



ROUTE  
TO FOOD

# es kula



issue two | may two thousand and nineteen



# Contents

02	Editorial
04	Vocabulary list
06	<b>Biting the hand that feeds us: A feminist analysis of food rights and food politics in Kenya</b> Brenda Wambui
12	<b>Taxing for the right to food: The role of taxation in food security</b> Joy Ndubai
16	<b>Interview:</b> <b>When <i>mama mboga</i> and buying local inspires great food</b> Kaluhi Adagala
18	Coffee break
19	Going organic
20	<b>Interview:</b> <b>GMOs: The right to food and the right to know</b> Anne Maina
24	<b>Human rights and Kenya's legal obligations on the right to food</b> Neto Agostinho
28	<b>Sustainable food, land and livelihoods: Promising farming techniques in Kenya</b> Silke Bollmohr

# Editorial

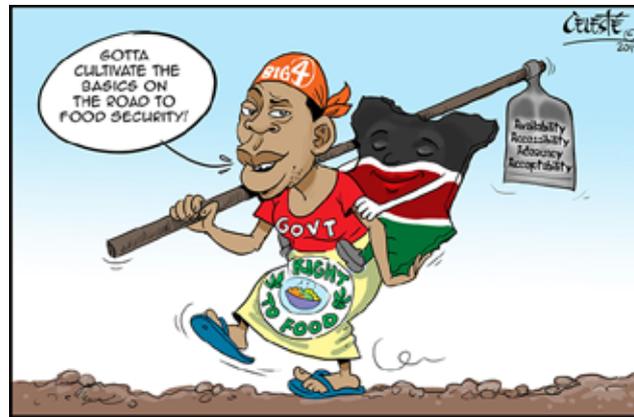
The late Professor Wangari Maathai taught us that human rights are not things that are put on the table for people to enjoy, but are things that we fight for and protect. The right to food is one of these rights. But what does it mean for you to have a right to food? Should you be fighting for and protecting it? And if so, how?

As a State Party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and under Article 43 of the Constitution, Kenya is obligated to uphold the right to be free from hunger and to have adequate food of acceptable quality. As Neto Agostinho explains in this issue, the primary responsibility for attaining food security rests with individual governments, therefore the Government of Kenya has the obligation to respect, protect and fulfil the realisation of the right to food for all Kenyans.

Despite the political prominence of food security under the President's "Big Four" Plan, there have been alarming indicators of the state's failure to stick to their end of the rights bargain. This year, the people of Turkana County have again fallen prey to hunger. Media reports indicate that the Pests Control Products Board (PCPB) has registered 718 chemical pesticide products, 28% of which are not approved in Europe because of their potential human or environmental health effects. Smallholder farmers have come under siege by the proposed Dairy Industry Regulations and Crops (Food Crops) Regulations. It appears that as a nation we are expected to beg, poison ourselves, or pay penalties to put food on the table.

The forecast for change is not looking promising. The 2019 Budget Policy Statement unashamedly has a policy preference for industrial agriculture and the large-scale production of staple crops. In so doing, it undermines the food and nutrition security of ordinary Kenyans. In the first place, small-scale farmers have consistently produced the bulk of Kenya's food, accounting for over 70% of the value of gross marketed production of agriculture and food.

Secondly, and tragically, the majority of people suffering from chronic food insecurity are small-scale farmers. The Kenya National Bureau of Statistics (KNBS) defines food poverty as individuals unable to consume the minimum daily calorific requirement of 2,250 kilocalories (Kcal) as per expenditures on food. The food poverty headcount rate in rural areas is 35.8% (3.8% greater than at the national level), translating into 10.4 million Kenyans who lack adequate food.



Celeste Wamiru, Editorial cartoonist and  
Illustrator: celesthewamiru@gmail.com

Fiscal policies play a critical role in the food security of Kenyans. For example, a reading of the national and county budgets will tell you whether agricultural extension services are going to be re-established and financed. They will tell you whether you can expect to see diverse or indigenous food items on store shelves. They will tell you, whether you can expect to buy locally grown, organic produce. And, if you read between the lines, they will probably also give you a hint as to whether you can expect to be paying more for the food you buy. In Joy Ndubai's article, *Taxing for the Right to Food*, she explains how the tax system can help or hinder the achievement of food security in Kenya. The article unpacks how tax policies are playing out in the country's food system and what the consequences are on our ability to access adequate food.

In this issue of *Cha Kula*, we invite you to think about truly sustainable solutions to achieving food security in Kenya. In her article on sustainable food, Silke Bollmohr expounds on promising farming techniques, including integrated pest management and organic practices. She explains the science of agroecology and the philosophy of permaculture. In contrast to the possibilities presented in Silke's article, we are seeing pressure coming from the highest political levels, to lift the ban on genetically modified food imports and commercialise Bt Maize and Bt Cotton. The interview with Anne Maina tells us why we need to tread cautiously when it comes to genetically modified crops. Anne explains how this form of agriculture undermines critical biodiversity and drawing on case studies of South Africa and Burkino Faso, leads farmers into greater poverty.

However, no discussion about the right to food would be complete if it was only a discussion about how we produce our food. We need to recognise that social dimensions are

essential to truly sustainable living systems. In this regard the inclusion and equal participation of Kenyan women in the country's food system is critical. In the article, *Biting the Hand that Feeds Us*, Brenda Wambui illustrates how we are systematically undermining women's right to food and in so doing jeopardising the food and nutrition security of the whole country, now and in the future.

*Cha Kula* gives you ways in which you can be a champion for the right to food and food security in Kenya, by taking the smallest possible actions. We are suggesting you get to know your local *mama mboga* and find out how you can support them, as Kaluhi Adagala of 'Kaluhi's Kitchen' does. We have given you a list of places that you can buy organic produce, whilst also supporting small-scale organic farmers and the environment. Kenya's food system is at a crossroads, and now more than ever, we need you to take notice of which direction it's going to turn so that you can be an active participant, rather than a passive recipient, of food policies and practices that impact your right to adequate food. ♥



**We are inviting you to think about truly sustainable solutions to achieving food security in Kenya. *Cha Kula* gives you ways in which you can be a champion for the right to food, by taking the smallest possible actions.**



# Vocabulary list



## Agroforestry

The intentional integration of trees and shrubs into crop and animal farming systems for environmental, economic, and social benefits.



## Agroecology

The application of the science of ecology to agriculture, by understanding how nature works and mimicking natural systems.



## Ecological agriculture

A set of farming principles that protect soil, water and climate, promote biodiversity, and do not contaminate the environment with chemical inputs or genetic engineering.



## Biopesticide

A compound that kills organisms by virtue of specific biological effects rather than as a broader chemical poison.



## Foodscaping

A type of urban landscaping in which all or major areas of a lawn on private property or sometimes public property are used to grow food.

## Biodiversity

The variety and variability of life on earth including diversity within species, between species and ecosystems.





### Permaculture

A philosophy of design to our way of living, and an applied version of agroecology, that simulates or utilises the patterns and features observed in natural ecosystems.



### Food sustainability

Long-term food security that ensures environmental, economic, and social sustainability of food systems at every stage.



### Food system

Encompasses all the stages of keeping us fed: growing, harvesting, packing, processing, transforming, marketing, consuming and disposing of food. The most common food system is the global agro-industrial food system.



### Vermiculture

The process of using worms to decompose organic food waste, turning the waste into a nutrient-rich material capable of supplying necessary nutrients to help sustain plant growth.

### Integrated Pest Management (IPM)

An ecosystem-based pest control strategy that focuses on long-term prevention of pests through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties.



### Organic farming

A holistic system of farming designed to optimise the productivity and fitness of diverse communities within the agro-ecosystem while shunning industrial chemical fertilisers or pesticides.

# Biting the hand that feeds us: A feminist analysis of food rights and food politics in Kenya

By Brenda Wambui

**Women are being excluded socially, politically and economically because of their gender. Yet, women are the key to eliminating hunger and poverty.**

If global poverty had a face, it would be a woman's. Women account for half of the world's population, but 70% of its poor (UNDP, 1995). In 1978, Dianne Pearce coined the term "feminisation of poverty" to indicate that there is a phenomenon where women experience poverty at rates that are disproportionately higher than those of men. This term means one of three things, or a combination of them: that women have a higher incidence of poverty compared to men; that women's poverty is more severe than men's; and/or that over time, the incidence of poverty among women is increasing compared to men (Catagay, 1998).

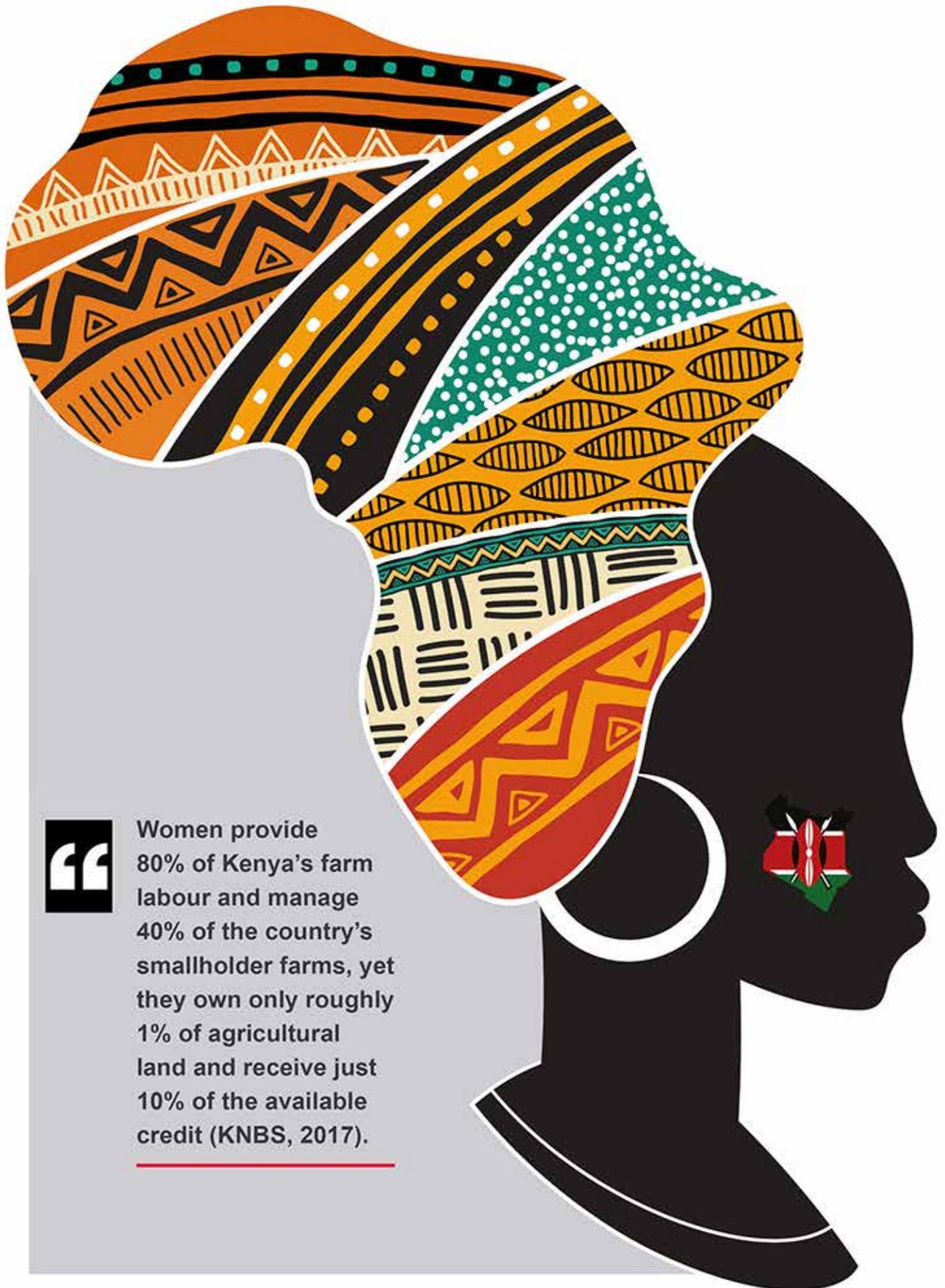
If poverty in Africa had a face, it would be a woman's. The roots of poverty for African women are found in a myriad of interrelated issues, including restricted property rights, weak governance and frequency of civil conflict. Women have weakly defined property rights with regard to major productive assets, such as land or cattle. In many countries, a combination of custom and laws restrict their ability to own and manage land (McFerson, 2010). Yet, women are the main cultivators of food, undertaking about 90% of the work of hoeing and weeding, 80% of the work in food storage and transportation, and 60% of the work in harvesting and marketing (IFPRI, 1995). Weak governance interacts with traditional patriarchal structures and customs to perpetuate women's poverty by denying them property rights and use of essential economic assets, perpetuating a system in which African women have diminished citizenship that is in turn reflected in gender-based violence.

If poverty in Kenya had a face, it would be a woman's. Although the overall poverty incidence declined from 56% in 2000 to about 47% in 2005/06, the poverty headcount

was higher among women in both rural and urban areas (50% and 46% respectively). Female-headed households (50%) were slightly more proportionately than male-headed households (48.8%), and although poverty prevalence among all socioeconomic groups in urban areas was lower than that for rural areas, female-headed households exhibit higher poverty incidence in both rural (50%) and urban (46.2%) areas (vis-à-vis male headed households which had a poverty incidence rate of 48.8% and 30% respectively) (IEA, 2008). Women and children are more vulnerable to both absolute and food poverty (both of which occur mainly in female-headed households) because tradition gives them less decision-making power over assets than men, while at the same time their opportunities to engage in remunerated activities, and acquire their own assets, are more limited (Blackden, C. & Bhanu, C., 1999).

Agriculture is a key pillar of the Kenyan economy. It is the primary source of livelihood for the majority of the Kenyan population, in terms of food security, income, employment creation and foreign exchange earnings. The agriculture sector directly contributes to approximately 25% of our annual GDP and accounts for 65% of Kenya's total exports. Small-scale agriculture and pastoralism also account for about 42% of the total employment in Kenya (UNEP, 2014). Eighty percent of rural populations rely on smallholder farming for their livelihood, but this labour is provided disproportionately by women, despite them not having ownership and control of the farms they work on. Women provide 80% of farm labour and manage 40% of the country's smallholder farms, yet they own only roughly 1% of agricultural land and receive just 10% of the available credit (KNBS, 2017).

**Brenda Wambui** is a young Kenyan woman working at the intersections of technology, media, feminism and identity. She hosts and produces *Otherwise?* ([www.otherwisepodcast.com](http://www.otherwisepodcast.com)), a podcast whose focus is current affairs, policy and active citizenship. She speaks and works in online activism and feminist advocacy, and has been an advisor at FRIDA | The Young Feminist Fund for the past three years.



Women provide 80% of Kenya's farm labour and manage 40% of the country's smallholder farms, yet they own only roughly 1% of agricultural land and receive just 10% of the available credit (KNBS, 2017).

Kenya is a particularly drought prone country - only 11% of the country's land mass receives high and regular rainfall. The other 89% (29 out of 47 counties) is classified as Arid and Semi-Arid Land (ASAL), where annual rainfall is low. ASAL counties are home to about 36% of the population, 70% of the national livestock herd and 90% of wildlife (GOK, 2018). Still, Kenya relies on rain-fed agriculture for 75% of total agricultural output as opposed to irrigation, despite the aridity of the land (UNEP, 2014).

As a result, there is a high risk of crop failure, hunger and even famine. Biamah (2005), observes that rain-fed crop farming in the semi-arid areas have a 25-75% risk of crop failure while the arid regions have a 75-100% risk of crop failure due to drought. Drought is a key challenge to the achievement of food security in Kenya as it frequently leads to famine. To make things worse, drought events associated with climate change and climate variability have become more pronounced in Kenya in recent years, adversely affecting agricultural production (UNEP, 2007).

We are what we eat, and women simply aren't eating enough. More than 16% of Kenyan women live in households that go without food at least once a week (NGEC, 2016). Pregnant and lactating women are most affected by food insecurity, and women in general are considered low priorities for household food intake in drought situations in ASAL regions, with men and children being high priorities. Women and girls are responsible for water collection, fetching water twice daily for between 30 minutes and two hours each day. This strenuous work not only creates a high demand for calories which is frequently not adequately met, the longer trips in search of water also means that women and girls are more exposed to sexual, domestic and street violence as well as prostitution during drought (Dometita, 2017).

Kenyan women's right to food is secured in Article 43(1) (c) of our Constitution, which states that every person has the right to be free from hunger, and to have adequate food of acceptable quality. Yet, given that we know that women face challenges peculiar to them when it comes to food security, it is surprising that not enough focus is put on achieving it for all women.

Existing policy, such as the National Food and Nutrition Security Policy (NFNSP, 2011), provides a progressive and detailed framework for the realisation of the right to food/ food security which recognises that young women and girls face challenges such as iron, folate and other micronutrient deficiencies. The policy also mentions that hunger reduces school attendance (more for girls than boys) and impairs learning capacity. However, its greatest focus when it comes to women is on maternal and newborn nutrition.

The following example is provided: A typical 'poor nutrition' scenario applicable to many women in parts of Sub-Saharan Africa, including Kenya, is that she enters pregnancy undernourished, suffers from or develops iron deficiency anaemia or other micronutrient deficiencies. Her poor micronutrient status may adversely affect foetal development in different ways ranging from brain development (iodine deficiency) and neural tube defects (folate deficiency). Her overall poor nutritional status is likely to predispose the developing foetus to nutritional consequences in infancy, childhood and all the way into his or her adult life. Poorly nourished women often give birth to low birth-weight infants, who start life at a disadvantage that is likely to affect their nutritional status and development through childhood and adolescence.

Proposed legislation, such as the Food Security Bill (2017), does not make specific provisions for the intersectionality of food security and gender except when it comes to pregnant and nursing women who are food poor, which fits directly into patriarchal norms that only find women valuable when giving service to the patriarchy – in this case when procreating and being a caregiver. It states that every woman has the right to adequate food during pregnancy and lactation. But what about all the other times of a woman's life?

Patriarchal norms and institutions also belie women's hunger and poverty. They are the reason women work so hard but have so little to show for it. In patriarchal societies, opportunities and resources are allocated on the basis of gender – women simply do not have the same access that men do. Social patriarchal norms dictate who works on farms (women) and who reaps the reward (men). Who owns the land (men) and who merely tends to it (women). Who eats first (men) and who eats last (women).



**Every woman has the right to adequate food during pregnancy and lactation. But what about all the other times of a woman's life?**

---



The agriculture sector directly contributes to approximately

# 25%

of our annual GDP and accounts for 65% of Kenya's total exports.



Women provide

# 80%

of our farm labour and manage 40% of the country's smallholder farms, yet they own only roughly 1% of agricultural land.



Kenya is a particularly drought prone country - only

# 11%

of the country's land mass receives high and regular rainfall.



If women farmers are given the same levels of education, experience, and farm inputs as their male counterparts, they increase their yields for maize, beans, and cowpeas by

# 22%



Women are the main cultivators of food, undertaking about

# 90%

of the work of hoeing and weeding, 80% of the work in food storage and transportation, and 60% of the work in harvesting and marketing.



# 16%

of Kenyan women live in households that go without food at least once a week.



In addition to food poverty, women also experience time poverty, which manifests as the expectation that women contribute time and labour to (typically) unpaid domestic work and forego education. This reduces the time they have available to participate in more economically productive work, rendering them unable to take full advantage of economic opportunities and participate in income generating activities while also impeding their ability to expand their capabilities through education and skills development, which would enhance their economic returns in the marketplace (Catagay, 1998).

Women are being excluded socially, politically and economically because of their gender. Yet, women are the key to eliminating hunger and poverty. Kenya's gender equality index is 38% (NGEC, 2016). The index consists of three aspects of human development: reproductive health, empowerment, and economic participation – all of which are directly affected by food security. To fix this, we need to expand access for women – to assets, to opportunities, and to means of income.

While recently enacted laws such as the Constitution of Kenya (2010), the Matrimonial Property Act (2013), and the Marriage Act (2014) cement women's property rights, they do not address the customary restrictions on women's land ownership and control, nor do they provide a framework to increase women's awareness of their property rights so that they can challenge past and present injustices. Rights to property increase women's status and bargaining power within the household and community and provide them with greater incentives to adopt sustainable farming practices and invest in natural resource management (IFPRI, 2003). We must invest more in the civic education of women and our society at large on property rights for women, to shift these norms and beliefs.

We need to ensure that women have public and political representation so as to be able to advocate for their rights, including the right to food. At the moment, this representation remains lower than the constitutional requirement, which states that no more than two-thirds of the appointees of elective or appointive bodies

shall be of the same gender. A majority of elective and appointive offices, such as cabinet secretaries, members of the National Assembly, senators, members of the diplomatic corps, governors, deputy governors, sub-county commissioners, Supreme Court judges, Kadhis, chiefs and assistant chiefs have fewer than a third women in their personnel. Only principal secretaries, county commissioners, High Court judges, magistrates, practicing lawyers and members of county assemblies meet the constitutional requirement (Economic Survey, 2017).

Lastly, we need to ensure that women have means of income with which to acquire assets such as land and cattle, and to expand the opportunities available to them, and most importantly, to access food. One way to do this is through education. If women farmers are given the same

levels of education, experience, and farm inputs as their male counterparts, they increase their yields for maize, beans, and cowpeas by 22%. Educating women is a key method for boosting agricultural productivity as well as income. Simulations using data from women farmers in Kenya suggest that yields could increase by 25% if all girls attended primary school (IFPRI, 2005). The state must also take measures to achieve gender equality in both private and public sectors. Men are employed at double or more the rate of women in all sectors excluding the education and service sectors (Economic Survey, 2017).

We have to place women front and centre in our efforts to eliminate hunger and poverty as a society. It's time that we stopped biting the hand that feeds us. ❤️

## References

- Biamah, E.K. (2005). *Coping with Drought: Options for Soil and Water Management in Semi-Arid Kenya*. Retrieved 2 December, 2018 from <http://library.wur.nl/WebQuery/wurpubs/fulltext/40497>
- Blackden, C., & Bhanu, C. (1999). *Gender, Growth, and Poverty Reduction*. Retrieved 3 December, 2018 from <http://documents.worldbank.org/curated/en/677841468767650869/pdf/multi-page.pdf>
- Catagay, N. (1998). *Gender and Poverty. United Nations Development Programme: Social Development and Poverty Elimination Division*. Retrieved 1 December, 2018 from <http://www.pnud.org/content/dam/aplaws/publication/en/publications/poverty-reduction/poverty-website/gender-and-poverty/GenderandPoverty.pdf>
- Dometita, M. (2017). *Beneath the Dryland: Kenya Drought Gender Analysis*. Retrieved 3 December, 2018 from <https://reliefweb.int/report/kenya/beneath-dryland-kenya-drought-gender-analysis-Decemberember-2017>
- Government of Kenya (2011). *National Food and Nutrition Security Policy*. Retrieved 30 Nov, 2018 from <https://extranet.who.int/nutrition/gina/en/node/11501>
- Government of Kenya (2018). ASAL Classification. Retrieved 2 December, 2018 from <http://www.devolutionasals.go.ke/county-information/>
- Government of Kenya (2017). *The Food Security Bill*. Retrieved 1 December, 2018 from [http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2017/FoodSecurityBill\\_2017.pdf](http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2017/FoodSecurityBill_2017.pdf)
- Institute of Economic Affairs (2008). *Profile of Women's Socio-Economic Status in Kenya*. Retrieved 30 Nov, 2018 from [https://ke.boell.org/sites/default/files/profile\\_of\\_womens\\_socio-economic\\_status\\_in\\_kenya\\_1.pdf](https://ke.boell.org/sites/default/files/profile_of_womens_socio-economic_status_in_kenya_1.pdf)
- International Food Policy Research Institute (1995). *Women: The Key to Food Security: Looking into the Household*. Retrieved 2 December, 2018 <https://core.ac.uk/download/pdf/6289051.pdf>
- International Food Policy Research Institute (2005). *Women: Still the Key to Food Security: Looking into the Household*. Retrieved 3 December, 2018 from [https://reliefweb.int/sites/reliefweb.int/files/resources/AF1568DC0555A0C6C1256FD5004DDEE41-Women\\_Food\\_2005.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/AF1568DC0555A0C6C1256FD5004DDEE41-Women_Food_2005.pdf)
- Kenya National Bureau of Statistics (2017). *Economic Survey 2017*. Retrieved 3 December, 2018 from <http://www.devolutionplanning.go.ke/images/hb/EconomicSurvey2017.pdf>
- Kenya National Bureau of Statistics (2017). *Women and Men in Kenya Facts and Figures 2017*. Retrieved 3 December, 2018 from <https://www.knbs.or.ke/download/women-men-kenya-facts-figures-2017/>
- McFerson, H. M. (2010). Poverty Among Women in Sub-Saharan Africa: A Review of Selected Issues. *Journal of International Women's Studies*, 11(4), 50-72. Retrieved 1 December, 2018 from <http://vc.bridgew.edu/jjws/vol11/iss4/4>
- National Gender and Equality Commission (2016). *Status of Equality and Inclusion in Kenya*. Retrieved 2 December, 2018 from <http://www.ngeckkenya.org/Downloads/Status%20of%20Equality%20and%20Inclusion%20in%20Kenya.pdf>
- United Nations Development Programme (1995). *Human Development Report 1995*. Retrieved 1 December, 2018 from [http://hdr.undp.org/sites/default/files/reports/256/hdr\\_1995\\_en\\_complete\\_nostats.pdf](http://hdr.undp.org/sites/default/files/reports/256/hdr_1995_en_complete_nostats.pdf)
- United Nations Environment Programme (2014). *Green Economy Assessment Report – Kenya*. Retrieved 2 December, 2018 from [http://www.greengrowthknowledge.org/sites/default/files/downloads/resource/KenyaGEassessment\\_UNEP.pdf](http://www.greengrowthknowledge.org/sites/default/files/downloads/resource/KenyaGEassessment_UNEP.pdf)
- United Nations Environmental Programme (2007). *Preparing for Drought in Eastern and Southern Africa*. Retrieved 2 December, 2018 from [https://www.iisd.org/pdf/2007/prepare\\_climate.pdf](https://www.iisd.org/pdf/2007/prepare_climate.pdf)

# Taxing for the right to food: The role of taxation in food security

By Joy Ndubai

**The right to food is an essential and basic right to which all Kenyans are entitled. The tax system can help or hinder the achievement of food security in Kenya. Tax justice is about progressive tax policies and practices that tackle inequality, including the inequality of access to food.**

Over the past year, tax policies in Kenya have come under special scrutiny. For instance, the re-introduction of Value Added Tax (VAT) on petroleum products, a move that was made to raise additional revenue to finance our national debt, has had a significant effect on individual incomes and indirectly affected access to food (Muchira, 2018).

As a result, the objective of financing debt has overtaken the promise to pursue and achieve food security. However, policy objectives should be balanced against one another. Decisions to introduce or amend taxes should be accompanied by an evaluation of the impact on the right and access to food, amongst other rights.

A defining element of an individual's ability to access food is the tax policy that influences not only the total cost of the food, but also the amount and value of income they earn that enables them to purchase that food. Tax policy is the choice made by the government on what to tax, who to tax and how much to tax. Tax policy can be designed to achieve particular objectives such as redistributing wealth to deal with income inequality; discouraging the use of certain goods like alcohol or tobacco; or protecting or raising funds to restore the environment through the taxation of carbon emissions.

The objectives reflect political priorities which can be influenced by many factors including the amount of national debt, development needs or even campaign promises. For instance, the current government, as part of the "Big Four" Plan, has committed to achieving food security.

Tax policy is what forms and defines the relationship between citizens and the state (Christians, 2009). At the

heart of this relationship are the promises of government to respect and refrain from infringing upon human, social and economic rights; and the obligation of citizens to pay taxes to finance public services. These promises and obligations are recognised as the social contract, or, in Kenya, the Constitution of Kenya 2010. Article 201 of the Constitution provides for the principles of public finance, which stipulate that the burden of taxation shall be shared fairly, and expenditure shall promote the equitable development of the country.

Further, Article 209 specifies the revenue raising powers of the government including the powers to impose taxes and charges. Finally, the government is required to take legislative, policy and other measures to achieve the progressive realisation of Article 43 on economic and social rights, which includes the right to be free from hunger and to have adequate food of acceptable quality. The need to undertake progressive legislative and policy-making measures, highlighted under Article 21 of the Constitution, underscore why tax policy is key.



**Tax justice means that all people pay their fair share of tax. It connects taxation to rights, which is key to understanding why taxation matters to food security.**

---

**Joy Ndubai** is a tax and tax justice advocacy expert with significant experience working on tax within civil society and private sector spaces. She is currently a Global Tax Advisor at ActionAid.



Tax justice is about ensuring that revenue raised through progressive and fair tax systems is allocated to the delivery of quality public services, and that it guarantees a sustainable and accountable governance. It means that all people pay their fair share of tax. Tax justice connects taxation to rights, which is key to understanding why taxation matters to food security.

One of the crucial advocacy points of tax justice is progressive tax policy. A progressive tax policy can not only generate public revenue, but it can also distribute tax contributions fairly in order to alleviate economic and gender inequalities (ActionAid, 2018). 'Progressive' here means that high income earners should pay more tax, both in absolute and relative terms, than low income earners. However, specific taxes sometimes hit the most vulnerable the hardest - the very antithesis of tax justice. Take VAT for example, which is an indirect tax levied on the value added by producers, suppliers and service providers at each point in the supply chain and ultimately borne by the consumer. Instead of being progressive, it is commonly viewed as a regressive tax since it uses a flat rate, which is applied to all categories of consumers including low income earners. This often results in poorer people unjustly paying a higher proportion of their income in taxes.

In order to protect low income earners, policymakers often introduce exemptions or zero-rates for basic goods such as food or fuel. An exemption regime means that no VAT will be applied on the supply of the good, but producers cannot claim a credit for the VAT they pay on inputs to produce the good. The effect this often has is that the VAT incurred by producers of that good throughout the supply chain will be factored in to the cost to the final consumer. The zero-rated regime applies a rate of 0% on the supply of the good, but permits the producer to claim refunds on any VAT incurred throughout the supply chain. This means that an exempt regime may ultimately not be as beneficial in meeting the objective of reducing the cost of an item, though this depends on the supplier's price point.

In Kenya, as of July 2018, basic goods that qualify for VAT exempt status include the supply of natural water, maize flour, cassava flour, wheat flour, unprocessed milk, vegetables, fruits, nuts, cereals, a variety of seeds, bread, milled rice, eggs and meat. The number of items exempted in the list above, determine the products that can be accessed by low income earners without paying VAT. The exempted basic items do not include cookware items considered essential for safe and clean preparation of food, storage facilities for long term maintenance of food items, dried or canned foods. This may indicate that policymakers have not fully considered all that is required for low income earners to be able to realise their Article 43 right.

Alongside the re-introduction of VAT on petroleum products, petrol, diesel and kerosene, levies apply. Some of these levies include road maintenance, petroleum development, petroleum regulation and railway development. Higher fuel costs affect transport, an important factor for access to and the affordability of, food.

Income taxes can also affect the value of income in the hands of consuming citizens. The Pay As You Earn (PAYE) system in Kenya uses a graduated approach whereby the tax rate increases as taxable income increases. Rates vary between 10% and 30%, and are applied to specified annual income brackets. They provide a threshold designed to exempt low income earners from the tax. Understanding the impact that inflation can have on the real value of income is an important factor for defining income brackets, as inflation can undermine the impact of these kinds of progressive policies.

Inflation reflects the rate at which the costs of living rises annually, resulting in individuals spending a higher proportion of their salaries on goods and services than the previous year. To mitigate against this effect, salaries are usually increased by, at a minimum, the same level as inflation. Due to the increase in salaries, individuals may artificially fall into higher income brackets and qualify for higher tax rates.

In response, policymakers undertake an annual review and adjustment of income brackets to reflect the impact of inflation. In June 2016, the National Treasury opted to review and adjust the income tax bands after over 10 years, raising the bands by 10% and increasing the monthly personal relief. The Government of Kenya have since reviewed the bands upwards for a second time, citing the increased cost of living (Igadwah & Juma, 2018).

However, these amendments have been criticized as being insufficient for the 10-year period in which no adjustments were enforced. The National Treasury did not issue further adjustments for the financial year 2019. By causing individuals to artificially fall into higher tax brackets, government policies (or lack thereof) perpetuate income inequalities that affect the purchasing power of individuals.

Policy decisions relating to the taxation of agricultural inputs may also impact upon the cost of production of these goods and indirectly contribute to increased consumer prices. Crucially, agricultural pest control products, previously zero-rated, are now subject to tax at 16%, whilst petroleum products are now subject to VAT. These items contribute to the production of food in Kenya and their cost will ultimately be factored in to the final consumer price.



**For the government to progressively secure the right to food, tax policymakers must evaluate and understand the consumer trends of the country's poorest and what it takes to secure consistent access to food.**

Contributing to the pressure on individual incomes, the Finance Act 2018 increased the excise duty applicable to mobile money transaction costs from 10% to 20%. Mobile money has enabled citizens to transact, save and borrow without the use of formalised financial institutions. Unfortunately, the increase in taxation of this service impacts the real value of income passing through this platform since the burden of excise duty has been passed on to the consumer, which has further implications for income inequality.

When reviewed separately, it is often difficult to build a comprehensive understanding of the link between tax policy and access to food. Tax policy must be viewed as a whole and not just as individual tax heads applied to different tax bases. These tax bases overlap, the impact of

VAT on consumer prices and choices is further exacerbated by PAYE and the influence of excise duties on the real value of income or income inequality. A higher cost of food combined with a lower income frustrates an individual's access to adequate food of acceptable quality.

Furthermore, inaccessibility of storage and cookware, place the acceptable quality of food at risk. In order for the government to progressively secure the right to be free from hunger and have adequate food of acceptable quality, tax policymakers must take the time to evaluate and understand the consumer trends of the country's poorest and what it takes to secure consistent access to food. Intentionally progressive VAT, PAYE and excise duty policies can indeed contribute to ensuring an increase, even marginally, of food security. ♥

## References

- ActionAid International (2018). *Value-Added Tax: Progressive Taxation Briefing*. Retrieved 5 November, 2018 from <http://actionaid.org/2018/10/progressive-taxation-explained-8-briefings>
- Christians, A. (2009). Sovereignty, Taxation and Social Contract. *Minnesota Journal of International Law*, (18). Retrieved 6 March, 2019 from <http://minnjl.org/archives-2/volume-18/volume-18-issue-1/>
- Igadwah, L., & Juma, V. (2018, January 2). Rotich hands workers income tax cut boost. *Business Daily*. Retrieved 6 March, 2019 from <https://www.businessdailyafrica.com/markets/news/Rotich-hands-workers-income-tax-cut-boost/3815534-4248486-10kjfv/index.html>
- Muchira, N. (2018, August 15). Tough times ahead as prices of basic goods, services set to rise. *Daily Nation*. Retrieved 1 November, 2018 from <https://www.nation.co.ke/news/Tough-times-ahead-as-prices-of-basic-goods--services-set-to-rise/1056-4712876-hxemhqz/index.html>

## Interview

# When *mama mboga* and buying local inspires great food

**Kaluhi Adagala of 'Kaluhi's Kitchen' speaks with Christine Mungai, on sourcing for fresh produce, why it's important to know where our food comes from, and the three ingredients she absolutely cannot live without.**

**q** Your recipes are simple and easy to make with locally available ingredients. Where do you source your ingredients and why is this important?

I source my ingredients from our local street vendors, or *mama mboga* as we often refer to them. The main reason is convenience and proximity to home, plus they stock up pretty well with fresh items that are frequently replenished.

**q** It sometimes feels that shopping for fresh produce in Nairobi is like searching for the Holy Grail – it is sometimes difficult to get an affordable price, safe and quality produce all in one. When it's cheap, it might be of dubious quality or compromise on best practice health and safety standards. When it is reliable, gorgeous and full of flavour, you're going to pay a hefty price. How would you suggest consumers strike a balance between managing a budget, whilst being mindful of their health and supporting local producers of quality food?

I completely disagree with the notion you have made that cheap is necessarily bad quality, and that for produce to be good it needs to be expensive. I speak from my own experience when I say cheap produce is just as good as those that are slightly marked up. The difference may only lie in where they are sourced. For example if lemons are imported, they will be costlier than our local lemons. But, does that mean our local lemons that cost 10 shillings are bad? Absolutely not! If I buy a *debe* of potatoes as I travel on the Nairobi-Nakuru highway at Ksh 250, that does not mean they are bad compared to polished new potatoes from South Africa I may get elsewhere at Ksh 800.

My advice is to form a rapport with your *mama mboga* and learn, or simply ask straightforward, where they get their produce from. Most times what we want to know is just a question away. Shopping for good produce can only be as expensive as we make it. Even when one shops

in supermarkets or formal grocery stores, the prices are more or less the same as that of *mama mboga*. A lemon or a bunch of dhanian (coriander leaves) costs the same in Zucchini (an upmarket grocery store) as it does at a local *mama mboga's* stall. Many times, locally sourced produce will be labelled and separated from imported varieties. I say that to support local farmers and buy local varieties. The produce will be smaller in some instances, in other cases a bit bruised or slightly misshapen, but that absolutely does not mean they are bad.

**q** How does the quality of ingredients affect the final outcome of a meal? What are some of the common 'blunders' that people can avoid?

If the ingredients are processed, the quality may affect the outcome (e.g. cheese, meat, milk). For fresh produce, the only thing, in my opinion, that would affect the final outcome is if one used spoilt produce - and remember, this is not the same as 'cheap produce'. If I make githeri with rotten tomatoes, the entire dish will be ruined. But, if I make githeri with tomatoes from my local *mama mboga* while another person with tomatoes from Carrefour Supermarket, they will both taste the same.

**q** What are some of the interesting things you've discovered along the way of where our food comes from? Why is it important that we care about how our food is produced, transported and brought to our fridges, pantries and tables?

Some of the questions I usually ask include: Are they grown using toxic chemicals? Are there chemicals being used to buff and polish them to give them a 'perfect' appearance? Is my purchase directly contributing to the growth of the community my food came from? It is important to know how our food is produced so that we understand exactly what we are putting into our bodies, and how our money is being channeled back into growing our communities.



Ron Enoch Luke, Village Market, Acrylic on Canvas. ronenoche.r@gmail.com

**q** You recently participated in a food discovery series, where chefs discovered cooking methods, flavours or ingredients from other African countries and made one fusion dish with qualities from each country. What was your favourite ‘mash-up’ dish from this experimentation?

My favourite was the mbuzi-choma-rolex where flavours from Uganda, Kenya and Tanzania were melded into one delicious dish.

**q** I realise that you only recently put up recipes for goat biryani, after being asked many times by followers. What are some of the recipes that people keep asking for? Do you notice any interesting trends or ‘fashions’ in the diets of Kenyans?

In my five years of blogging I have so far covered everything that has been requested, but currently lots of baking recipes are being asked for. I am working on refining my skills in that before delving in. Kenyans in general stick to what they have always had, and my sense is that not

much changes over time. However with greater exposure to knowledge and with conversations on the internet, there is an emphasis on having more vegetables with each serving and more people want to know how to handle traditional vegetables in particular.

**q** I know you love mangoes, but what is your ‘food unpopular opinion’ – the thing that everyone seems to be crazy about but you just don’t feel the same?

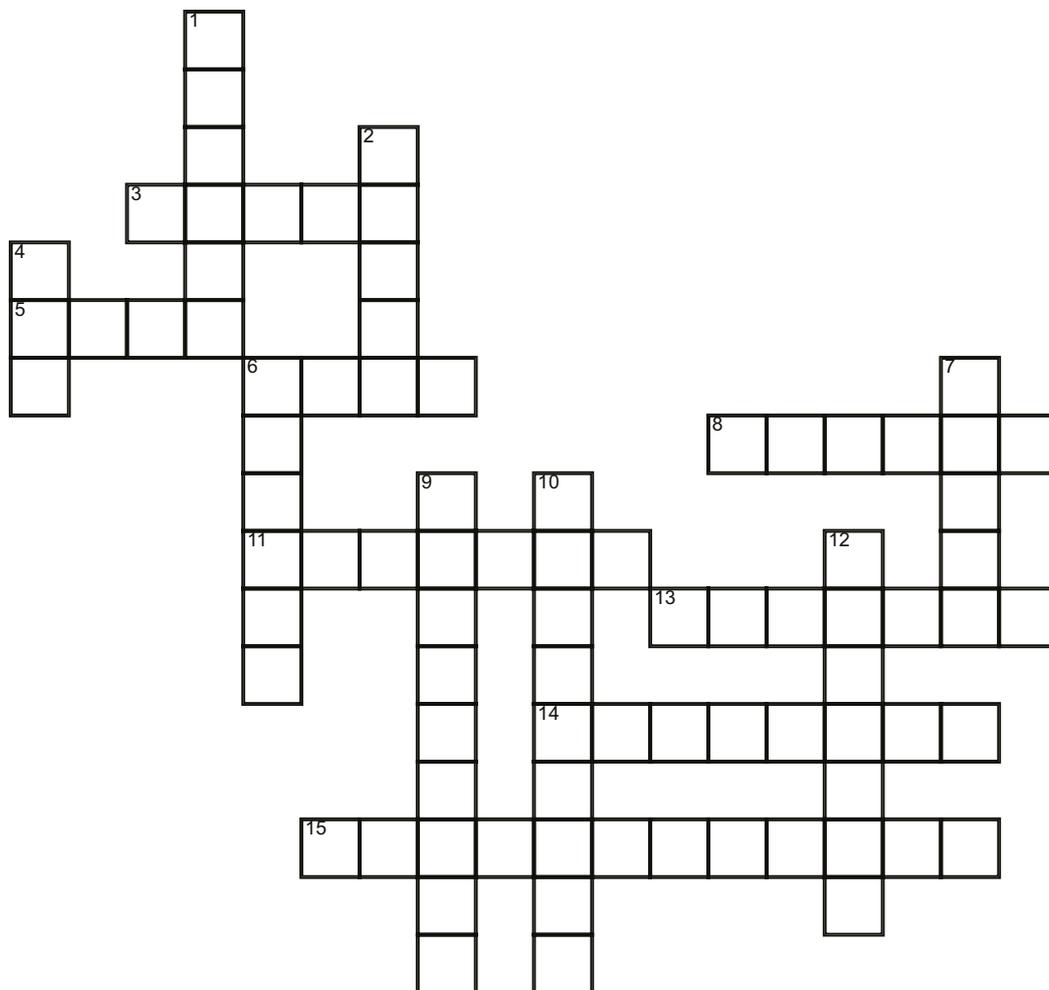
None that I can think of. I think I love everything in equal measure!

**q** If you were stranded on a desert island with three ingredients to live on for the rest of your life, what would they be?

Garlic. Potatoes. Cardamom. ♥

Coffee break 

# Solve the crossword



**Across**

- 3 A sweet, tropical fruit with orange flesh and a hard seed in the middle
- 5 Dry, parched
- 6 A segment of an organism's DNA or RNA
- 8 Lady Justice holds a pair of these
- 11 Another name for the nitrogen-fixing plant alfalfa
- 13 Grown in an environment free from industrial agrochemicals
- 14 The larva of the Spodoptera moth, which feeds in large destructive groups
- 15 The variability among living organisms

**Down**

- 1 A chance of harm or peril
- 2 A poisonous substance produced biologically by living organisms
- 4 Money paid to the government
- 6 A pungent plant related to the onion
- 7 Latin for 'worm'
- 9 To rot or decay
- 10 An increase in prices or in the cost of living
- 12 A unit of energy

The answers for the crossword puzzle are available on [www.routetofood.org/cha-kula-crossword-puzzle](http://www.routetofood.org/cha-kula-crossword-puzzle)

# Going organic

Certified organic production in Kenya has been growing steadily in the past ten years. Organic certification is a procedure by which an independent party gives written assurance that a producer has followed the rules of organic production. EnCert ([www.encert.co.ke](http://www.encert.co.ke)) and Kenya Organic Agriculture Network ([www.koan.co.ke](http://www.koan.co.ke)) are local organisations that offer organic certification. You can check out their websites to learn more about certification requirements.

That said, there is no legislation in Kenya that requires organic producers to hold a certificate of registration, which means there are many farmers growing food organically who don't hold certificates. We suggest that the best way for you to find out if your farmer is using organic methods is to visit the farm. It's a great opportunity for you and your family to get out of the house and into the field, and at the same time learn more about farming with nature whilst connecting with the people who are growing your food.

We've put together a list of some of the places where you can find products around Nairobi that are certified organic. If you want to learn more about organic farming, you can also read the article on page 30.

## You can:

Order online with Kalimoni Greens ([www.kalimonigreens.com](http://www.kalimonigreens.com)) or Sylvia's Basket ([www.sylviasbasket.co.ke](http://www.sylviasbasket.co.ke)). For organic meat you can order from Greenspoon ([www.greenspoon.co.ke](http://www.greenspoon.co.ke)).

Sign up with Mlango Farm, who deliver weekly farm-share baskets with a variety of fresh vegetables to different points in Nairobi ([www.mlango.org](http://www.mlango.org)).

Head to the Kakila Organic Farm Shop in Kilimani, or call Ng'ang'a Mbugua on 0725 759 865 to place an order and have it delivered to your home.

Visit the Organic Farmers Market ([www.ofmkenya.org](http://www.ofmkenya.org)) where you can meet and buy from a variety of different small-scale organic producers. The market is from 9am – 4pm every Saturday at KSPCA in Karen along Lang'ata road adjacent to Hillcrest School.

The German School Nairobi hosts monthly organic markets. Keep an eye on their Facebook page to find out the dates.



## Interview

# GMOs: The right to food and the right to know

**Anne Maina, Coordinator of the Biodiversity and Biosafety Association of Kenya (BIBA-K), shares her views with Christine Mungai, on why Kenya needs to tread cautiously when it comes to genetically modified crops.**

## q What are GMOs, scientifically speaking?

That is a big question, with no short answer, but this is a simple definition that I have come across.

“Genetically modified organisms (GMOs) are living organisms whose genetic material has been artificially manipulated in a laboratory through genetic engineering. This creates combinations of plant, animal, bacteria, and virus genes that do not occur in nature or through traditional crossbreeding methods.” (The Non-GMO Project, 2016).

Most GMOs have been engineered to withstand direct application of herbicide and/or to produce an insecticide. However, new technologies are now being used to artificially develop other traits in plants, such as a resistance to browning in apples, and to create new organisms using synthetic biology. Despite biotech industry promises, the evidence is disputed that GMOs currently on the market offer increased yield, drought tolerance, enhanced nutrition, or any other consumer benefit.

## q What is the history of GMOs in Kenya?

Kenya ratified the Cartagena Protocol on Biosafety in 2003. It is an international agreement which aims to ensure the safe handling, transport and use of living modified organisms resulting from modern biotechnology that may have adverse effects on biological diversity, and also taking also into account risks to human health. Since 2004, the Kenya GMO Concern (KEGCO) which later became the Kenya Biodiversity Coalition (KBioC) and is now registered

as the Biodiversity and Biosafety Association of Kenya (BIBA-K) has been active on the issue. Their lobbying introduced an alternative Biosafety Bill in 2008 through one Member of Parliament, Silas Ruteere, to govern genetically engineered crops. However, the government quickly introduced their own bill which took precedence in Parliament.

KEGCO however made positive contributions to the government-sponsored Biosafety Bill such as lobbying for the increase of a fine, from Kshs. 2,000 to Kshs. 2,000,000 for the unauthorised release of GMOs into the environment.

The Biosafety Bill remained under discussion until 2009 when the Biosafety Act 2009 was signed into law by former President Mwai Kibaki.

## q What is the current status of GMOs in Kenya?

Here's a quick status report of the current GMO applications in Kenya.

### GMO Gypsophilla

An Israeli company called Imaginature (operating locally under the name Beauty Horticultural Firm) has applied to commercialise GMO Gypsophilla – a species of flower destined for export – in Kenya. GM Gypsophilla has not been commercialised anywhere else in the world. Imaginature is targeting the US market, stating it would grow the traditionally white flower engineered to a pink and red gypsophilla in green houses, and will only work with a

**Anne Wanjiku Maina** is the National Coordinator of the Biodiversity and Biosafety Association of Kenya (formerly Kenya Biodiversity Coalition - KBioC). She is an activist with over eight years' experience working with various civil society organisations and regional networks such as the African Biodiversity Network (ABN) and Participatory Ecological Land use Management (PELUM) Association. Anne is a holder of a Bachelor of Arts degree in Economics and is an alumna of International Biosafety Course from University of Tromsø, Norway; and she is also an alumna of International Course on Hazard Identification of Transgenic Gene Flow and Risks Assessment of GMOs also from University of Tromsø, Norway.

“ To date, there have been no epidemiological studies investigating potential effects of GMO food on human health. Most of the research used to claim that GMOs are safe has been performed by biotechnology companies.



few farmers in the Naivasha area. The National Biosafety Authority (NBA) raised some operational issues on Imaginature's plan and is yet to make a determination. As BIBA Kenya, we raised some concerns on the gypsophilla entering the food chain when animals feed on it.

#### **Bt Cotton**

A conditional approval has been given by the NBA for commercialisation of Bt Cotton. The last confined field trial for Bt Cotton was done in 2010. BIBA Kenya has continuously raised questions on whether using findings from 2010, now nine years later, would still be valid, but the NBA replied that there is no change in the science or in the possibility of inadvertent release of Bt Cotton.

Currently an Environmental Impact Assessment (EIA) is being carried out by the NBA and Kenya Plant Health Inspectorate Services (KEPHIS) in nine sites. The sites include: Kambi Mawe (Makueni), Mwea, Busia, Kibos, Tana River and Garissa. The Government of Kenya has also constituted a Task Force by the Ministry of Trade

and Ministry of Agriculture working towards the revival of the cotton industry. BIBA fears that the task force is being used to push for Bt Cotton adoption in Kenya even when evidence from Burkina Faso and India shows a complete failure of the Bollgard II variety of Bt Cotton. This is also worrying because only 40% of Bt Cotton is for fibre while 60% is for oil for human consumption, cotton seed cake and straw for animal feed.

#### **Bt Maize**

A conditional (limited) approval was made for Bt Maize but trials have not yet been conducted. One GMO variety, called Water Efficient Maize for Africa (WEMA), is being tested in Kitale and Kiboko. WEMA is a project led by the Kenya Agricultural and Livestock Research Organisation and The African Biotechnology Stakeholders' Forum. The insect resistant MON810 has had an environmental impact assessment done and sent to the National Environmental Management Authority but no permit has yet been given.

**q The topic of GMOs is controversial. What are the main arguments in support of GMOs?**

The main argument for the promotion of GMOs is that it is the solution to the global hunger crisis and will boost food security. One recent report from the Food and Agricultural Organisation reveals that some 375 million people, representing over 29% of the population in Africa, suffered from severe food insecurity in 2017. Proponents of GMOs also argue that it will reduce the use of pesticides. For example, Water Efficient Maize for Africa (WEMA), a GM variety of maize, has been said to be resistant to the maize stalk borer.

**q What are the arguments against using GMOs?**

GMOs typically are grown in monoculture environments, and are thus a threat to our biodiversity, as well as seed and food sovereignty.

The genetic engineering being pursued is intended to make crops more tolerant to synthetic chemicals and herbicides like glyphosate (RoundUp). Glyphosate has been classified as a possible carcinogen by the World Health Organisation. This may explain the increasing cases of cancer, infertility, birth defects and allergies being seen among Kenyans and the world over.

The intensive use of synthetic chemicals damages our environment and undermines critical biodiversity. In Kenya, we are struggling with soil acidity. Chemical inputs are lethal to insect pollinators and have led to the collapse of bee populations all over the world. There has also been the development of super pests, which are much more difficult to manage. Furthermore, there is no scientific consensus on the safety of GMOs. To date, there have been no epidemiological studies investigating potential effects of GMO food on human health. Most of the research used to claim that GMOs are safe has been performed by biotechnology companies.

**q From a consumer perspective, why should the public know about GMOs?**

As Kenyans, we should be provided with the information necessary to make informed consumer choices. What we eat, and who we support by choosing to buy what we buy, is a very personal decision. It influences our health and the livelihoods of our communities, and it impacts the profits of big corporations.

In Article 46 (1) of the Constitution of Kenya, consumers have the right to goods and services of reasonable quality and to the information necessary for them to gain full benefit from the said goods and services. Article 46 (1)

(c) specifically states that consumers have the right to the protection of their health, safety and economic interests. It follows that Kenyans have the right to know what they are eating, which includes information about how their food is produced, transported, stored, packed and prepared.

So, to answer your question, we should know about GMOs, because it is our right to know and that is reason enough.

**q Are GMOs the solution to food insecurity in Kenya? Will they help us achieve our right to food? Why or why not?**

GMOs are not the solution to Kenya's hunger problems. Food security is not a problem of production. It is a problem of access (affordability) and distribution. Those who can afford to buy food don't go hungry in Kenya.

Genetically engineered seeds and crops have been presented by authorities and certain corporates as a panacea to achieving food security in Kenya and Africa at large. However, these modified seeds and farm produce represent a corporate takeover of our food systems. Overdependence on corporates for seeds and other farm inputs has increased our vulnerability to shocks related to food production. It lures farmers into the use of agro-chemicals and stands in the way of sustainable solutions such as ecological agriculture.

If we want to solve food insecurity and realise the right to food in Kenya, we should consider the context in which we are working. We need to support and invest in smallholder farmers, the majority of whom are women, and who produce more than 70% of the country's food. Smallholder farmers and pastoralists are, sadly, also, a group of people who are faced with chronic food insecurity.

**q GMOs have failed smallholder farmers in other African countries. What are some case studies we can learn from?**

South Africa and Burkina Faso are both case studies illustrating that GMOs are part of a model of agriculture that throws farmers into long-term dependencies, undermines biodiversity and, by promoting large-scale industrial infrastructure, drives millions into more, not less poverty.

In South Africa, GMO maize has failed, with seeds even failing to germinate. Farmers growing Bt Cotton were faced with enormous loans from the high costs of seeds and inputs. After the introduction of Bt Cotton, the farmers were hit with droughts and low cotton prices, 80% of farmers defaulted on their loans and the project failed (Pambazuka News, 2005).

In Burkina Faso, farmers abandoned Bt Cotton and the government banned it in 2016, barely three years after it was commercialised. The main challenge was that Bt Cotton was of a poorer quality, with shorter strands that were rejected by the world market. The price of Bt Cotton also rose almost 40 times as compared to the conventional varieties. In these cases it was clear that the GMO agenda was just about multinationals getting a grip of the market, owning the patent and making a profit.

**q** **If you could ask Kenyans to take action on the question of GMOs, what would you say?**

Say no to GMOs and the corporate capture of our food systems. Eat healthy. Go organic. ♥

---

## References

Pambazuka News (2005, May 31). South Africa: Bt cotton – the success story that wasn't. Retrieved April 19, 2019, from <https://www.pambazuka.org/land-environment/south-africa-bt-cotton-success-story-wasnt>

The Non-GMO Project (2016). What is a GMO? Retrieved April 9, 2019, from <https://www.nongmoproject.org/gmo-facts/what-is-gmo/>

For more information you can listen to Anne's interview on the *Otherwise?* podcast, Episode 87. Available <https://www.otherwisepodcast.com/episodes/episode-87-gmos-and-food-safety/>

# Human rights and Kenya's legal obligations on the right to food

By Neto Agostinho

## Attaining food security is a complex task for which the primary responsibility rests with individual governments.

The right to food is one of our economic and social rights, which the state is required to take steps to achieve. As a State Party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and under Article 43 of the Constitution of Kenya, the government has the obligation to respect, protect and fulfil the realisation of the right to food for all Kenyans.

In 2011, the Consumer Federation of Kenya (COFEK) sued the government - specifically the Attorney General, Minister of Energy, Minister of Finance, Energy Regulatory Commission and the National Oil Corporation of Kenya - for failing to stabilise high fuel prices, which triggered a spike in food prices. The petitioners argued that this violated Article 43 of the Constitution, which guarantees citizens freedom from hunger and the right to adequate food of acceptable quality. It was an ambitious case that was one of the first tests of a new Constitution. COFEK's decision to litigate was founded on the Constitution which give the courts a prominent role as guardians of the highest law of the land, and as the main body charged with the protection of fundamental rights and freedoms.

The judges however ruled that the petitioners had not adequately demonstrated how, exactly, the government had failed to fulfil its constitutional obligations. The authorities had indeed instituted some policy measures, such as intervening on the oil prices. More interestingly, the defendants argued that natural phenomena such as rainfall affected food security and the cost of living in ways the government policy was not able to control.

Although COFEK was not successful in the petition, the case remains an important touchstone in Kenya's legal history. Courts can and do play a role in the realisation of economic and social rights. The jurisprudence of the South

Africa Constitutional Court in the case of the *Government of the Republic of South Africa and Others v. Irene Grootboom and Others* (case no. CCT 11/00, 4 October 2000) is an important example of success. The COFEK ruling therefore should not dampen the spirit of any Kenyan who would like to exercise their constitutional rights.

### Food security, put simply

Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. Attaining food security is a complex task for which the primary responsibility rests with individual governments, which have to develop an enabling environment and have policies that ensure peace, as well as social, political and economic stability, equity and gender equality.

Adequate food means more than simply caloric quantity. It means sufficient nutritious food - free from unsafe substances and acceptable within the culture - to support active, healthy living. Governments must do their best, within their available resources, to guarantee this right and to call for international help if their own resources do not suffice. For those unable to provide for themselves, whether it is through physical limitation, during natural disasters or during periods of extreme hardship, states must establish safety nets.

### Elements of the right to food

The essential elements of the right to food include availability, accessibility, adequacy, and acceptability of food.

**Neto Agostinho** is a trained lawyer, obtaining his degree from the University of Nairobi, and is currently pursuing his Masters in International Relations at the United States International University in Africa. He represented Ndihiwa constituency, in Homabay County in the National Assembly of Kenya between 2012 and 2017. He is the co-leader of the United Green Movement, which seeks to help realise civil, political, economic, social, and cultural rights in Kenya.



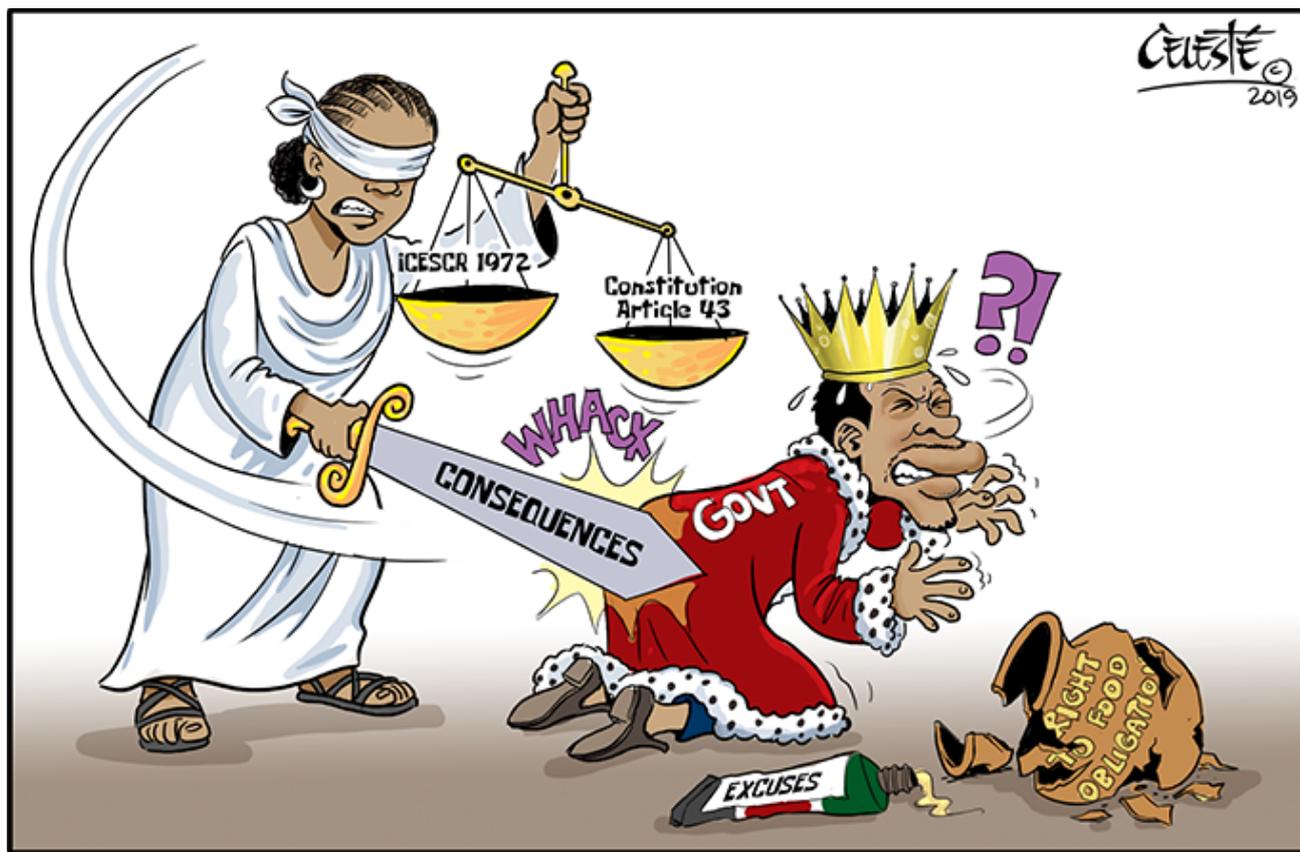
**A human rights based approach would take into account the need for emphasis on poor and vulnerable people who are often excluded from processes that determine policies to promote food security. In this approach, people hold their governments accountable and are participants in the process of human development, rather than being passive recipients.**

*Availability* refers to the possibility of either feeding oneself directly from productive land or other natural resources, or purchasing it from the market - presuming well-functioning distribution, processing and market systems. In simple terms, the food must be there.

*Accessibility* takes into account both economic and physical aspects. Economic accessibility means that an individual or a household must have the economic means to procure food without compromising other basic necessities. Physical accessibility implies that adequate food must be

accessible to everyone, including physically vulnerable individuals, such as infants and young children, elderly people, the physically disabled, and persons with medical problems. Food must be accessible for both present and future generations (*sustainability*).

*Adequacy* refers to both the quantity and quality of food, in terms of food safety and nutrition value. This must be determined using prevailing social, economic, cultural, climatic, ecological and other conditions. It should meet the dietary needs of an individual from a health perspective.



Celeste Wamiru, Editorial cartoonist and Illustrator. celestinewamiru@gmail.com

The adequacy standard also touches on *cultural or consumer acceptability*, which means that one must consider cultural preferences on food - religious beliefs and taboos must be respected. For example, one cannot provide pork to Muslim households in the name of ostensibly securing their food security.

### International obligations

The right to be free from hunger has been defined as the right “to have access to the minimum essential food which is sufficient and adequate to ensure everyone is free from hunger and physical deterioration that would lead to death.” Under the international obligation outlined in the ICESCR, states must ensure “for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe.” Freedom from hunger is considered to be the *minimum essential level* of the right to food that states must ensure the satisfaction of, regardless of economic and political conditions.

The obligation on governments is to *take all appropriate* steps and such steps should be “deliberate, concrete and targeted.” It is ultimately up to each State Party to decide what kind of measures will be the most appropriate to ensure the realisation of the right to food. These measures

could include legislation, or implementing administrative, economic, financial, educational or social reforms.

The obligation to take steps with a view to *progressively achieving* the full realisation of the right to food implies that some measures to be taken immediately, while others are taken more gradually. The ICESCR clarifies that State Parties have a duty to “move as expeditiously and effectively as possible” towards full realisation of the rights contained in the covenant.

The obligation to take steps *through the efforts of states themselves and international assistance* means that states are obliged to use the maximum available resources, including their own resources and those of the international community, to realise the right to food. If a state argues that it does not have the resources to at least meet its minimum core obligations, it must demonstrate that every effort has been made to use all the resources at its disposal to meet these minimum standards. The state must also demonstrate that it has made every effort to obtain international support to ensure the availability and accessibility of food. While the ICESCR allows for progressive realisation, certain obligations apply immediately regardless of resource availability.

The obligation *not to discriminate* requires each State Party to ensure equal enjoyment by all of all the rights contained in the ICESCR. The obligation not to discriminate requires that the level of protection of the right to food is objectively and reasonably the same for everybody, irrespective of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. It means that a state should identify the most vulnerable groups within its jurisdiction and take proactive steps, usually referred to as 'special measures', to bring the level of enjoyment of the right to food of these groups in line with the rest of the population.

### Responsibilities: Respect, protect and fulfill

The obligation to *respect* the right to food requires states not to take any measures that would result in preventing individuals from having access to food. This negative obligation imposes limitations on state conduct that may threaten the right to food. Under this obligation, states cannot suspend legislation or policies that provide people with access to food, unless fully justified. The violations of the obligation to respect could occur if a government arbitrarily evicted people from their land, especially if the land was their primary source of subsistence, or if the government suspended social security provisions without ensuring that vulnerable people had other means to provide for themselves.

Under the duty to *protect*, states have a positive obligation to safeguard the enjoyment of the right to food against interference by third parties (such as private individuals, private enterprises and other entities). This obligation involves regulating the conduct of such non-state actors by the state. Violation could happen if, for example, a company polluted a community's land or water supply and the state took no action. Under the obligation to protect, a state may also be required to enact consumer protection and food safety legislation to ensure that food which reaches the market is free from harmful substances.

The obligation to *fulfill* is made up of both an obligation to *facilitate* and an obligation to *provide*. The obligation to facilitate means that states must engage in activities intended to strengthen people's ability to access means and resources to secure their livelihood, for example by implementing agrarian reform programs or introducing minimum income regulation. In particular, states are required to identify vulnerable groups and to implement policies to ensure their access to food or to the means of obtaining it. Whenever an individual or group is unable

to enjoy the right to adequate food by the means at their disposal, for reasons beyond their control, states have an obligation to *provide* it. For instance, a state would fail to comply with the obligation to fulfill if it allowed people to starve when they were in need and had no way of providing for themselves.

Still, food aid should, as far as possible, be provided in ways which do not adversely affect local producers and local markets, and should be organised in ways that facilitate the return to food self-reliance of the beneficiaries. Such aid should be based on the needs of the intended beneficiaries. Products included in international food trade or aid programmes must be safe and culturally acceptable to the recipient population.

### A rights based approach

What does this mean for Kenyan legislation, policy-making and activism? In light of its legal and international obligations, the government should at the national level, adopt a human rights based approach to food security that emphasises universal, interdependent, indivisible and interrelated human rights. A human rights based approach would emphasise the achievement of food security as an outcome of the realisation of existing rights. It would include the need to enable individuals to realise the right to take part in the conduct of public affairs, the right to freedom of expression and the right to seek, receive and impart information, including in relation to decision-making about policies on realising the right to adequate food.

A human rights based approach would take into account the need for emphasis on poor and vulnerable people who are often excluded from the processes that determine policies to promote food security. In this approach, people hold their governments accountable and are participants in the process of human development, rather than being passive recipients. A human rights based approach would require not only addressing the final outcome of abolishing hunger, but also proposing ways and tools by which that goal is achieved.

However, Kenya has no known overarching right to food policy. The policies in the agricultural sector, land policy, planning, finance and other sectors that would contribute to the right to food are not in sync. There is therefore an urgent need for framework law that would make multiple sector policies coherent. Only then will the right to food not only linger in the zone of progressive realisation, but would become a present-day reality for Kenyans. ♥

# Sustainable food, land and livelihoods: Promising farming techniques in Kenya

By Silke Bollmohr

**A sustainable food system must be resource-conserving, socially supportive, commercially competitive and environmentally sound.**

By the time food gets on your plate, it has gone through an entire food system whose workings are not immediately apparent to the ordinary person. A food system is made up of all the processes and infrastructure involved in feeding a population including growing, harvesting, processing, packaging, transporting, marketing, consumption, and disposal of food and food-related items.

Most conventional food systems prioritise profits before anything else. Quantifying the environmental and social cost of financial gains is overlooked. Conventional agriculture typically has high external inputs, such as pesticides and artificial fertilisers, which are intended to maximise efficiency and increase production. It often means that sound ecological principles are ignored or overridden.

As a consequence, conventional food systems are susceptible to breaking down, in the form of regular pest outbreaks. This was the case with the recent outbreak of fall armyworm in Kenya, in which monoculture and pesticide resistance made vast maize plantations vulnerable to attack by the fall armyworm. Conventional food systems are also often the cause of environmental degradation problems such as salinisation, soil erosion, pollution of water systems, decrease in soil health and biodiversity.

In fact, conventional food systems have been shown to fail to eradicate malnutrition, obesity, hunger and poverty particularly of rural populations in developing countries partly due to poor food distribution and poor food quality. In Kenya, approximately 25% of the population i.e. more than 10 million people still experience chronic food insecurity (FAO, 2017). Moreover, nutrition security is challenged by foodborne pathogens, antibiotic resistance, pesticide and chemical contamination as well as diet-related chronic diseases (Wallinga *et al.*, 2015).

**Silke Bollmohr** is a permaculturist, an environmental consultant and the Director of Hamana Solution and Eco-trac Consulting. She focuses on the impact of conventional farming systems (in particular pesticide use) and the promotion and implementation of sustainable farming systems in Kenya and other African countries. Over the past 20 years she has worked with farmers, governments, civil society and the private sector in South Africa, Tanzania, Sudan, Ethiopia and Germany to create a healthier agricultural environment.

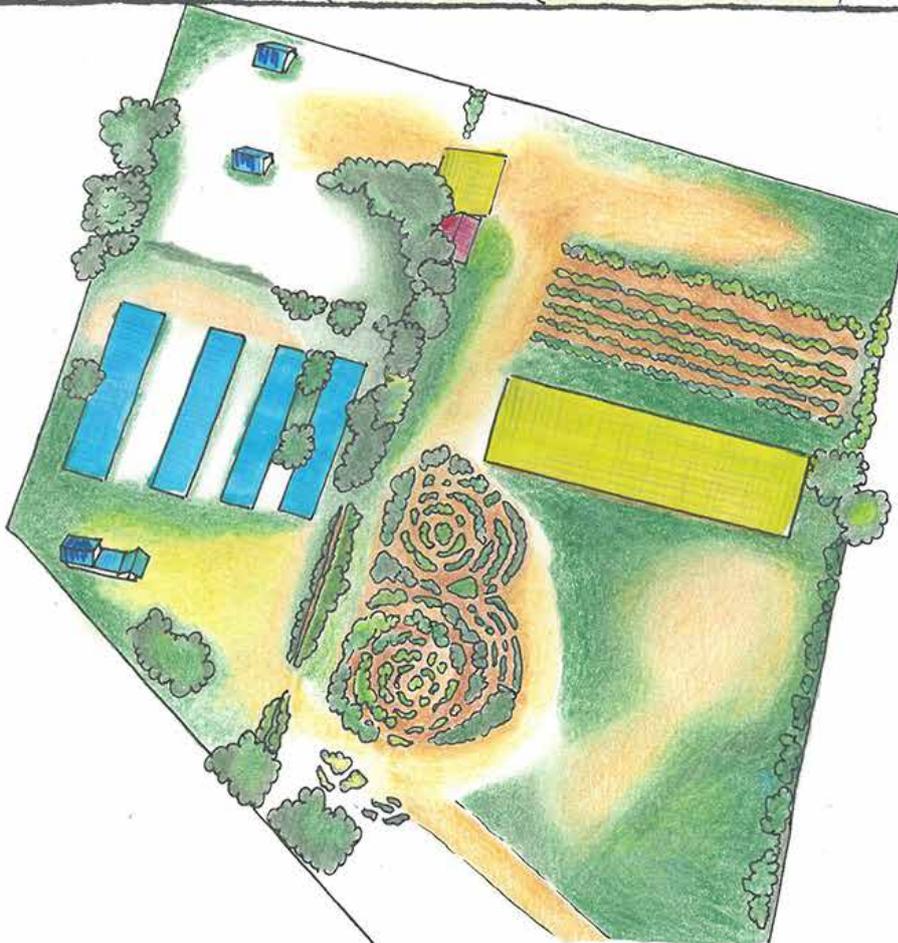
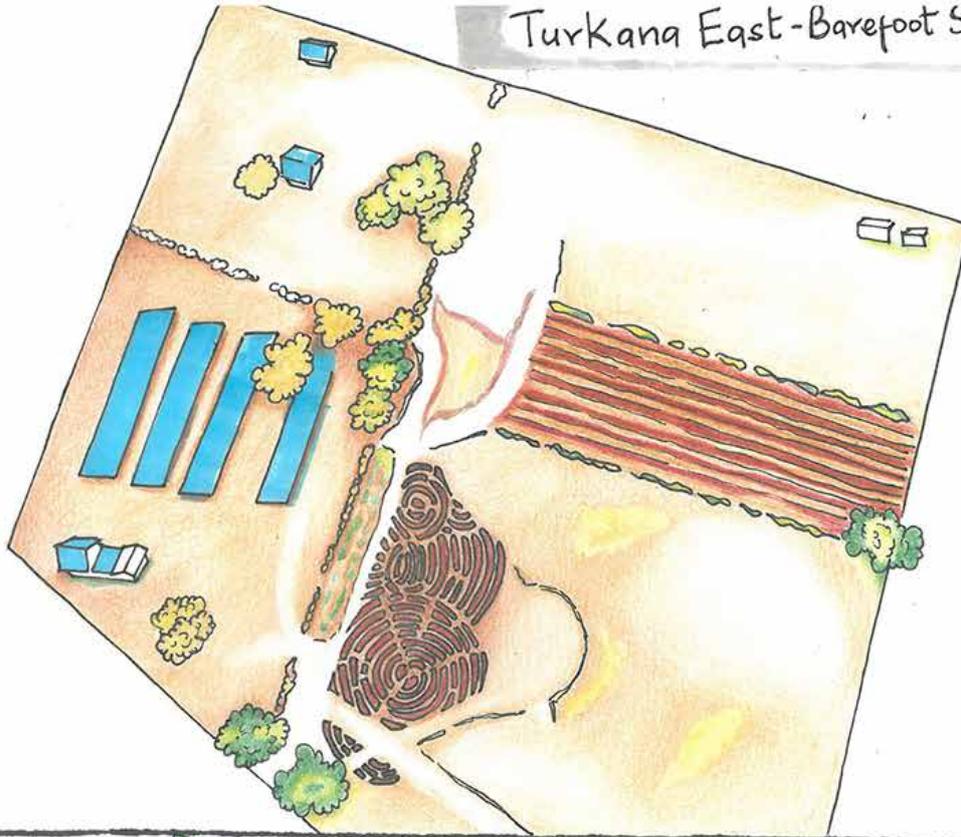


© The Route to Food Initiative

To address these negative effects, it is now widely recognised that food production systems and the food chain in general must become fully sustainable (De Schutter, 2014). Food sustainability and food security are inextricably linked. A diverse diet is a healthy diet, and a sustainable diet is one that is based on a range of food items, which themselves are produced in a manner that is in harmony with nature.

Conventional methods are reaching their limit, and the survival and health of the wider ecosystem now depends on adoption of sustainable food systems. The only way to achieve environmentally sound systems is to start treating farmland as complex webs of ecological interactions.

### Turkana East - Barefoot Solutions Farm



From dusty fields to lush organic vegetable gardens, this aerial view of the farm shows productivity increasing in time and space.

### Defining sustainable food systems

Food sustainability is defined as long-term food security that ensures environmental, economic, and social sustainability of food systems at every stage (Berry *et al.*, 2015). This means that everything from agricultural production, processing, retailing and consumption must be considered holistically, in a way that renders it capable of maintaining its productivity for future generations under changing conditions, such as climate change. A sustainable food system must be resource-conserving, socially supportive, commercially competitive, and environmentally sound (Ikerd, 1990).

Growing diverse crops, increasing biodiversity, ensuring soil health and farming with nature are some of the strategies that can improve food resilience, especially among small-scale farmers. However, the best yields can only be obtained locally if farmers have access to seeds, water, nutrients, pest management solutions, soils, biodiversity and knowledge.

More and more people are not only concerned about food sustainability but also about food safety. Some of the threats to food safety are foodborne pathogens, antibiotic resistance, fungal toxins due to improper storage of crops, pesticide and chemical contamination (Macharia *et al.*, 2009). These issues are likely to become more salient in light of climate change, which is expected to lead to the emergence of new pathogens, induce an increase in the use of pesticides and pharmaceuticals, and perhaps even bring on a spike in antibiotic and pesticide resistance.

Integrated pest management (IPM) is a sustainable way of managing these threats from pests and pathogens. There are several ways of controlling pests in a sustainable way. Cultural control methods include ensuring one is selecting crop varieties best for local growing conditions, instead of putting pressure on the ecosystem by growing crops that are not well suited for a particular environment.

Biological methods include the use of biopesticides like a wood ash, chilli pepper or garlic spray solution on plants, unleashing live predators such as ladybugs to feed on aphids, mites and caterpillars, or growing herbs like sage,

rosemary, peppermint and thyme that have been shown to deter a variety of insect pests in vegetable gardens.

Mechanical strategies include scouting, traps and physically removing pests from the plants, which suppresses pest populations below a critical level and prevents the proliferation of pests.

The aim of these methods is to reduce the use of pesticides, and to minimise the risk towards human health (promoting food safety) and environmental health (promoting food sustainability). As a last option and only at specific times in a pest's life cycle, pesticide use is acceptable.

Integrated pest management strategies are already well known in Kenya and their use is widespread. Many farms, especially the ones exporting produce to other countries, are growing their crops under IPM. Various companies specialise in the promotion of IPM strategies, such as Real IPM and Dudutech. Additionally, the Pest Control Products Board (PCPB) in Kenya is currently developing a curriculum on IPM training for Kenyan farmers.

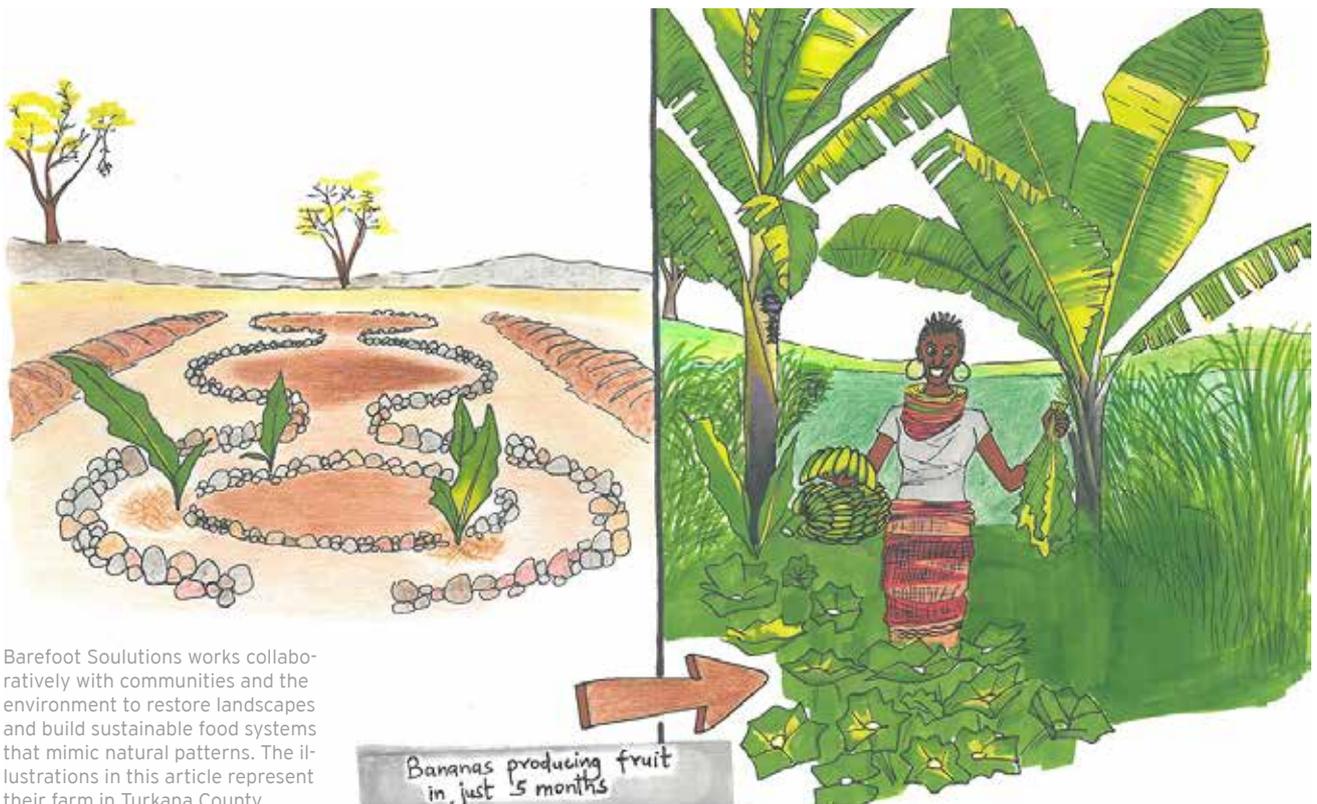
Along with IPM, organic farming is another method that moves one step further towards sustainable food systems harmonious with the environment. It is a method of crop and livestock production that involves much more than choosing not to use pesticides, fertilisers, genetically modified organisms, antibiotics and growth hormones. Organic production is a holistic system designed to optimise the productivity and fitness of diverse communities within the agro-ecosystem, including soil organisms, plants, livestock and people.

Organic farming focuses on improving soil health by using organic fertiliser only, such as compost, manure and worm extracts. It also improves soil health by implementing intercropping and crop rotation for better nutrient and pest management, and by applying biological pest control. The reduced industrial inputs of organic agriculture can also lead to a greater reliance on local knowledge, creating a stronger knowledge community amongst farmers.



**In Rongo, heavily degraded land due to excessive use of commercial fertilisers and agro-chemicals resulted in low coffee yields of 0.5 kg per tree per harvest season. After just two years of permaculture practice, farmers have seen soils come back to life and coffee trees are now yielding an average of 2.4 kg per tree. Farmers and their local knowledge were involved at every step of the process.**

---



Illustrations by Crispus Onkoba Nyachae: crispausk@gmail.com

Barefoot Solutions works collaboratively with communities and the environment to restore landscapes and build sustainable food systems that mimic natural patterns. The illustrations in this article represent their farm in Turkana County.

One obstacle to the adoption of organic farming that farmers in Kenya complain about, is the lack of market access. However, many farmers are starting to benefit from market delivery platforms. For instance, Mlango Farm or organic produce distributors like Kalimoni Greens, deliver fresh organic produce daily to households in Nairobi. There are also locally-organised farmers markets. In Nairobi these include the weekly Organic Farmers Market (OFM) at KSPCA along Langata Road and at Two Rivers Mall.

Still, the benefits of organic farming should not only be driven by market access, but also the contribution this way of farming makes to food security, through improved soil health, diverse nutrition, less chemical residues and lower input costs. Although there are collaborations amongst organic farmers networks in Africa to strengthen organic farming on the continent, such as through the Ecological Organic Agriculture Initiative, there is still a lack of policy support, political will and incentives for farmers across Kenya to convert *en masse* to organic food production.

Another leading voice in the food system transition discourse has been the agroecology movement - the application of the science of ecology to agriculture (Wezel *et al.*, 2009), by understanding how nature works and mimicking natural systems (Altieri, 2002). Agroecology has emerged as the discipline that provides the basic ecological principles for how to study, design and manage

agro-ecosystems that are productive and natural resource conserving, and that are also culturally sensitive, socially just and economically viable (Altieri, 2002).

Agroecology is not associated with a particular type of farming such as organic farming, although they share some of the same principles. Many organic foods in European grocery stores are not grown following agroecological principles, but are from industrially-run operations that are not actually integrated with the broader natural and human ecosystem, but instead are isolated from it. In agroecological strategies, farms are diversified, chemical input is replaced with IPM or organic methods, biodiversity is optimised, diverse knowledge systems are integrated and social justice concerns are involved (Gliessman, 2016). The systems are locally adapted and culturally sensitive, and the overall health of the agro-ecosystem matters as much as crop yield.

Along with agroecology, there's also permaculture. While agroecology is a science, permaculture is rather a philosophy of design - an applied version of agroecology and a whole way of living (Conrad, 2014).

Permaculture is a design system created by Holmgren and Mollison (Holmgren, 2002; Mollison, 1997) that simulates or utilises the patterns and features observed in natural ecosystems. The term "permaculture" was originally

referred to as “permanent agriculture”, but has expanded to embrace the idea of “permanent culture” in recognition that the social dimension is essential to truly sustainable living systems. Permaculture draws from several disciplines including organic farming, agroforestry, sustainable development, sustainable building and applied ecology. In the permaculture approach, enterprises, farm animals and ecological restoration are all integrated, so they work together better than they would work apart.

There are various organisations working on permaculture designs in Kenya, including Barefoot Solutions, the Permaculture Research Institute and Hamana Solutions. A successful example of permaculture in practice, is the organic coffee production by a community-based organisation in Rongo, Migori County, in partnership with the Permaculture Research Institute-Kenya.

In Rongo, heavily degraded land due to excessive use of commercial fertilisers and agro-chemicals resulted in low coffee yields of 0.5 kg per tree per harvest season, as opposed to a potential maximum yield of 4 kg. After just two years of permaculture practice in this region, farmers have seen soils come back to life and coffee trees are now yielding an average of 2.4 kg per tree. This is attributed to soil restoration especially by the use of compost, and improved farming practices such as mulching, cover cropping and intercropping with nitrogen fixers like calliandra, lucern and pigeon peas (HaLevi *et al.*, 2018). Farmers and their local knowledge were involved at every step of the process.

## Achieving sustainable food systems

One of the challenges to the spread of sustainable farming systems across East Africa is that it is more knowledge intensive than other forms of agriculture, and that it requires greater skills from farmers. However, learning successfully about sustainable farming systems is about experiential learning. In particular, agroecology and permaculture embrace and recognise the contribution of indigenous communities, and the vital role of traditional ecological knowledge in creating and sustaining healthy ecosystems (Conrad, 2014). This traditional knowledge is very much abundant in Kenya and needs to be further embraced and shared amongst communities.

Another challenge in poor communities is the lack of secure land. Insecure property rights and immediate critical situations, such as financial stresses, may prevent smallholders from managing the land more productively, which requires medium to long-term investments to restore soil health.

The ecological and economic potential of agroecological and local food systems is nevertheless very high, and many farmers are already implementing these systems and seeing the benefits. Scaling them up needs to be closely linked with support at the different levels of government and, more generally, to the political subsystem they are embedded within.

## References

- Altieri, M. A. (2002). Agroecology: The science of natural resource management for poor farmers in marginal environments. *Agriculture, Ecosystems, and Environment* 93, 1–24.
- Berry, E. M., Dernini, S., Burlingame, B., Meybeck, A., & Conforti, P. (2015). Food security and sustainability: Can one exist without the other? *Public Health Nutrition*, 18(13), 2293–2302. <https://doi.org/10.1017/S136898001500021X>
- Conrad, A. (2014). *We are farmers: Agriculture, food security, and adaptive capacity among permaculture and conventional farmers in Central Malawi*. (Dissertation, American University, Washington D.C.)
- De Schutter, O. (2014). *Final report: The transformative potential of the right to food*. New York: United Nations Human Rights Council.
- FAO, IFAD, UNICEF, WFP & WHO (2017). *The state of food security and nutrition in the world 2017*. Rome: FAO.
- Gliessman, S. (2016). Transforming food systems with agroecology. *Agroecology and Sustainable Food Systems* 40, 187–189.
- HaLevi, D.Y.E., Kelly, G.W., Kelly, H., Shah, S., Mugarura, C., & Walsh, L.J. (2018). Building eco-Social resilience in rural communities: Benefits of permaculture pedagogy and praxis. *Handbook of Climate Change Resilience*. 1–43.
- Holmgren, D. (2002). *Permaculture: Principles and pathways beyond sustainability*. 11.1.2002 edition. Hepburn, Vic: Holmgren Design Services
- Ikerd, J. (1990). Sustainability's promise. *Journal of Soil and Water Conservation*, 45(1).
- IPES-Food (2018). *Breaking away from industrial food and farming systems. Seven case studies of agroecological transitions*. Retrieved 16 March, 2019 from [http://www.ipes-food.org/\\_img/upload/files/CS2\\_web.pdf](http://www.ipes-food.org/_img/upload/files/CS2_web.pdf)
- Macharia, I., Mithöfer, D., Waibel, H., (2009). Potential environmental impacts of pesticide use in the vegetable sub-sector in Kenya. *African Journal of Horticultural Science* 2, 138–159.
- Mollison, B. (1997). *Introduction to permaculture*. Revised edition. Tyalgum, Australia.
- Neff, R.A., Merrigan, K., & Wallinga D. (2015). A food systems approach to healthy food and agriculture policy. *Health Affairs* 24(11), 1908–15.
- Uyttendaele, M., Liu, C., & Hoftsra, N. (2014). Special issue on the impacts of climate change on food safety. *Food Research International* 68, 1–6.
- Wezel, A., Bellon, S., Doré, T., Francis, C., Vallod, D., & David, C. (2009). Agroecology as a science, a movement and a practice: A review. *Agronomy for Sustainable Development* 29(4), 503–515.

**Recipe**

# Make your own chilli "pesticide"



Grind 200g of chillies to a fine dust



Boil in 4 litres of water



Add a few drops of liquid soap



Spray to repel aphids, ants, small caterpillars or snails







## Publication Information

Publisher	Route to Food Initiative
Publication Date	May 2019
Editors	Christine Mungai and Layla Liebetrau
Design & Layout	Michael Lusaba
Paper	Printed on recycled paper



Opinions expressed in the articles are those of their authors and not the Route to Food Initiative. All articles in this publication are subject to Creative Commons License CC BY-NC-ND 3.0: <https://creativecommons.org/licenses/by-nc-nd/3.0/>

## About the Route to Food Initiative

The Route to Food Initiative is a publicly funded programme of the Heinrich Böll Stiftung in Nairobi. Through the initiative, a Route to Food Alliance has formed that works towards realising the Human Right to Food in Kenya. Our activities aim to influence the political approach to food security and target avenues related to policy development and implementation at national and county-level. Additionally, the initiative relies on creative communications and an influencer-led campaign to promote innovative solutions to the problem of food insecurity. We engage with mainstream and alternative media to shift the emphasis of hunger and unaffordable or inadequate food to a discussion about food rights.

You can join the Route to Food Alliance via [www.routetofood.org](http://www.routetofood.org). If you would like a copy of this publication, it will be available on our website or can be ordered by emailing [info@routetofood.org](mailto:info@routetofood.org) or calling Layla on +254 (0)202680745.



Sio siasa, ni presha.

[www.routetofood.org](http://www.routetofood.org)



**ROUTE  
TO FOOD**

**We stand for the  
Human Right to Food.**

**We stand against  
the politics of hunger.**

**Where do you stand?**