mechanisms for extending social assistance and social insurance to the individuals serving in the informal sector. This trend has led to an increased level of vulnerability and destitution among the informal sector workers. The government has made a commendable achievements in empowering the youth as shown above. Nonetheless, there is no gender based statics on the impact of these programmes on the youth.

3.1.2 Recommendations

- i. Implement the proposal of the national draft "Social Protection Strategy 2009-2012", which recommends implementation of a comprehensive CT programme covering all the vulnerable groups in the country, with the following recommendations:
- ii. Allocate more budgetary resources to fully finance the implementation of a comprehensive CT programme for all the vulnerable groups at a monthly payment of Kshs. 2,000 per house-hold, instead of Kshs. 1,000 per house-hold recommended by the draft Social Protection Strategy Paper in order to take into account recent increases in the country's inflation rate.
- iii. The government should create an enabling environment for other institutions such as Non Governmental Organisations (NGOs), charitable organisations, families and mutual assistance groups to supplement the government's effort in the provision of such services.
- iv. The government to allocate more funds for empowering the youth.
- v. Rehabilitate and expand the existing Youth polytechnics.



3.2 The Housing Sector

3.2.1 Comments

The Vision acknowledges that urban areas have grown haphazardly and are characterized by a planning system that reacts to development rather than directing it. Only 30 per cent of urban towns are planned. Out of the 175 local authorities, only four have planning units. There is therefore a need for strategies to create functional, vibrant and efficient urban centres. It adds that the constraints to the housing sector include under-investment in low and middle cost housing by both the private and public sectors; an outdated legal and regulatory framework, which affects the amounts of serviced land available to developers; poor governance; and inadequate financing.

3.2.2 Recommendations

- i. Kenya while addressing its housing challenges will need to pay keen attention to sustainability of the programmes. It needs to establish a clear mechanism to ensure that this is attained.
- ii. Urban planning should be systematic, but dynamic, cognizant of the rapidly changing face and lifestyles of urban dwellers.
- iii. While thinking of housing it's important to focus on other aspects such as security and waste management, all of them important factors that go along with housing.
- iv. While undertaking measures to deal with housing challenges it will be important for the agencies concerned to engage the local residents, conduct surveys and obtain their views on what exactly their aspirations are.
- v. Kenya can borrow from Singapore's housing and development board that has put in place sound estate management and housing policies and programmes to help upkeep and sustain the physical and fiscal values of HDB flats well into the future.
- vi. While taking into account Kenya's housing challenges the government needs to incorporate different sectors that directly or indirectly affect housing.

3.3 The Education Sector

3.3.1 Comments

The MTP shows considerable improvements in the education sector and the following recommendations can be used to reinforce the current reforms being implemented in the sector.



3.3.2 Recommendations

- i. Rapidly raise the educational standards in the country's regions that are lagging behind in (universal) enrolment; and Improve overall transition rates to the secondary and tertiary levels.
- ii. In the immediate to medium term, the subsector should target female students from poor families across all regions so as to increase enrolment, retention and completion (post-primary and post-secondary), and transition.
- iii. The distribution of financial assistance should be aimed at narrowing the gender gap, and intra- and inter-regional targets should be set for the medium to longer term.
- iv. The subsector could also seek to increase enrolment for girls – at secondary school level especially – by increasing the number of girls' schools, both day and boarding schools. Also, they should boost the existing facilities and their staff capacities, with respect to the sciences and technological subjects, to improve girls' performance at secondary and tertiary levels.
- v. Policy makers also need to work with communities to tackle the issue of girls' multiple gender roles. The responsibilities that girls have (especially those living in the rural areas) relative to their male counterparts leave them with less time to dedicate to their educational performance. This has contributed to their lower performance and it needs to be addressed as part of overall efforts to improve girls' educational achievement
- vi. The agenda to promote women within the various spheres of society should also be reflected in the teaching and training given to teachers and facility administrators, as well as in the curricula pursued by students at all levels of education.
- vii. There is need to work towards gender parity in the management of the education system, as this may be one way of transforming perceptions of the rights and abilities of females relative to males. There is also a need to improve female representation in education and training through recruitment practices, mentorship programmes and training schemes. Such efforts will encourage females in the education system to aspire to greater accomplishments.



- viii. Youth polytechnics should be used to provide the minimum skills required to drive an innovative, knowledge-based economy.
- ix. Government to abolish all the hidden charges in education to curb corruption
- x. The Centre to lobby for the development of tracking tools for management of school funds.
- xi. Increased corporate social responsibility of the corporate world where they would be requested to sponsor needy children or contribute to an education kitty.
- xii. Promotion of more enhanced community participation in education management which include the resources
- xiii. Cash transfers to the needy students
- xiv. Link the education to the job market by harmonizing theory with practice
- xv. Establishment of functional management structures in education
- xvi. Decentralization of the management of the education system but the Central Government to be in charge of formulating policies
- xvii. Universities to set aside 20% of the income from the Module IIs to help needy students.
- xviii. Establish Day care Centres.
- xix. Improve on governance issues to reduce cases of corruption.
- xx. Create county polytechnics where the class eight dropouts could learn a craft/gain survival skill.
- xxi. Promotion of education foundations to promote needy students.

3.4 The Health Sector

3.4.1 Comments

It is important to show clearly how various health conditions affect people in all categories of age, sex, and geographical location. This approach will provide information that can be used to plan for better health care services.



3.4.2 Recommendations

The following recommendations can be used to improve health care in Kenya:

- i. Improve planning capacities and use of information systems to manage and distribute financial, human and infrastructural resources based on actual needs.
- ii. Raise quality of health services by enhancing community participation.
- iii. Adopt a gender aware management system that encourages women participation in the management of health services.
- iv. Human resources for health can be improved through long-term strategic planning for human resources development as part of the national policy and strategic planning functions.
- v. The government should support the unemployed who cannot gain health insurance cover.
- vi. The efficiency of the health care financing system needs to be strengthened through a health financing framework with rigorous examination of financing alternatives and transparent, effective and efficient budgeting, accounting and audit systems.
- vii. Develop a sound financial management system to optimize the use of resources.



3.5 The Agricultural Sector

3.5.1 Comment

The MTP does not provide comprehensive data on the growth rate of the agriculture sector. For example, there is no information on the growth of the sector in terms of geographical coverage, and there is also lack of gender disaggregated data on the growth of the sector.

3.5.2 Recommendations

- Put in place a comprehensive national food security policy for Kenya
- Develop clear legal framework for the implementation of the policy
- Have a budget allocation directed to the course of food security

Key areas suggested for the Food Security Policy intervention

- Increasing Food Availability
- Improving access to food
- Improved physical and economic access to food
- Enhancing food utilization
- Enhancing stability of availability, access and utilization of food
- Gender mainstreaming in all food security programmes

3.6 Water and Irrigation

3.6.1 Comments

The following are some of the challenges that this sector faces:

- Lack of irrigation and drainage policy to guide development of the subsector. The policy has been drafted and public consultations done. Declining water resources availability due to catchment degradation, reluctance of land owners to be compensated in areas where water facilities are proposed for construction and climate change.
- Increased pollution of water sources caused by commercial farming and industrial growth. High operation and maintenance cost for water services due to high energy costs.
- Lack of investment in water storage resulting in increased water insecurity.



3.6.2 Recommendations

- i. Implement the draft national water policy
- ii. Awareness creation, this is a necessary ingredient for utilizing and managing scarce resources in a sustainable manner.
- iii. Implement the draft national water and irrigation policy.
- iv. There is need for stakeholder consultation and participation in water resources management. This is essential for ownership of the process.
- v. Human resource redeployment and development leading to more effective institutions.
- vi. There is also need for rehabilitation, augmentation and expansion of existing urban sewage collection, treatment and disposal systems.



PART IV: RECOMMENDATIONS FOR THE IMPLEMENTATION OF ARTICLE 43 (1)

4.1 Introduction

Based on the analysis done on the countries with best practices and the national policies, programmes as well as analysis of vision 2030, AWSC draws the following recommendations from the lessons learnt. These recommendations were shared with the stakeholders at a national workshop and later with the various ministries as discussed earlier in this report.

Below find the proposals for the implementation of the six socio-economic rights.

4.3 Recommendations for the realization of article 43 (1)(d) on water

The water sector is important for the realization of Kenya's development objectives as identified in the country's development framework Vision 2030 social pillar. The Vision is "to ensure water and improved sanitation availability and access to all by 2030". The Kenyan Constitution 2010 states in Article 43 (1)(d) of the Bill of Rights that *every person has the right to clean and safe water in adequate quantities*. This provision establishes a human right dimension for access to adequate and sustainable water supply and services. Towards the implementation of this provision, it is important to ensure that steps are made towards the right of access to basic water supply and sanitation. In addition to regulatory framework that ensures the provision of water supply and sanitation services to support life and personal hygiene, it is important to recognize the need to operate in a manner consistent with the broader goals of water resources management. The following recommendations emanate from the best practices.

4.3.1 Improvement of Water Management

Based on the experience of countries with best water practices, for better water management, Kenya can:

- i. Develop programmes to control water leakages. Such a programme could entail:
 - Developing capacity to regularly inspect the status of water supply systems



and respond quickly to reports of leakages, burst pipes, etc.

- Introduction of water tariffs which are fair to promote conservation of water.
 - Build a sufficient number of sewerage processing points which purify water to a level where it is suitable for re-use in flushing toilets, landscaping, and irrigation and in industries such as refining.
- ii. Establish an operative and efficient customer response system such as customer hotlines for water related queries and needs.
 - iii. Provide incentives for water companies that improve their performance.
 - iv. Promote integrated management of water resources. This will include enhancing transferring of excess water volumes from rainy periods to seasons of drought.
 - v. Improve efficiency of the present use of water resources through improving water quality management in the industrial, domestic and agricultural sectors.
 - vi. Promote sustainable conservation and utilization of the water resources through protection of water sources, ensuring efficiency in the use of water as well as control of wastage and pollution.
 - vii. Ensure participation of all stakeholders in the water sector including industrial users, water users' associations and water supply organizations for comprehensive water resources management.

4.3.2 Enhancement of investments in the water sector

Based on the best practices, with respect to financial investments in the water sector, Kenya can:

- i. Promote greater financial investments in the water sector.
- ii. Provide subsidies on capital investments to communities that are constrained. This will take a targeted approach and will be based on established criteria, with a plan to gradually phase out the subsidy.



- iii. Recognize water as a vulnerable and scarce natural resource and ensure and promote that all pricing systems and mechanisms should be geared towards conservation, protection and efficient use of water as well as promoting equity in the access.

4.3.3 Use of the human rights approach in the provision of water and in water management

By enshrining the ‘right to water’ in the current Constitution, the Government of Kenya has already taken a bold step towards the use of the human rights approach in the provision of water. In addition, like South Africa, Kenya could further provide a basic water volume for free, especially for areas with high incidences of poverty. For example, this could take the form of providing the first 6000 litres consumed per household per month free of charge, after which an escalating block tariff could be introduced, specifically for the identified areas.

4.3.4 Enhanced governance and political good will in water provision and management

In the best practices discussed, the importance of political will, and clear policy framework in the water provision and management was emphasized. Kenya can:

- Ensure continued implementation of the current Water Act.
- Institute a review and development of the necessary legal, regulatory, policy and institutional frameworks towards the achievement of quality water access for all.
- Ensure improvements in water institutions financial resources management.
- Ensure transparency and fairness in the management of water supply and related services. This will enhance readiness to pay and participation in the financial management of systems by the users and communities.

4.3.5 Increasing Water Availability

Given the recent climate change challenges and threats, it is important for Kenya to improve her water availability. Based on best practices, possible approaches to this include:

- i. Developing new water resources through harvesting of rainfall and flash floods; re-use of drainage water and enhancing extraction of both shallow and deep groundwater.



- ii. Implementing environmental management systems.
- iii. Enhancing the development of different indigenous water sources being used by communities to improve rural water supply.

4.3.6 Development of institutional and legislative framework in the water sector

Institutional and legislative frameworks are important in best practices in the water sector.

Kenya can:

- i. Develop institutional and legislative frameworks that ensure decentralization of water management to the county government and other stakeholders at the county level.
- ii. Undertake water related institutional reforms at all levels.
- iii. Ensure appropriate implementation of the current Water Act provisions.
- iv. Enhance improvement of water resources management systems through people's participation in water management; institutional strengthening and co-ordination of the various stakeholders.
- v. Undertake sustainable capacity building in terms of the enabling environment, including institutions, human resources development, legislation and regulatory framework for water supply and sanitation.
- vi. Integrate and co-ordinate the development of water supply with other sector development objectives including irrigation, hydro-power, etc.

4.3.7 Investment in Research and Technical aspects in the water sector

Research in the water sector will be important in the development of technologies and innovations on best water utilisation under the current water situation in the country.

4.3.8 Promotion of women's perspectives in the water sector

Given the central role of women in the utilization and management of water resources, it is critical that women's perspectives and experiences at the various levels of water provision, management, accessibility, etc. are taken into account. This is critical in ensuring the implementation of Article 43 (1)(d) of the Constitution and achieving the objectives of the Vision 2030 social pillar, particularly the gender representation.



4.4 Recommendations for the realization of article 43 (1)(f) on education

4.4.1 Policy recommendations

- i. Decentralisation of education functions that promote community participation and ownership as well as decision making on education matters like in the case of Australia.
- ii. Decentralisation of funds must follow decentralisation of functions.
- iii. The Schools' management must be in line with Chapter 6 of the constitution on Leadership and Integrity.
- iv. The National and County Education Boards must be informed by the letter and spirit of the constitution.
- v. Have a panel that appoints the County Education Board.
- vi. To ensure that all deserving girls and boys equally benefit from the Ministry of Education (MoE) annual bursary funds, there is need for a tracking mechanisms with clear indicators and reporting systems to ensure that the funds are not only properly utilized but that they reach to the deserving children on the basis of gender and regional equity.
- vii. For the learners to benefit maximum from the curriculum, there is need to engage more professionally and adequate trained teachers to ensure that teachers are effective educators and leaders in their own rights.
- viii. Achieving gender and regional equity in access and retention in education can best be realizing by effectively devolving resources and functions to the county level thereby involving the parents and communities in the education of their children.
- ix. Put in place a coordinated, systematic and human right-based national response to violence against children; one which takes account of gender and gives special attention to vulnerable groups of children.
- x. Establish an education structure that is in line with the international best practices e.g in Singapore, which lessens the rigidity in the transition from one level to the other, and expands curriculum choice as recommended by the Education Taskforce report of February, 2012.
- xi. Give incentives such as "Conditional Cash Transfers" (CCT) to encourage enrolment and retention of children in nomadic/pastoral areas by adopting best practices from Mexico. Pastoralists prefer keeping their children looking after animals instead of sending them to schools. This is because they see education as not economically viable because it takes almost 16 years for the child to attain the 1st degree and get a job while a cow can be sold after two or three years.



- xii. Put in place a coordinated, systematic and human right-based national response to violence against children; one which takes account of gender and gives special attention to vulnerable groups of children.
- xiii. To comprehensively decentralize education to the county government even those functions that are not assigned to the County government by Schedule IV but use other schedules the say the central government can assign to the county government.

4.4.2 Programme recommendations

- i. Schools in the informal settlements and rural areas need special consideration for a school feeding program, improved sanitation facilities, enough play materials and time to foster development of motor skills, social and emotional skills as well as cognitive skills.



- ii. Ensure security for all students at all levels.
- iii. Part of EFA package should aim at ensuring that all schools are safe and welcoming, effective and dynamic places for girls and for boys to learn and develop and address basic gender needs for both boys and girls.
- iv. The response to climate change should be inculcated at the school and community levels by encouraging the environment conservation, tree planting and management of small *kitchen gardens* by the pupils, teachers, parents, and school management committees and by extension, the knowledge transfer of the same to the community.
- v. Avenues for up scaling and promotion of innovativeness, inventiveness, creativity, technology transfer and an entrepreneurial culture e.g. No funds to support and upscale cottage industry inventions.



4.5 Recommendations for the realization of Article 43 (1)(e) on social security

Social security is important for the realization of the development objectives for Kenya as identified in the country's development framework Vision 2030. This is particularly so because Kenya has a high poverty incidence level.

The Constitution of Kenya, 2010 states in Article 43 (1)(e) of the Bill of Rights that “*every person has the right to social security*”. This provision establishes a human rights dimension for access to social security and related services. Towards the implementation of this provision, it is important to ensure that steps are made towards access to basic social security. In addition to the current regulatory framework for social security, it is important to recognize the need to operate in a manner consistent with the broader goals of the development objectives taking cognizance of the facilitating role of social security. The following recommendations emanate from the best practices.



4.5.1 Ensure efficient functioning of the current social security and protection programmes

This can be achieved through:

- Decentralization of Social Protection and security programmes and services, like in Rwanda, so that payments can easily be reached, including at the county levels.
- Enhanced use of ICT in management and payment systems
- Exploring the possibility of using other faster payment methods, including the use of mobile phone transfers.
- Regular monitoring and evaluation of the impact of the delivery of the social security and social protection, both at the county and national levels.



- Appraisal of the existing mandates requiring Government departments to provide free services and fee waivers to specific groups and enforcing measures that ensure these mandates are being put into practice in the provision of education, health, and social services to specific groups.
- Conduct periodic reviews of instruments and strategies to reach the poor, which should be based on standards agreed upon by stakeholders and which take into consideration ease of implementation, effectiveness in targeting, cost-effectiveness, and their impact on the welfare and livelihoods of the beneficiaries.

4.5.2 Utilize the rights-based approach in the provision of social security

By enshrining the ‘right to social security’ in the current Constitution, the Government of Kenya has already taken a bold step, using the human rights approach to the provision of social security. Towards the achievement of this right, Kenya should:

- Align social security schemes, laws, arrangements, and interventions with the Bill of Rights in the Constitution and, in so doing, ensure that any discrimination or unequal treatment is eliminated.
- Ensure clear legal, legislative and institutional frameworks for the implementation of social security and social protection programmes.

4.5.3 Enhance coverage rate of social security and social protection

This can be achieved through:

- Promoting inclusive social economic development (like in Rwanda).
- Ensuring effective implementation of the Social Protection Act and Strategy, 2012.
- Increasing budgetary allocations.
- Extending the range of social security products to include such key areas of need as unemployment and comprehensive pre-natal and post-natal care for mothers and babies.
- Decentralizing Social Protection and security programmes and services modeling the case of Rwanda.
- Supplementing family care for elderly persons with community care programmes.
- Financing community development projects in the area of social security.
- Instituting coordination of social security and social protection of all programmes provided by all the stakeholders.



4.5.4 Enhance research into social security and protection

The research should aim at informing:

- Possible options for Kenya to extend her social security coverage to include all, including the non-employed.
- The best possible efficient delivery mechanisms given the limitations at the county level, particularly of literacy and electricity.
- Implementation of social assistance interventions in areas such as unemployment, old age, orphaned children and persons with serious disabilities, targeting, the adequacy of the transfer value, delivery mechanisms, social rights, and community/beneficiary participation.

4.5.5 Improve social security programmes management

- Guarantee proper regulation of social security and protection of provider institutions.
- Ensure the participation of all stakeholders and interest programmes
- Involve the locals in the design and identification of the programme's beneficiaries, particularly in the case of targeted programmes.

4.5.6 Increase funding of social security and protection programmes

- Increase funding to enable the implementation of the current social security Act, more particularly increase the number of vulnerable groups cash transfer payments, and raise the current monthly payment of Kshs. 1,000 per house-hold, to Kshs 2,000 per house-hold.
- Note that, even the increased cash transfer payments of Kshs. 2,000 per month per household, though useful will not be enough to meet household demands for the month.
- Increased budgetary allocation will also ensure a wide coverage of vulnerable population.

In addition to the above, AWSC also proposes decentralization of social security programmes.



Participants at a National Workshop

4.5.7 Decentralisation of social security programmes down to the county level, County and Sub-county Social Protection Committees

To carry out governance responsibilities around the country, committees should be established at the county and sub-county levels whose membership and functions have yet to be defined but are likely to include responsibility for overseeing community-based initiatives, including micro-insurance schemes. As social protection is a function of the national government (see the Fourth Schedule, Part I of the Constitution), the committees will be answerable to the National Social Protection Council but will establish appropriate reporting relationships with the county governments. There is need to expand the cash transfer programme to all the 47 counties and this would require an increase in the budget allocation of the cash transfer program.

4.5.8 Implement the current Social Protection Framework.

The cash transfer program is a key strategy that guarantees food security to the highly vulnerable sections of the population who are not able to work. Cash transfers have been used successfully in many parts of the world, especially in Latin America, Asia and some parts of Africa with very positive results in dealing with the poorest sections of the population. The African Women's Study Centre believes that if cash transfer programmes are well managed and target the extremely vulnerable, Kenya's economy would be able to guarantee them food security.



The African Women Studies Centre recommends the implementation of a comprehensive cash transfer (CT) programme, covering all the vulnerable groups in the country. Article 20 (5) of the Constitution declares that it is the duty of the State to allocate sufficient resources to ensure the achievement of constitutional rights. In the case of any right listed under Article 43 (ESC Rights) and in allocating resources, the State must give priority to ensuring the widest possible enjoyment of the rights, given the prevailing circumstances, including the vulnerability of particular groups or individuals. Given that social protection is recognized as a critical part of human development, the Government shall make deliberate and concerted efforts to identify new and additional resources to support the national budget for this sector. The Government support will include multi-year budget commitments based on periodic social budgeting and ring-fenced funding to finance cross-sectoral and coordinated programmes. The Government shall provide resources from the national budget to support the National Social Protection Policy according to need and based on the affordability of new social protection programmes.

*Currently in 2012/2013, cash transfers amount to around Kshs. 9 billion which is only 0.9% of the total budget. This amount comprises Ksh.342 million for the physically challenged persons; Kshs. 4.4 billion for the orphaned and vulnerable children and Ksh. 1 billion for the elderly persons. At the moment not all counties are covered. Considering that 46% of Kenyans live below the poverty line, this amount is not acceptable. **The Centre proposes that the social security protection initiatives need to be funded to ensure that Article 43 (1)(c) among other articles is implemented.***

4.5.8.1 Benefits of Cash Transfer

Cash transfers can reduce inequality, incidence, depth and severity of poverty and help speed up progress towards the achievement of MDGs 1, 2 and 3 (on education and gender equality) and MDGs 4 and 5 (on child and maternal mortality); poor families can invest in assets such as livestock and engage in productive and remunerative activities. They will be enabled to purchase inputs such as seeds, tools and fertilizer; boost growth in trade and production at the community level by injecting money into the local economy and creating demand for goods



and services, creating multiplier effects that can raise micro-level growth; reduce child labour and help the beneficiaries achieve food security.

4.5.8.2 Implementation

The implementation of cash transfers requires sound administrative and technical capacity. Ensuring that transfers are effectively targeted, delivered in a regular and timely fashion and not open to corruption and diversion of resources, is key to their successful implementation and impact on childhood and old age poverty. Given the institutional and governance capacity challenges in Kenya, implementing cash transfer programme is challenging. Hence, there is an urgent need for strong political leadership to improve administrative capacity, ensure the collection of baseline data and regular monitoring and evaluation of the programme as it scales up even if only modestly.

4.5.9 Expanded Kazi Kwa Vijana programme to cover all unemployed especially women at the county level

Economic food access is critical for enhanced affordability of food. The employment programme will be like an expansion of the current Kazi Kwa Vijana (KKV) to include all the unemployed persons (Kazi Kwa Wote- KKW) including women in all the 47 counties of Kenya. The programme will seek to provide at least 100 days of employment to all the unemployed in all the counties that set wage. The employment will include public works provided at the county level. In semi-arid areas, employment could, for instance, seek to dig channels to be used for irrigation and water pans. Employment opportunities will seek to add value to the county's development and will, therefore, depend on the specific county.

Such a programme contributed to a significant increase in income and, therefore, economic food access in India, leading to reduction in poverty by 4 percentage points (4%) and accounts for about 1.5% of the country's GDP.

4.5.10 Promote women perspectives in social security and social protection programmes

Women, especially those heading their households, are particularly disadvantaged and more vulnerable than men in Kenya. Mainstreaming women in social security and social protection will have a multiplier effect on the nations' welfare and will ensure effective and efficient



delivery. Designing of social security and social protection programmes should take cognizance of the women dimension of such programmes.

4.6 Recommendations for the realization of article 43 (1)(b) on housing

The Kenyan constitution, 2010 states in Article 43 (1)(b) of the bill of rights that *every person has the right to 'accessible and adequate housing, and to reasonable standards of sanitation'*. This provision establishes a human rights dimension for access to adequate housing, and standard of sanitation.

Towards the implementation of this provision, it is important to ensure that steps are made towards the right of access to basic housing and sanitation. In addition to the legal and regulatory framework that ensures the provision of housing and sanitation, it is important to recognize the need to operate in a manner consistent with the broader goals of provision of shelter and security. The following recommendations emanate from the best practices.

4.6.1 Enhance programmes addressing urban slum challenge

In addition to the slum upgrading programme currently being undertaken in Kenya, Kenya government can also:

- i. Enhance the government programme to relocate slum households on equipped land parcels, where it has constructed houses for them.
- ii. Provide low-cost housing to target population including the elderly, single-parent households and other vulnerable populations.
- iii. Develop a programme providing access to land and security of tenure to the people living in the slum areas. Like in Brazil, this will start with the country developing a pro-poor land law, seeking to integrate slums into formal cities and the improvement of living conditions for the urban poor.
- iv. Like in Brazil also, from time to time, the local government could consider suspending and relaxing on a temporary basis, relevant laws, by laws and standards to facilitate improvements and land tenure regularization.
- v. Take the leading role in elimination of the slums (like the case of Morocco). This will also require the government to coordinate all the slum-housing programmes being undertaken by various stakeholders.



4.6.2 A programme to stimulate supply and demand for housing

To address the housing supply challenge recurrent in Kenya urban centres, Kenya can design and implement a programme to stimulate supply and demand for housing. Such a programme could include:

- Provision of equity grants for people living in sub-standard housing to facilitate home ownership.
- Provision of *fiscal incentives* for real estate developers to provide housing within a negotiated price range.
- Reviewing of housing law to ensure land use laws facilitate urban development.
- Subsidize housing costs (like in Singapore).

4.6.3 Lead reconstruction eliminating reminders of the conflict

In addressing the challenge of ‘homeless’ and ‘reconstruction’ after conflict situations such as the 2007 post election violence, or other ethnic conflict situation, the Government of Kenya should consider:

- Leading reconstruction while eliminating any reminders of the conflict such as the “*The city without any signs of war*” in Russia.
- Developing an *Ethnic Integration Policy*. Such a policy will be designed to promote good neighborliness and interaction among residents. Like in Singapore, such a policy would ensure a balanced mix of various ethnic groups in public sector housing and promote inter-ethnic integration.

4.6.4 Promoting research and innovation in the housing sector

Like in China and Russia, research and innovation in the housing sector will be critical in addressing housing challenges in Kenya. Research and innovation in the housing sector could more particularly address the issue of:

- Viable low cost housing options for Kenya.
- Necessary precautions in house construction in various disaster prone areas of Kenya, taking particular account the possibilities of disasters such as earthquakes, lightning, flooding and mudslides among others.



4.6.5 Increase public investment in the housing sector

Success stories from the ‘best practices countries’ have shown that countries made commitments to heavily invest in the housing sector. In Morocco for example, in their “*Cities without Slums Programme*” government investments accounted for 70% of the financial requirements of the programme. In addressing its housing challenges, Government of Kenya could:

- Step up her investments in the housing sector.
- Mobilize development actors (e.g. UNDP and major NGOs) to support investment in provision of decent housing for the low income population.

4.6.6 Establish a regular programme for maintenance of the housing facilities

Sustaining the physical and fiscal values of housing structures is important in a sustainable housing programme. To achieve improved maintenance of housing, the government of Kenya could:

- i. Set up a programme for renewal and improvement of houses. Like in Morocco, Singapore and South Africa, such a programme would be led by the government at various levels.
- ii. Set up a fund for construction and urban renewal with the fund being used for:
 - Land procurement for social housing.
 - Ensuring of quality and realization of measures for urban renewal.
 - Subsidized housing improvement.
- iii. Develop a policy which requires private entities to refurbish, carry out renovation and improvement of housing after a certain period of time.

4.6.7 Employ an interdisciplinary approach in addressing housing challenges

Urban housing development poses an inter-disciplinary challenge. While addressing Kenya’s housing challenges the government needs to incorporate different sectors that directly or indirectly affect housing. Among others this should include:

- Sectors related to Social, economic, cultural, aesthetic and ecology.
- Sector related to environment and sanitation management.
- Sectors involved in security matters.



4.6.8 Enhancement of governance and political good will in housing provision and management

Political good will and government commitment is needed at various levels to ensure implementation of public housing programmes. The Kenya government can provide:

- Significant financial support to housing programmes,
- Institute a review and development of the necessary legal, regulatory, policy and institutional frameworks towards achievement of improved access to decent housing.
- Ensure improvements in current housing institutions financial resources management.
- Ensure transparency and fairness in the management of housing programmes including allocation of houses. This will enhance readiness to pay by the housing programmes beneficiaries.

4.6.9 Provide a lead institution in implementation of government housing programmes

To improve the coordination and efficiency of addressing housing issues in Kenya, like in Morocco, Singapore and South Africa, there is a need to:

- Appoint an independent authority to lead the implementation of the government housing programme.
- Assign clear roles and responsibilities between state, municipal and county governments with respect to housing.
- Engagement of local residents, conduct surveys and obtain their views on what exactly their aspirations are.
- Active participation and buy-in by the social and private sectors of the economy.

4.6.10 Promote use of prefabrication housing

This will target use of prefabrication material made in Kenya. In addition to reducing the cost of housing, this will also reduce the rate of building site accidents.

4.6.11 Enhance participation of all stakeholders in housing programmes

This can be achieved through:

- Engaging of local residents, conducting surveys and obtaining their views on what exactly their aspirations are.
- Ensuring active participation and buy-in by the social and private sectors of the economy.



- Involving all stakeholders in the management of housing programmes.

4.7 Recommendations for the realisation of Article 43 (1)(a) on Health Sector

4.7.1 An efficient service delivery system that maximizes health outcomes

- The AWSC proposes devolution of services for example all medical procedures such as laboratory tests and x-ray services should be provided locally at the county.
- Improve planning capacities and use of information systems to manage and distribute financial, human and infrastructural resources based on actual needs.
- Strengthen the inter-sectoral approach to health at the county and district levels.
- Encourage the establishment of local health councils to improve the role of stakeholders and build their capacities to set priorities.
- Promote health systems and epidemiologic research at both the national and county levels.

4.7.2 Comprehensive leadership in health care

- One proven technique to raise quality of services is by enhancing community participation.
- Service upgrade would benefit from the creation of a ‘Citizen’s Health Charter’ that is prominently exposed at all health facilities, and which clearly spell out the level and quality of services the users can expect, as well as redress mechanisms for poor service.
- Adopt management protocols in order to curb the cost of services and to improve the quality and accessibility of care.
- Strengthen technical and managerial capacity and the maintenance of infrastructure to support decision making regarding the introduction of truly innovative technologies.
- Promote greater management autonomy for health facilities and greater results-orientation among operational teams to improve performance in the health sector.
- Establish measures to improve management of the health care system.
- Adopt a gender aware management system that encourages women participation in the management of health services.



4.7.3 Equitable distribution of human resources for health

- Human resources for health can be improved through long-term strategic planning for human resources development as part of the national policy and strategic planning functions.
- Redesign the way health professionals are trained with emphasis on evidence-based practice, and provide more opportunities for interdisciplinary training.
- Modify the ways in which health professionals are regulated and accredited to facilitate changes needed in care delivery.
- Encourage more pro-active recruitment measures by the boards of nursing schools.
- Stress the positive aspects of the profession to the public,
- Provide salaries and incentives at all levels of medical practice to match market levels to prevent health care staff from moonlighting or taking on second jobs.

4.7.4 Financing health care

- The government should support the unemployed who cannot gain insurance cover.
- Encourage citizens to buy supplemental insurance to reduce their out-of-pocket costs and cover extra expenses such as private hospital rooms, eyeglasses, and dental care.
- The cost of treating and managing chronic diseases, such as cancer, diabetes, and critical surgeries, such as a coronary bypass should be subsidized by the government to make them more affordable to the citizens and vulnerable groups.
- Price controls and increased government spending can be used to hold down the health burden on patients through a combination of strategies.

4.7.5 Managing health resources

- The efficiency of the health care financing system needs to be strengthened through a health financing framework with rigorous examination of financing alternatives and transparent, effective and efficient budgeting, accounting and audit systems.
- Develop a sound financial management system to optimize the use of resources.
- Adopt cost and management accounting and information system to support the move towards an insurance based system.
- Improve financial management through capacity-building in hospital management to increase efficiency and improve performance.



4.7.6 Health information

- Establish a central department for health information; maintain a statistical database and statistical data flow for key health indicators.
- Implement international classification of mortality, sickness and injuries.
- Promote utilization of statistical systems and train health officials on gathering health information.
- Build expertise in conducting health surveys at national and municipal levels, build a strong library infrastructure.
- Coordinate epidemiological investigations with specialized centers; monitor and evaluate the performance of health information system.
- Engage community based health organizations such as women groups in collection and dissemination of health information.
- Strengthen health information through documentations of women's experiences in provision of health services.

4.7.7 Universal access to essential health products and technologies

- Develop affordable and competitive pharmaceuticals industry.
- Adopt cost saving measures by rationalizing ministry procurements and supply of drugs.
- Develop an alternative means to supply affordable generic drugs with limited mark-ups for MOH to enter into long-term supply contracts which entail huge savings for buyer and producer.
- Develop the domestic pharmaceutical industry and reduce government involvement in the production of pharmaceuticals while strengthening its role as a financier.
- Work toward harmonious development of the supply of health services at different levels of care, ensuring complementarities between the public and private sectors.
- Provide home based care to patients with chronic diseases.
- There should be a health policy for taking care of the elderly.



4.2 Recommendations for the realization of Article 43 (1)(c) on food security

4.2.1.1 Put in place a comprehensive national food security policy for Kenya

Kenya should realign and develop a comprehensive food and nutrition security policy framework that takes into account food availability, access to food, effective utilization and sustainability with a value chain approach and which is market-driven. The policy should take into account the constitutional provisions for gender and vulnerable groups. The value chain takes into account the following steps:

Input \longrightarrow production \longrightarrow Marketing \longrightarrow Value addition

The development of this policy should provide stakeholder participation for ownership of the food security agenda. Coordination of the implementation of the policy is crucial and needs a strong institutional mechanism through a lead agency. It also needs a clear funding mechanism and good political will.

4.2.1.2 Develop clear legal framework for the implementation of the policy

Draft Sessional Paper (2008) should be revisited and enabling legal instruments be aligned to the Constitutional County provisions and Citizenry participation. It should also be reviewed to adopt a rights- based approach. The framework should further specify the institutional and governance structures for the implementation of the policy with clear monitoring and accountability mechanisms.

4.2.1.3 Have a budget allocation directed to the course of food security

In fulfillment of some of its international commitments to food security, Kenya should allocate 10% of its national budget to Agriculture Sector (Maputo Declaration, 2003) and a specific budget line for the implementation of the Food Security of at least 1% of the national budget (in line with bench marking countries).

4.2.2 Key areas suggested for the food and nutrition security policy intervention

The proposed policy should include interventions to enhance Food availability, Access, Utilization and Sustainability. The policy should mainstream food security as a cross-cutting policy issue in all sectors, and provide for responsive gender mainstreaming.



4.2.2.1 Increasing Food Availability

- i. Interventions towards increased domestic production and productivity such as revival of targeted subsidization of inputs particularly quality seeds and fertilizers; support of the rural based financial institutions like it is being done with the youth fund and women fund; streamlining the management of cooperative societies, as was done with the Kenya Cooperative Creameries (KCC); introduction of a reduction of taxes or an Insurance Scheme to cover the borrowers in the agriculture sector; restructure Agriculture Finance Corporation (AFC); and reduction of interest rates to levels less than 12%, at the levels of interest rates being charged by SACCOs.
- i. Expansion of agricultural production under irrigation
- ii. Implementation land reform for equitable land distribution
- iii. Development of Infrastructure
- iv. Diversification of the agricultural sector production (beyond maize and into diversified and indigenous foods)
- v. Increase of budget to Agricultural sector
- vi. Improvement of strategic food reserves
- vii. Addressing food storage and post harvest challenges
- viii. Promotion of Science, Technology and Innovation
- ix. Promotion of mechanization of agriculture
- x. Promotion of urban agriculture
- xi. Providing incentives to young people to engage in agricultural production
- xii. Elimination of cartels and creating incentives for the private sector to mop up excess food is also important.

4.2.2.2 Improving access to food

Interventions towards improved access to food are divided into three broad categories of improved physical access, economic access and social security and safety nets.

(a) Improved physical and economic access to food:

- i. Improve rural infrastructure
- ii. Employment creation to increase peoples' purchasing power
- iii. Promote farmers' markets and specialty markets such as organic food markets



- iv. Develop innovative marketing programs that strengthen farmers' benefits from their efforts and minimize wastage and profiteering e.g. by middle men to a bare minimum
- v. Facilitating direct interaction between rural producers and urban consumers
- vi. Elimination of cartels operating in agricultural markets
- vii. Promoting programmes on food processing at business scale
- viii. Food outlets
- ix. Use of Information Communication and Technology ICT to provide food price information.

b) Enhance social access to food through provision of safety nets

- i. Implement the current Social Protection Strategy, which recommends implementation of a comprehensive cash transfer (CT) programme covering all the vulnerable groups in the country, with special focus on the following measures:
 - Adjust the implementation period of the programme from 2009-2012 to 2012-2017 to be in line with the second Kenya's Medium Term Plan for the Vision 2030.
 - Allocate more budgetary resources to fully finance the implementation of a comprehensive CT programme for all the vulnerable groups at a monthly payment of Kshs. 2,000 per house-hold, instead of Kshs. 1,000 per house-hold recommended by the draft Social Protection Strategy Paper in order to take into account recent increases in the country's inflation rate. This would raise the proposed allocation for the programme from Kshs. 12 billion per year to 24 billion per year, accounting for approximately 4% of the government's total annual expenditure during the period 2012-2017.
 - Decentralization to the county levels and participation of both government and non-state actors.
- ii. Enhance school feeding programme to address child malnutrition.

4.2.2.3 Enhancing food utilization

Possible programmes to enhance improved utilization of food include:

- i. Education on comprehensive food nutrition and food diversity
- ii. Education on food safety
- iii. Promote traditional foods for macro and micro nutrients supply
- iv. Enhancing technical and regulatory safety aspects of food including sanitary and phyto-sanitary (SPS).



4.2.2.4 Enhancing stability of availability, access and utilization of food

- i. Promote measures to mitigate climate change and enhance environmental conservation
- ii. Promotion of water harvesting
- iii. Promotion of integrated pest management and biological control programs
- iv. Develop an effective early warning system mechanism for the country.



PART V: ACHIEVEMENTS

The five planned outputs of the project were realised as outlined in Part 1 Sub-section 1.2 on methodology and process. We achieved more than what we expected as reported below.

5.1 Building of linkages between AWSC and critical ministries responsible for the implementation of economic social rights

The very successful consultations with the ministries of Education, Housing and Gender, Children & Social Development and connections with the parliamentary oversight committees on agriculture and budget, at a time when policies and legislative frameworks are being developed toward implementation of the constitution is an opportunity of a lifetime that we must build on. This is the route that AWSC would like to walk during phase II in order to influence policies and programmes that will ensure the implementation of Article 43. This indeed has been a success story and we must build on it.

5.2 Linkages with KBC for building citizens awareness through regional Radio Programmes

The role of the media in engaging the citizens on issues such as social economic rights as well as influencing policies and programmes cannot be over-emphasized. Despite the limited finances for the radio programmes that the Centre had, we were able to negotiate with KBC and utilize their expertise during which time they allocated airtime in nine (9) regional languages including: Borana, Pokot, Turkana, Maasai, Embu, Somali, Rendille, Teso and Swahili where Kenyans interacted with each other and with the presenters on the recommendations related to the implementation of article 43. In addition, we were able to negotiate for 2 television programmes to discuss the same.

5.3 Using evidence based lobbying

An extensive research on best practices from various countries in the six sectors, that is, Housing, Education, Social Security, Food, Health and Water which was followed up by The consultations with the experts in the six sectors, has led to the development of recommendations for policies and programmes in the said sectors. This research and production of recommendations from credible sources proved to be very useful in lobbying with the policy makers. The high level support we got from the ministries is because we were



able to engage with teams from the universities who had credible data to support their case. In fact, the ministries including the parliamentary committees saw this as a very important development for interaction with academic institutions with the policy makers. We need to continue in this direction.

5.4 Increased support of the project by women, youth, marginalised groups and communities

The national workshop organised by AWSC brought together women, youth, marginalised groups and communities, who showed great interest in the implementation of article 43. As direct beneficiaries of article 43, and as originators of the same views that brought about the inclusion of this article in the constitution, their enthusiasm and interest in ensuring the interest cannot be overrated. Working closely with them will develop a sense of ownership of programmes generated which will be important in feeding the policies by policy makers and therefore ownership of the implementation of article 43.

5.5 Working with technical Experts

The technical committees that worked on this project included individuals who are specialized in different areas. Among them: Dr. Margaret Hutchinson (Agriculture & Gender), Dr. Tabitha Kiriti (Gender & Economist), Dr. Mary Mbithi (Social Security & Economist), Dr. Gerrishon Ikiara (Economist & Social Security), Prof. Wanjiku Kabira (Gender, Governance, Constitution & Policy), Dr. Joy Kiiru (Economist), Dr. Grace Omoni (Health), Dr. Wanjiru Gichuhi (Research & Water), Dr. Margaret Kirimi (Geography & Environment), Prof. Ciarunji Chesaina (Social Scientist), Prof. Milcah Amolo Achola (Social Scientist) and Prof. Elishiba Kimani (Education.). The team just needed little help to be able to guide it and share with policy makers.

5.6 Documentation and Sharing of information

The need to share information so that the debate can be national and at all levels cannot be overemphasized. The AWSC has published 2 booklets on Education and Social Security sectors. The publications are meant to disseminate the recommendations already shared with policy makers in order to create citizens awareness on the social economic rights and the need to claim them. We used the money for preparation of the reports to publish these



booklets while the Centre provided free writing of the report because we believe that information that does not reach the public is not important.

This project has major achievements and the unrelenting work of the secretariat cannot be overemphasized because it adds to the reason why these achievements have been made.



CONCLUSION AND RECOMMENDATIONS

This project is just the beginning of a long journey towards implementation of article 43. It is understood that this is going to be realised progressively but it will not happen without the concerted efforts of the citizens in demanding their rights and a lot of work from stakeholders to keep the government on its toes in this journey.

As we work on this project, it will be important to consider the following:

- ✚ Addressing the gender perspective in Social Economic Rights programme and related efforts and ensuring documenting women's experiences and perspectives on these sectors and sharing the same with relevant policy makers.
- ✚ Promoting people's participation on all activities related to Social Economic rights as reflected in Chapter two, Article 10, Sub-Article 2 of the new constitution which encourages *people's participation in all matters of interest*. In addition, Article 174 of Chapter 11 - Devolved Government on Objects of Devolution, encourages *greater participation of the people in making decisions affecting them*. Schedule 4 of the new constitution gives The County Government authority over some functions in the area of Agriculture as reflected in sub-article 1.
- ✚ Monitoring and reviewing institutional mechanisms for implementation of Social Economic rights at the County level and making recommendations to policy makers.
- ✚ Drawing a link between social economic rights and the achievement of Vision 2030 in relation to the economic, social and political pillars and in relation to article 43 of the new constitution.
- ✚ Lobbying with the bi-cameral government for greater allocation of resources to ensure implementation of Article 43.
- ✚ Working closely with relevant ministries to influence policies and legislations relevant to the implementation of Article 43.
- ✚ Working on influencing policies that are currently being developed by parliament and ministries towards the implementation of Article 43 (1) need to be done.

This is a worthwhile journey that we must walk because the promise of Article 43 (1) of the Bill of Rights must be translated into reality. This is what Kenyans expect and deserve.



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ANNEXES: SUCCESS STORIES

Annex 1: Media Campaigns

Advocating for the implementation of Article 43 (1) of the Constitution

The role of the media in the sensitization of the people on various issues as well as influencing policies and programmes cannot be over-emphasized. The project has been able to influence policies and programmes in Kenya. These include: The Basic Education Bill, the Universities Act, The Nutrition and Food Security Policy, The Social Protection Strategy, The Kenya Health Policy as well as the Kenya Slum Upgrading Programme (KENSUP). Through the policy analysis tools developed during this project, AWSC was able to analyze these policies as well as the Kenya Vision 2030 and MTP 2008/2012 and come up with recommendations on concerning the same. These recommendations were not only informed by an extensive study of best practices worldwide, but also experienced consultants gave their input which saw the recommendations to the policies and programs suit the Kenyan context. The recommendations were further enriched by input from the marginalized communities, persons with disabilities and the youth as well as the women. During the input from the marginalized communities, we were able to identify, select and later train them as radio panelists and auditors. We were able to lobby for nine different programmes in nine different languages in the Kenya Broadcasting Corporation (KBC) using our limited amount of cash (Ksh.500,000). This we did after an extensive dialogue with some KBC personnel. The language in which the programmes were broadcast were: Borana, Pokot, Turkana, Maasai, Embu, Somali, Rendille, Teso and Swahili. Due to its wide outreach, the panelists were able to interact with the listeners who were constantly asking questions to understand more about the Economic Social Rights as stipulated in the constitution. The following is an excerpt from the report prepared by the Maasai Language presenter:

“I am Levi Koin and my partner is Lydia Lenkoina. I am a 3rd year student at university of Nairobi while she is a retired teacher and a women representative in her area

I was selected to do the presentation because I am fluent in Maasai and knowledge with regards to articles 43(1) which basically targets social welfare of the society

The show was on Friday, 17/08/2012 from 6-7 pm and we were hosted by Ole Kindet We received about ten calls after our presentation, they were: Musa from Ewaso who



African Women Studies Centre, University of Nairobi, P.O. Box 30197-00100; Tel.: +254 20-318262 Ext: 28075; Mobile 0728-907978, 0722-200918; Email: awsckenya@uonbi.ac.ke; Website: <http://awsc.uonbi.ac.ke>; Nairobi, Kenya.

said piped water would be the most beneficial to them, Amos Keria from Ongata Rongai whose major concerns in their area were the lack of clean water and understand and ill-equipped schools, Jack ole Karbolo from Naibor Aina; he said they have to travel to long distances up to 20km for them and their animals to get water from the dams which isn't clean because they have to share with the livestock and wildlife, Mary from Mile Tisa who wanted to be informed on who they should question when they don't get their rights and who they should demand it from, Ng'oto Sitonik from Oldonyo; They lack water for both them and their livestock. They are fairly okay during rainy seasons and would wish for boreholes in their area, Nandi Tipira from Ilbisil who said that the people shouldn't sit back and accept what they get from the government; They should be more aggressive and demand for what is rightfully theirs, Ole Kaisery from Olepolos; Urged the people to elect able leaders who would deliver in their promises and be of good service to the commonly, William from Olkiloriti ,Mara; There is a lot of human- wildlife conflict and the wonders only respond to fatalities ,When rogue animals are on the rampage , they don't respond to call but quickly swing into action when animal are targeted learning them wondering of wildlife is more important than human life.

We got two text messages (1) thanking us for the information shared on their rights (pastor from Ewaso) and (2) lady from Mile Tisa asking how she can access the C.T. Program meant for the elderly and orphans in the society

We addressed their issues quoting the constitution which made the listeners realize that this provisions are not a favor but their rights as citizen of the country , It is the obligation of the states to ensure have adequate welfare

The project was a huge success in our community due to the timing of airing the presentation I would recommend more shows since the time on air very short and translation requires more of explanations to pass to message and we didn't have enough time for a question and answer session. “

Jarso Dalacho, the Borana presenter also has a story to share:

“The presentation was lively and successfully. We commenced by shedding light on the provision of Article 43 (1) of the Constitution on Social-economic rights. Moreover, we presented in details all the recommendations in-line with the proposed best practices around



the world. The presentation accomplishes its main target of creating awareness. The audience expresses their appreciation by asking questions and adding their inputs.

The Borana language is widely spoken in Kenya. Some of the ethnic groups who speak Borana language are Boranas, Gabbra, Garre, Sakuye and Orma among others.

Our host Mrs. Qaballe Jirma is a knowledgeable person who fully understands the nitty-gritty of issues affecting her audience. This can be ascertained from the way she interviewed us hence exhausting every detail on the subject of presentation.

We got feedback from our listeners in form of questions, clarifications and contributions. Some of them are as follows: - Mr. Abdi Godana from Kariobangi confirmed to us that there is inadequate clean water in Kariobangi Slum. He emphasized that the slum dwellers will be given first priority by the government in provision of clean water, Mr. Badada from Butiye, Moyale said that there is need for enough security in the area for the proposed recommendations to be successfully implemented, Guyo Jaldeso from Garr Qarsa, Marsabit said that water shortage is the main problem affecting residents of Marsabit Town, Qalla Dida from Moyale was pessimistic on government's effort in implementing what is stipulated in the constitution, Baba Wario from Isiolo North categorically stated that the region is marginalized hence it will be given first priority to catch up with other regions, Yattani Godana who did not state where he was calling from appreciated the presentation as an eye-opener to the community, Godana Arero asked whether the government will realize Vision 2030 as the gap between the rich and the poor is increasing day-by-day, Mr. Mohammed from Saku Constituency expressed that there is need for quality education if the area is to develop at the same pace with other areas in Kenya.

Generally, our audience appreciates the Information they got on Provision of the Article on their rights. They want the continued support of African women studies to initiate such an informative presentation in future.”

Due to its wide coverage, we were able to reach an estimated 30Millon people.

Annex 2: Establishing Valuable Linkages

The implementation of the project has been very successful, in every level. We have engaged various ministries in dialogue to seek the adoption of our recommendations in the various sectors that is, Housing, Education, Social Security, Food, Health and Water. The



African Women Studies Centre, University of Nairobi, P.O. Box 30197-00100; Tel.: +254 20-318262 Ext: 28075; Mobile 0728-907978, 0722-200918; Email: awsckenya@uonbi.ac.ke; Website: <http://awsc.uonbi.ac.ke>; Nairobi, Kenya.

consultations with the experts in the six sectors, has led to the development of recommendations for policies and programmes in the said sectors. These recommendations were also informed by a study of the local programmes that the government is currently implementing or they have been proposed for adoption and implementation and also engagement of the respective ministries.. Countries with best practices included those from the developed countries as well as those from the developing countries. The local programmes studied included the Basic Education Bill, the Universities Act, The Technical and Vocational Education and Training, the Social Protection Strategy, The National health Policy, the Water Act, 2002, Food and Nutrition Security Program, Kenya Slum Upgrading programme (KENSUP). These recommendations were to be enriched by input from the marginalized.

The Centre organized a national workshop for which main objective was to get the views of the youth, the disabled and the marginalized which would enrich the recommendations that were made by experts in the six sectors in article 43 1 (c) of the constitution. They added their voices to the recommendations on policies and programmes in a very interactive session which was moderated by a part of AWSC technical team. Officials from various ministries gave their input.

During the implementation of this project, AWSC has been able to establish important connections with various ministries throughout the implementation of this project. After a detailed analysis and scrutiny of the Basic Education Bill which had been preceded by in-depth study of best practices in the world as concerns education, the Center was able to engage the Ministry of Education in discussing the Bill whereby the input given by the AWSC technical team was considered as very valuable to the Kenyan education system. In fact, modalities are being worked out by the two sides to make AWSC a resource centre for the Ministry of Education. Moreover, after consultations with the Ministry of Gender, Children and Social services, the Ministry of Water, the Ministry of Health, and the Ministry of Housing, the Centre has established important contacts with various officials which are critical for further collaboration.

The above ministries have agreed to make AWSC a resource centre whereby the collaboration amongst them will lead to the Centre's research feeding into their policies and programmes. The Centre is also working on agreement with the parliament Research



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department whereby the Centre will build the capacity of Graduate Trainees attached to the various parliamentary select committees. These partnerships are very essential in the implementation of the current and future projects. The various parliamentary committees in particular the Budget Committee, Departmental Committee on Agriculture, Livestock and Cooperatives and the Parliamentary Research Department have expressed commendable interest in working with AWSC.
