

The Right to Food and Food Sovereignty Act, 2075 (2018)

Date of Authentication

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Act number 13 of the year 2075 (2018)

An Act Made to Provide for Right to Food and Food Sovereignty

Preamble: Whereas, it is expedient to make legal provisions on the implementation of fundamental rights relating to food, food security and food sovereignty of the citizens, conferred by the Constitution of Nepal, and making appropriate mechanism therefor, and ensuring access of the citizens to foods;

Now, therefore, be it enacted by the Federal Parliament.

Chapter-1

Preliminary

1. **Short Title and commencement:** (1) This Act may be cited as the "Right to Food and Food Sovereignty Act, 2075 (2018)."
(2) This Act shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires, in this Act,-
 - (a) "Basic food" means the food designated by the Government of Nepal by a notification in the Nepal Gazette from time to time.
 - (b) "Farmer" means a citizen who makes agriculture the main occupation or business and earns his or her livelihood from agriculture, and this term also includes the family member dependent on such a citizen, or the citizen who labors in agricultural work for six months or more, or a citizen who makes traditional agricultural tools or the family member dependent on such a citizen.
 - (c) "Agricultural land" means any land that is used for agriculture, that grows agro products, or that is determined for the utility in agricultural work under the prevailing law.
 - (d) "Food" means a substance that is processed, semi- processed or unprocessed consumable by the human being, obtained from biological source which is culturally acceptable, and this term also

includes a raw material used in the preparation, processing or production of such a substance.

- (e) "Food sovereignty" means the following rights which are used or exercised by the farmers in the food production and distribution system:
 - (1) To participate in the process of formulation of policy relating to food,
 - (2) To make choice of any occupation relating to food production or distribution system,
 - (3) To make choice of agricultural land, labor, seeds, technology, tools,
 - (4) To remain free from adverse impact of globalization or commercialization of agricultural business.
- (f) "Food security" means physical and financial access of every person to the food required for the active and healthy human life.
- (g) "Prescribed" or "as prescribed" means prescribed or as prescribed in the rules framed under this Act.
- (h) "Council" means the National Food Council referred to in Section 32.
- (i) "Ministry" means the Ministry of the Government of Nepal that looks after the matters relating to agriculture.
- (j) "Targetted household" means the households identified pursuant to Section 5.
- (k) "Local Level" means the Rural Municipality or Municipality.

Chapter-2

Right to Food and Protection from Food Insecurity

- 3. Respect, protection and fulfillment of the right to food:** (1) Every citizen shall have the right to food and right to food security.

(2) The Government of Nepal, Provincial Government and Local Level shall make necessary arrangements, with mutual coordination, for the respect, protection and fulfillment of the right referred to in sub-section (1).

(3) Without prejudice to the generality of sub-section (1), every citizen shall have the following rights relating to food and rights relating to food security:

- (a) To have regular access, without discrimination, to adequate, nutritious and quality food,
- (b) To be free from the hunger,
- (c) To be safe from the state of being in danger of life from the scarcity of food,
- (d) To obtain sustainable access to food and nutrition support by the persons or families vulnerable to famine or food insecurity,
- (e) To use culturally acceptable food.

4. Prevention and control of famine: The Government of Nepal, Provincial Government and Local Level shall perform the following functions, on the basis of prioritization, with mutual coordination, for the prevention and control of famine:

- (a) To regularly identify famine or the person, families, communities and zones vulnerable to the famine; and to maintain its records,
- (b) To make provisions of food required for controlling famine and the risk of famine,
- (c) To make provision for food distribution for controlling the famine or the risk of famine,
- (d) To adopt immediate, short-term and long-term measures for the prevention and control of the famine.

5. Identification of targeted household: (1) The Local level shall maintain records in the prescribed form by identifying the targeted households, as prescribed, within its territory, that are vulnerable to food insecurity due to poverty, geographical inaccessibility, disaster or similar other reasons.

(2) The details of the records referred to in sub-section (1) shall be sent to the Provincial Food Council pursuant to Section 34 and also to the Ministry for the record purpose.

(3) If the details of the households which are not prone to food insecurity are found to have been included in the records referred to in sub-section (1), or if the households included in the records do not fall under the targeted households for any reason whatsoever, the Local Level may remove the details of such family from the records in any circumstance.

(4) On the basis of the records received pursuant to sub-section (2), every Province shall maintain the integrated and updated records of the targeted

households that are vulnerable to the food insecurity within its Province and the Ministry shall prepare such records of such households throughout Nepal.

(5) The records referred to in this Section shall be updated by the Local Level from time to time, and its information shall be provided to the Province Food Council and Government of Nepal.

(6) The Government of Nepal may develop necessary system to maintain the records referred to in this Section also through electronic means.

(7) Other grounds and processes of identifying the targeted households shall be as prescribed.

6. Food support identity card: (1) The Local Level shall issue food support identity cards in the prescribed form on the basis of updated details of the targeted households.

(2) While issuing the identity cards pursuant to sub-section (1), the food support identity cards shall be issued as prescribed in the name of the senior most female member of the targeted households if there are female members over eighteen years of age, and in the names of the senior most of the other family members if there is no female member over eighteen years of age.

Provided that when there is no member over eighteen years of age in the targeted family, nothing contained in this sub-section shall prevent from issuing the food support identity card in the name of the minor member of such family.

(3) If the identity card has been issued in the name of other member referred to in sub-section (2), after the female member attains the eighteen years of age, the identity card shall be issued in the name of the female member by revoking the identity card issued in the name of such a member.

7. To provide food for free or concessional price: (1) The Government of Nepal, Provincial Government or Local Level shall provide food support to the targeted households for concessional price and to the targeted households of particular nature for free as prescribed.

(2) Notwithstanding anything contained in sub-section (1), in cases where the Government of Nepal declares a disastrous zone upon emerging any kind of disaster in any region or any Local Level, the persons and families in such a zone shall be provided with food support, for free or at the concessional price, for the period of existence of such condition, and for the period of existence of the food crisis if the food crisis zone is declared.

(3) While providing food support, for free or at the concessional price, pursuant to sub-section (1) or (2), the Government of Nepal shall make arrangement to distribute it through the Local Level.

(4) The Government of Nepal, Provincial Government or Local Level may review the free or concessional food support to be provided pursuant to this Section, form and quantity of such food support from time to time, on the basis of immediate need of the persons or families of the zones prescribed, geographical condition, availability and traditionally or culturally acceptability of food.

8. To prescribe standards of nutritious elements of food: The standards of the nutritious elements of food required for the purpose of providing food support pursuant to Section 7 shall be as prescribed.

9. Emergency food and nutrition security: (1) The Government of Nepal, Provincial Government and Local Level shall adopt necessary measures with mutual coordination in order to reduce adverse impact likely to occur in food and nutrition security for any reason and to provide food immediately in the emergency situation.

Explanation: For the purposes of this Section, the term "emergency situation" means the period declared by the Government of Nepal as a situation of emergency at any zone affected by the disaster such as earthquake, flood, landslide, snowfall, cold wave or inferno.

(2) The Government of Nepal, Provincial Government and Local Level shall hoard the food required to fulfill the necessity of nutrition in any situation whatsoever, by expanding and modernizing their storage facilities with mutual coordination.

(3) The prescribed body shall coordinate the functions of providing emergency food and nutrition support pursuant to this Section.

(4) The Government of Nepal may, in order to enhance the security situation of food and nutrition during the situation of emergency, mobilize national and international support, as necessary.

10. Food crisis zone may be declared: (1) If there arises a food crisis in any zone due to reasons such as earthquake, excessive rainfall, low rainfall, flood, landslide, inferno, epidemic, famine, the Government of Nepal may declare such a zone as a food crisis zone for a certain period.

(2) The arrangements relating to the security of food and nutrition required in the food crisis zone shall be as prescribed.

11. To give priority to local food: (1) While making arrangements for food and nutrition pursuant to this Act, traditional food produced in the Local Level shall be prioritized and distributed.

(2) The provisions relating to arrangements for traditional food and nutrition produced in the Local Level shall be as prescribed.

Chapter-3

Protection and Promotion of Right to Food Sovereignty

12. Respect, protection and fulfillment of right to food sovereignty: (1) Every farmer shall have the right to food sovereignty.

(2) Without prejudice to the generality of sub-section (1), every farmer shall have the following rights to food sovereignty:

- (a) To have identity and respect of every farmer or food producer,
- (b) To participate in food and agro- production system,
- (c) To have access to means and resources required for agricultural business,
- (d) To make choice of local seeds, technology, tools and agro- species and to obtain the protection of intellectual property, thereof,
- (e) To protect traditional and indigenous food,
- (f) To obtain protection against the deprivation of agricultural occupation arbitrarily.

13. Protection of agricultural occupation and promotion of livelihood of the farmer: The Government of Nepal, Provincial Government and Local Level shall make the following arrangements, with mutual coordination, on the basis of available resources and means in order to promote the livelihood of the farmers, by protecting agricultural occupation:

- (a) To increase investment in the agro and food production sector,
- (b) To expand the sustainable use of and access to improved technology, environment friendly fertilizers, various types of seeds, pesticides or agricultural materials in food production,
- (c) To give special priority to cash crops or exportable crops,
- (d) To expand simple and easy access of the farmers to the insurance of seeds, crops or livestock,
- (e) To increase access of the farmers to agro markets,

- (f) To expand access of the farmers to infrastructures needed for organic farming,
- (g) To obtain protection from the harm inflicted by the farming of chemical, toxic or genetically modified organism,
- (h) To fix minimum support price of the prescribed crops that can be hoarded for a longer period,
- (i) To develop the system of giving prior information about weather including excessive rainfall, less rainfall or draught,
- (j) To promote sustainable agricultural system based on bio-diversity,
- (k) To professionalize, industrialize, modernize, mechanize the agriculture in order to protect agricultural occupation,
- (l) To expand access of women farmers and landless families dependent on agriculture to agricultural land and agricultural materials, on the basis of priority,
- (m) To prevent the water resources used for the agricultural crops, fruits and the livestock from being otherwise used to make unsuitable for such products,
- (n) To make arrangements to provide the farmers with compensation as prescribed, during the prescribed situations against harm and loss of agro products or agro crops,
- (o) To fix support price of the agro products based on the investment cost.

14. Identification and respect of farmers: (1) The Government of Nepal shall identify and classify the farmers as prescribed.

(2) The Local Level shall distribute the identity cards on the basis of classification referred to in sub-section (1).

(3) On the basis of the classification referred to in sub-section (1), the farmers shall be provided with concession, exemption, facility to be obtained from the State and pension based on contribution in accordance with the prevailing law.

(4) Provisions relating to the validity period, renewal of the identity cards and other matters related thereto shall be as prescribed.

15. Sustainable use of agricultural land: For the protection and sustainable use of agricultural land, the Government of Nepal, Provincial Government and Local Level shall, with mutual coordination, perform the following functions:

- (a) To encourage or promote to plant crops in the agricultural lands identified under the prevailing law,
- (b) To separate or classify by identifying the agricultural lands scientifically,
- (c) Not to allow or get the agricultural lands to remain fallow and to be used for the purpose other than that prescribed under the prevailing law regarding the use of land,
- (d) Not to allow plotting of the agricultural lands,
- (e) To carry out development works in a manner not to be contrary to the National Food Plan referred to in Section 21,
- (f) To increase awareness about the use of agricultural lands,
- (g) To cut down the grant, facility and support to be provided by the Government for the landowners who do not plant crops without reasonable cause in the lands classified for the purpose of agriculture,
- (h) To make provisions for the maximum utilization of fertile lands remained fallow, by promoting cooperative farming, bond farming, contract farming or group farming,

16. Promotion of local agro- crops and livestock products: The Government of Nepal, Provincial Government and Local Level shall, in order to promote the local agro- crops and livestock products, adopt the following measures:

- (a) To promote local agro and livestock products and markets,
- (b) To ensure easy access of consumers to local agro and livestock products,
- (c) To create an environment for selling their products by the farmers to the consumers from agro markets, agricultural farms or farmlands,
- (d) To promote traditional agro markets and marketplaces,
- (e) To protect local knowledge and traditional food culture related to agro products,
- (f) To promote the agro tourism by utilizing the food produced at the local level.

17. Responsibility of sustainable management of agricultural land: (1) The Local Level shall have the responsibility to conduct sustainable management of agricultural lands subject to the Federal and Provincial law.

(2) In order to fulfill the responsibility referred to in sub-section (1), the Local Level shall perform the following functions:

- (a) To prepare the list of agricultural lands,
- (b) To identify the fallow lands and other land remained at the Local Level,
- (c) To maintain the records of the lands identified pursuant to clauses (a) and (b),
- (d) To update the records relating to land,
- (e) To perform, or cause to be performed such other functions as required to manage the fallow lands effectively.

18. Operation of targeted agricultural development program: (1) The Government of Nepal, Provincial Government and Local Level shall make and implement the targeted agricultural development programmes for the protection of the rights and welfare of Dalit, highly marginalized, indigenous farmers or landless farmers.

(2) Other provisions relating to the program referred to in sub-section (1) shall be as prescribed.

19. Mitigation of impact likely to be caused from climate change: The Government of Nepal shall make necessary provisions to adopt preventive measures for the mitigation of adverse impacts likely to be caused upon food production from climate change or of the risks that may result therefrom.

20. To provide compensation: (1) If a person's crops do not get produced or crop production decreases substantially after farming with the recommended method, process or manner in the recommended area and time with the seeds recommended by any government institution, body, company or firm, or after the use of seeds, method, process or fertilizers recommended by such an institution, body, company or firm as per recommended manner, the institution, agency, company or firm which makes recommendation of such seeds, method, process or fertilizers shall provide compensation.

(2) Other provisions for the compensation to be provided pursuant to sub-section (1) shall be as prescribed.

Chapter-4

Implementation of Right to Food

- 21. National Food Plan:** (1) The Government of Nepal shall prepare a National Food Plan upon coordinating with the bodies of the Federation, Province and Local Level related to food.
- (2) While making coordination under sub-section (1), consultation shall be held, as necessary, with other bodies or institutions of the governmental, non-governmental or private level.
- (3) The matters to be included in the National Food Plan referred to in sub-section (1) shall be as prescribed.
- (4) While preparing the National Food Plan pursuant to sub-section (1), the indicators of measurement and monitoring of the progress made during the implementation of the right to food shall be taken as the basis.
- (5) The Government of Nepal shall include the matters of promotion of the right to food, food and nutrition security and food sovereignty in its periodic development plans.
- 22. Operation of food and nutrition security program:** The Local Level shall operate necessary programs as prescribed every year for food and nutrition security.
- 23. Indicators of right to food monitoring:** (1) The Government of Nepal shall, in order to implement this Act, prepare monitoring indicators for the right to food and the right to food sovereignty, in consultation with the Council and other relevant bodies.
- (2) The monitoring indicators for the right referred to in sub-section (1) shall be published for the information of the public in general.
- 24. Food and nutrition education and information:** The Government of Nepal, Provincial Government and Local Level shall disseminate the notice and educational information related to the right to food from time to time.
- 25. Research and development of scientific technology:** In order to make sustainable development of agriculture, increase food products or promote food and nutrition security, the Government of Nepal, Provincial Government and Local Level shall make arrangement for the necessary study, research and development of scientific technology.

Chapter-5

Availability, Supply and Distribution System of Food

- 26. Provision of hoarding and reservation of food:** The Government of Nepal and Provincial Government shall, in order to provide food and to fulfill the necessity of food during the crisis, make provisions for the reservation of foods as prescribed, for the purpose of Sections 7, 9 or 10.
- 27. Food purchase:** (1) The food required for the storage and reservation pursuant to Section 26 shall be purchased internally.
- (2) Notwithstanding anything contained in sub-section (1), food may be imported if the sufficient food cannot be provided from the internal purchase.
- 28. Transport and distribution of food:** The distribution process of the food stored and reserved by the Government of Nepal and Provincial Government pursuant to Section 26 shall be as prescribed.
- 29. Price stability of basic food:** It shall be the responsibility of the Government of Nepal to maintain stability in the price of the basic food.
- 30. Provision of food distribution:** (1) The Government of Nepal, Provincial Government and Local Level shall make arrangement for food distribution through fair price shops or public food distribution centers as prescribed.
- (2) While operating fair price shops or public food distribution centers pursuant to Sub-section (1), women group or agricultural cooperative may be given special priority.
- 31. To publish description:** (1) The Government of Nepal, Provincial Government or Local Level shall prepare and update the following details regarding the food to be distributed pursuant to this Chapter:
- (a) Condition of food hoarded,
 - (b) Quantity of food hoarded,
 - (c) Price of food,
 - (d) Distribution system of food, and
 - (e) Type of food.
- (2) The details referred to in sub-section (1) shall be published for the information of the public in general.

Chapter-6

National Food Council, Provincial Food Council and Local Food Coordination Committee

- 32. Formation of National Food Council:** (1) In order to manage the acts of protection, promotion and fulfillment of the right to food, right relating to food security and food sovereignty, a National Food Council shall be formed as prescribed, under the chairpersonship of the Minister of the Government of Nepal, who looks after the matters relating to agriculture.
- (2) The functions, duties and powers of the Council shall be as prescribed.
- 33. Monitoring and inspection:** (1) The Council may, for the monitoring and inspection of the availability, hoarding, supplies of food and the operation of distribution system regularly, form sub-committees or designate the Inspection Officer, as prescribed.
- (2) After conducting the monitoring or inspection, the sub-committee or the Officer, conducting monitoring or inspection pursuant to sub-section (1), shall submit its report to the Council.
- 34. Provisions relating to Provincial Food Council:** (1) In order to protect, promote and fulfill the right pursuant to this Act in the Provincial level, a Provincial Food Council shall be formed in each Province, under the chairpersonship of the Minister who looks after the matters of agriculture.
- (2) Other matters relating to the Provincial Food Council shall be as determined by the Provincial Government.
- 35. Functions, duties and powers of Provincial Food Council:** The functions, duties and powers of the Provincial Food Council shall be as determined by the Provincial Government.
- 36. Local Food Coordination Committee:** (1) For the functions including protection and promotion of the right to food, right to food security and food sovereignty in the Local Level, and in order to facilitate food supplies and distribution system in the Local Level, a Food Coordination Committee shall be formed in each Local Level under the chairpersonship of the Mayor of Municipality or the Chairperson of Rural Municipality, as the case may be.
- (2) The Secretariat of the Local Food Coordination Committee shall be situated in the concerned Municipality or Rural Municipality, as the case may be.
- (3) The matters relating to the formation, functions, duties and powers of the Local Food Coordination Committee shall be as determined by the Local Level concerned.

- 37. Sub-committee or task force or expert group may be formed:** (1) The Council or Provincial Food Council may form a sub-committee or task force or expert group as necessary for the performance of its functions.
- (2) The terms of reference and tenure of the sub-committee, task force or expert group formed pursuant to sub-section (1) shall be as determined by the Council at the time of such formation.
- 38. Delegation of Power:** The Council may delegate some of the powers conferred to it to the sub-committee or any other officer employee of the Council, as necessary.
- 39. Provision relating to employee:** The Government of Nepal shall provide the required employees for the smooth operation of the functions of Council.

Chapter-7

Offences and Punishment

- 40. Acts constituting offence:** If any person does any of the following acts, such a person shall be deemed to have committed the offence:
- (a) Any act done to inflict serious harm or create the state of famine by depriving anyone of the access to the essential food,
 - (b) Any act of capturing, destroying or abusing the food hoarded or collected for the purpose of emergency support,
 - (c) Creating obstruction in the emergency food support distribution,
 - (d) Creating obstruction, in an organized or unorganized manner, in the transport, supplies, distribution and marketing of the basic food,
 - (e) Rendering one homeless in such a manner as to deprive him or her of the basis of livelihood,
 - (f) Not to distribute the food to be distributed pursuant to Section 7 to the targeted class or backward class,
 - (g) Doing any other act contrary to this Act or the rules framed under this Act.
- 41. Investigation and filing case:** (1) The investigation of the cases under this Act shall be made by the Inspection Officer referred to in Section 44.
- (2) The Inspection Officer referred to in sub-section (1) shall, upon making the investigation of the case, file the case in the concerned District Court within thirty-five days from the date of receiving the complaint.
- (3) While filing the case pursuant to sub-section (2), the Inspection Officer shall obtain opinion of the government attorney.

- 42. Punishment:** A person who commits the offence referred to in Section 40 shall be liable to the following punishment, on the basis of the gravity of the offence:
- (a) If the offence referred to in clause (a) is committed, or caused to be committed, imprisonment for a term not exceeding ten years and fine not exceeding one million rupees,
 - (b) If the offence referred to in clause (b), (c) or (d) is committed, or caused to be committed, imprisonment for a term not exceeding three years and fine not exceeding three hundred thousand rupees,
 - (c) If the offence referred to in clause (e) is committed, or caused to be committed, imprisonment for a term not exceeding five years and fine not exceeding five hundred thousand rupees,
 - (d) If the offence referred to in clauses (f) and (g) is committed, imprisonment for a term not exceeding one year and fine not exceeding one hundred thousand rupees,
- 43. Compensation:** (1) If any kind of harm and injury is caused to any person from the commission of any offence under this Act, an application may be made to the case trying authority to get compensation paid for such harm and injury.
- (2) The standards relating to the compensation to be provided pursuant to sub-section (1) shall be as prescribed.

Chapter-8

Miscellaneous

- 44. To appoint or designate Inspection Officer:** (1) The Ministry may, in order to carry out the implementation of this Act and monitoring of the matters relating to food effectively, appoint or designate any employee having the qualification as prescribed, as the Inspection Officer, as necessary.
- (2) Other matters relating to the Inspection Officer referred to in sub-section (1) shall be as prescribed.
- 45. Liaison with Government of Nepal:** The Council shall, while making liaison with the Government of Nepal, make liaison through the Ministry.
- 46. Power to frame rules:** The Government of Nepal may frame necessary rules in order to implement this Act.
- 47. To formulate procedures and directives:** (1) The Ministry may formulate necessary procedures or directives under this Act and the rules framed under this Act.
- (2) The procedures or directives formulated pursuant to sub-section (1) shall be made public.