

MINISTRY OF HEALTH

APPLYING A RIGHTS-BASED APPROACH TO PROMOTE HEALTHY DIETS AND PREVENT NCDS IN KENYA:

An Information Guide to CSOs and CBOs

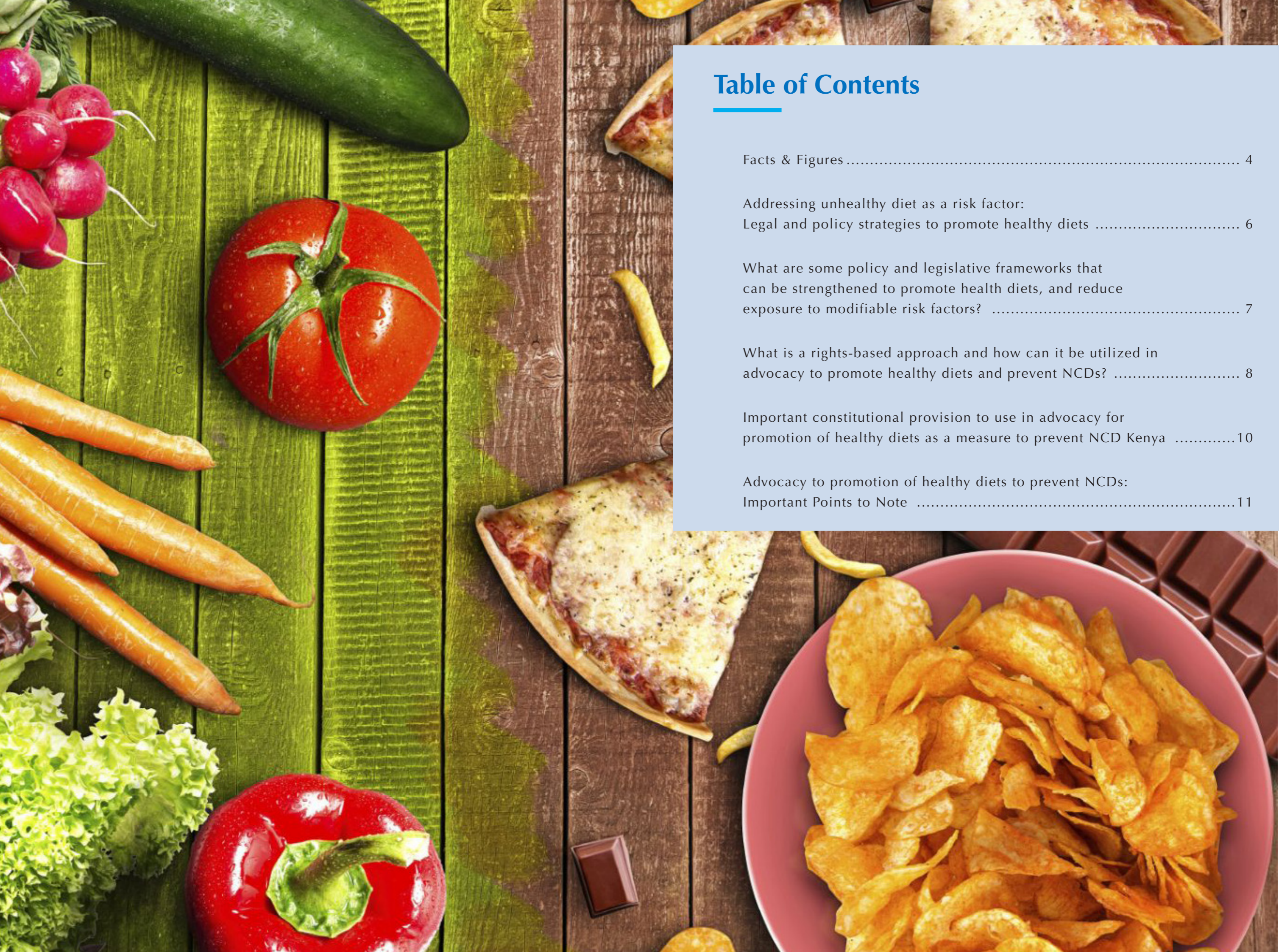


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Facts & Figures¹

Globally, Non-communicable diseases are the leading cause of premature death.

Every year, 41 million people die from heart attacks, stroke, cancer, chronic respiratory diseases, diabetes, or mental disorders.

Of these deaths, 15 million occur prematurely among people aged 30-70 years, and 85% of these deaths occur in low and low-middle income countries.

In Kenya, Non-Communicable Diseases have emerged as conditions of great public health concern.

Approximately, 39% of all deaths in Kenya are because of NCDs.

The four major NCDs in Kenya: Cardiovascular disease, Cancers, Diabetes and Chronic Respiratory Diseases comprise 57% of all the NCD deaths.

The other NCDs such as, Epilepsy, sickle cell disease and other haematological disorders, Alzheimer's disease, Lupus, Psoriasis, genetic conditions, and congenital anomalies account for the rest of the deaths (43%).

53% and 72% of the NCDs and injury Disability Adjusted Life Years (DALYs)² respectively occur among persons aged 40 years and below.

¹ Source: Kenya National Strategic Plan for The Prevention and Control of Non-Communicable Diseases 2021-2026

²DALYs for a disease or health condition are the sum of the years of life lost to due to premature mortality and the years lived with a disability due to prevalent cases of the disease or health condition in a population. Source WHO: <https://www.who.int/data/gho/indicator-meta-data-registry/imr-details/158>

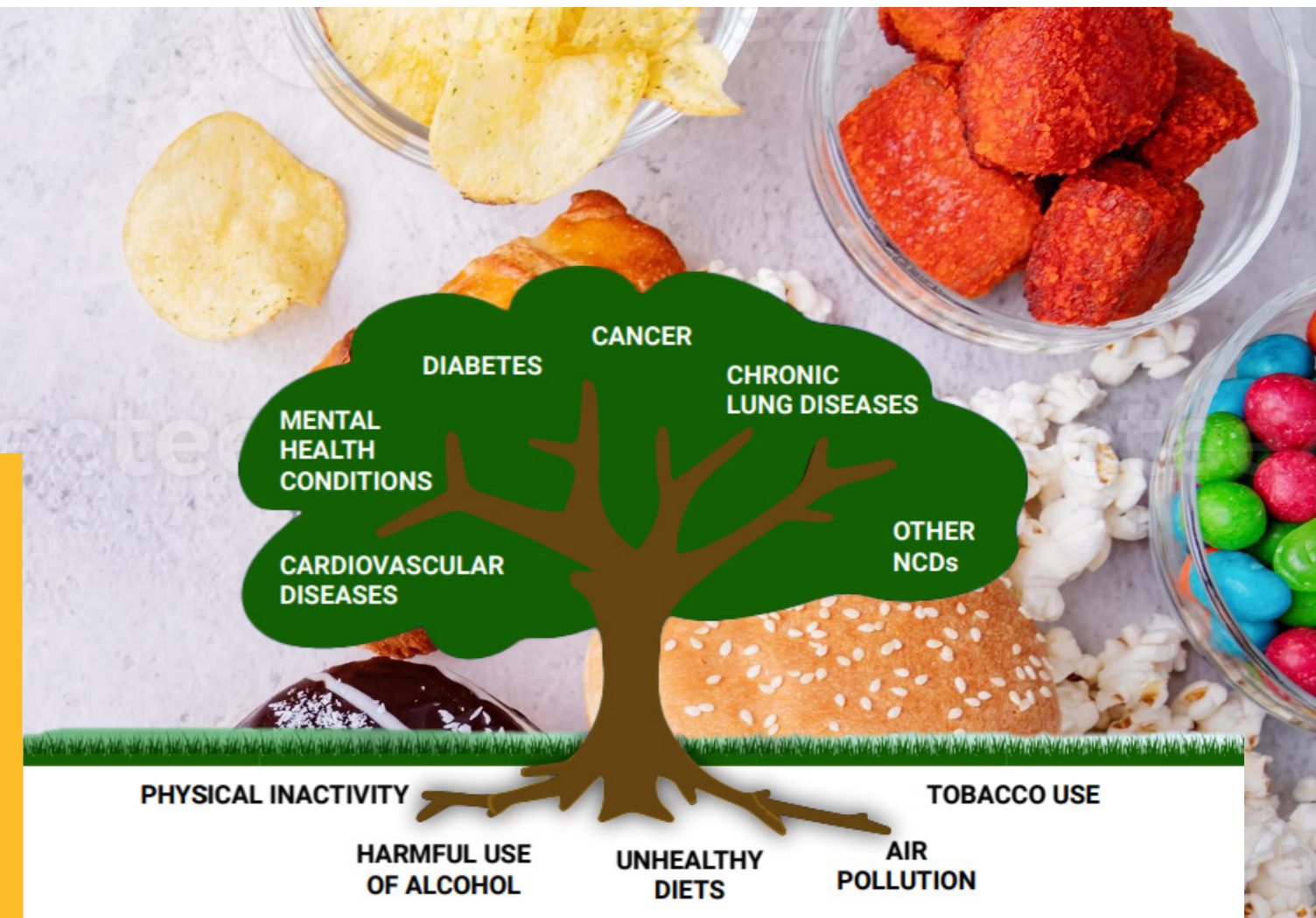


Figure 1: Source: Kenya National Strategic Plan for The Prevention and Control of Non-Communicable Diseases 2021-2026

The scope of Non-Communicable Diseases and conditions prioritized under the Kenya National Strategic Plan

- Cardiovascular Diseases
- Cancer
- Diabetes
- Chronic Respiratory Diseases
- Mental Health Disorders
- Violence and injuries
- Hemoglobinopathies
- Haemophilia and other bleeding disorders
- Epilepsy and other neurological disorders
- Auto immune diseases
- Chronic Renal Diseases
- Chronic skin conditions
- Oral diseases and conditions

Risk Factors

- Tobacco Use
- Harmful Use of alcohol
- Unhealthy diets and toxins
- Physical Inactivity
- Indoor air pollution
- Exposure to Environmental pollutants and toxins
- Stress



Addressing unhealthy diet as a risk factor: Legal and policy strategies to promote healthy diets

1 **Unhealthy diets** are one of the major risk factors for a range of chronic diseases, including cardiovascular diseases, cancer, diabetes and other conditions linked to obesity.

Diets high in sugars, saturated and trans fats, low fibre foods and high-sugar drinks contribute to non-communicable diseases (NCDs) and other health problems. High intake of fast food and processed foods increases these health risks.

2 **Governments** have a central role in creating a healthy food environment that enables people to adopt and maintain healthy dietary practices. This is through:

- creating coherence in national policies to promote a healthy diet and protect public health;

- encouraging consumer demand for healthy foods and meals (through, for instance, supporting point-of-sale information, including through nutrition labelling that ensures accurate, standardized and comprehensible information on nutrient contents in foods;
- promoting appropriate infant and young child feeding practices.³

3 **In Kenya**, one Strategic Objectives of the Kenya National Strategic Plan for The Prevention and Control of Non-Communicable Diseases 2021-2026 is to: reduce exposure to modifiable risk factors through strengthening multisectoral and community-based interventions – by strengthening relevant policy and legislative frameworks to minimise exposure to modifiable risk factors.

³WHO (2020) "Healthy diet Fact Sheet," available at <https://www.who.int/news-room/fact-sheets/detail/healthy-diet> (accessed Feb 1, 2020)



What are some policy and legislative frameworks that can be strengthened to promote health diets, and reduce exposure to modifiable risk factors?

Nutrition Labelling:

Nutrition labelling is one of the policy tools that can support healthy diets, both in stimulating consumers to make informed healthier food choices and in driving manufacturers to reformulate products to avoid making unfavourable nutrient content disclosures.

Through policy, consumers should be provided with convenient, relevant and readily understood nutrition information or guidance on food packs, to assist all consumers to make informed food purchases and healthier eating choice.

Restrictions on marketing of foods and non-alcoholic beverages to children:

Children are influenced by marketing beyond their understanding of its persuasive intent.

Through policy, objective should be to reduce both the exposure of children to, and the power of, marketing of foods high in saturated fats, trans-fatty acids, free sugars, or salt.

Tax and other fiscal measures:

Fiscal policy interventions that have been proposed for NCD prevention are: taxes on sugar sweetened beverages (SSBs), unhealthy nutrients (saturated/trans fats, salt and sugar) and/or unhealthy foods (defined through nutrient profiling); and subsidies on fruits, vegetables and/or other healthy foods.



What is a rights-based approach and how can it be utilized in advocacy to promote healthy diets and prevent NCDs?

A **rights-based approach** is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyze inequalities and redress discriminatory practices and unjust distribution of power that impedes development progress.

Principles of rights-based approaches:

- **Participation:** right to participate in shaping decisions that affect their rights
- **Accountability:** effective monitoring of human rights standards and effective remedies for human rights violations
- **Non-discrimination and equality:** all forms of discrimination in the realization of rights must be prohibited, prevented and eliminated
- **Empowerment:** empowering communities and individuals to know and claim their rights
- **Legality:** recognition that human rights

are legally enforceable entitlements and are linked to national and international human rights law.

Why are rights-based approaches vital?

- Moral/legal obligation to respect, protect, promote and fulfil rights.
- The recognition that rights-based approaches lead to better and more sustainable development outcomes.

A rights based approach to health aims at:

- Realizing the right to health and other health-related human rights.
- Policy-making and programming are guided by human rights standards and principles.
- Duty-bearers must respect, protect, fulfil and promote human rights.
- Rights-holders are empowered to effectively claim their rights.
- All forms of discrimination in the implementation of the right to health to effectively claim their rights .

Essential Elements of the Right to Health:

- **Availability:** Public health and health care facilities, goods, services and programs are available in sufficient quantity
- **Accessibility:** Health facilities, goods and services accessible to all, especially marginalized and vulnerable populations; Health facilities, goods and services, medical services, and the underlying determinants of health are all provided within safe physical reach for all sections of the population; Health facilities, goods and services are affordable for all; and information is accessible and includes the right to seek, receive and impart information and ideas on health issues, while respecting the right to confidential personal health data.
- **Acceptability:** Health facilities, goods and services are respectful of medical ethics and culturally appropriate including sensitive to gender and life-cycle requirements.
- **Quality:** Health facilities, goods and services are scientifically and medically appropriate and of good quality. This includes skilled medical personnel, scientifically approved drugs and hospital equipment, safe and potable water, and adequate sanitation.



Underlying determinant of health:

Socio-economic factors that promote conditions in which people can lead a healthy life. They include, but are not limited to:

- Adequate supply of safe food and nutrition.
- Housing
- Access to safe and potable water and adequate sanitation.
- Safe and healthy working conditions
- Healthy occupational and environmental conditions.
- Access to health-related education and information including on sexual and reproductive health.



Important constitutional provision to use in advocacy for promotion of healthy diets as a measure to prevent NCD Kenya

Constitutional Provision	What it says	Relevance
Article 43(1)(a)	Every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care;	<p>Creates an obligation on government to take measures to ensure availability, accessibility, acceptability and quality healthcare to all.</p> <p>Obligates government to take measures to promote, protect, respect and fulfil right to health for all.</p> <p>In prevention of NCDs, creates a constitutional duty on government to take measures to prevent NCDs by addressing unhealthy diets as a modifiable risk factor. Promoting healthy diets through enacting relevant policies (for instance, on nutrition labelling) is therefore a constitutional obligation.</p>
Article 43(1)(c)	Article 43 (1) (c) Every person has the right—to be free from hunger, and to have adequate food of acceptable quality;	<p>Creates obligation on government to take measures to ensure access to adequate food of acceptable quality.</p> <p>Acceptable quality therefore means taking measures to promote healthy diets.</p>
Article 46(1)	<p>Consumers have the right—</p> <ul style="list-style-type: none"> to goods and services of reasonable quality; to the information necessary for them to gain full benefit from goods and services; to the protection of their health, safety, and economic interests. 	<p>Creates obligation on government to put in place measures to ensure consumers access goods of reasonable quality; have access to information; and their health is protected.</p> <p>It is a justification for government to put in place nutrition labelling policies to protect consumer rights.</p>

Constitutional Provision	What it says	Relevance
Article 53(1)(c)	Article 53 (1) (c) Every child has the right—to basic nutrition, shelter and health care;	Best interest of the child principle applies to all actions concerning children and requires active measures to protect the rights of children and promote their survival, growth, and well-being, as well as measures to support and assist parents and others who have day-to-day responsibility for realizing children’s right.

Advocacy to promotion of healthy diets to prevent NCDs: Important Points to Note

1 CSOs and CBOs have a constitutional right to meaningfully participate in law and making processes to ensure that proper laws and policies are enacted that promote healthy diets to prevent NCDs.

- CSOs and CBOs should use the guarantees in the constitution to demand for accountability, transparency, inclusiveness, non-discrimination and protection of the marginalized.
- As such, CBOs and CSOs should demand that a rights-based approach guides government action in formulation, adoption and implementation of policy and legal measures to promote healthy diets to prevent NCDs.

2 Noting that promotion of healthy diets is a matter of protecting the rights (including right to health), CSOs and CBOs should step-up advocacy, especially for two important policy measures:

- strengthening of nutrition labelling requirements so that consumers can easily make an informed decision on the nutrient value of food products;
- restricting targeted marketing of foods to children, noting the vulnerability of children.



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