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FOR CONSTITUTIONAL LAW, GOVERNANCE AND HUMAN RIGHTS

## POLICY BRIEF

# Strengthening Public Food Procurement for Non-Communicable Disease Prevention in South Africa: A National Responsibility and Opportunity

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### Introduction

In South Africa, the double burden of malnutrition, characterised by widespread hunger and food insecurity, alongside increasing rates of obesity and diet-related non-communicable diseases (NCDs), highlights persistent inequalities in food access and an urgent need for food-policy reform. [1] Diet-related NCDs, such as diabetes, hypertension, and cardiovascular diseases, alone account for 51% of annual deaths. [2] Poor dietary habits, largely driven by excessive consumption of ultra-processed foods (UPFs), which are industrially produced products derived from foods, often containing additives, preservatives, typically high in sugar, salt, and unhealthy fats, are a major contributor to this crisis. [3]

Public procurement accounts for approximately 22% of South Africa's gross domestic product (GDP), roughly ZAR 1 trillion annually. [4] This represents huge public purchasing power that could be used for the public good. However, procurement has historically driven corporate interests and economic objectives based on the best 'value for money'. Therefore, integrating broader food, health, and development objectives in procurement strategies presents an untapped opportunity. [5]

### The role of public food procurement in shaping food environments

Given the country's increasing NCD burden, public food procurement (PFP) can serve as a transformative policy tool to address all forms of malnutrition. The government can enable healthier food environments by prioritising fresh, nutrient-dense, minimally processed foods in public procurement contracts, while reducing food inequalities by supporting local and small-scale food producers. [6]

PFP interventions could improve food environments in public institutions such as health-care facilities, correctional facilities, and schools, which serve millions of people who depend on state-provided meals. In addition, people receiving these meals are entitled to a heightened duty of care, which ensures that the food served does not adversely impact their health, including increasing their risk of NCDs. Moreover, by improving access to nutritious foods, PFP could reduce food insecurity and strengthen national health and sustainability objectives. Therefore, this policy brief advocates for a comprehensive rights-based PFP framework to combat malnutrition and the growing NCD crisis in South Africa.

Since PFP influences almost every aspect of the food system from production to distribution and consumption, it is one of the many policy tools the government could use to shape healthier food environments. [7] By leveraging PFP as a policy tool, South Africa can enhance the availability, accessibility, and affordability of nutritious foods, especially among disadvantaged and marginalised populations. [8]

**Additionally, PFP can:**

1. incentivise the procurement of healthier foods and establish best practices for public institutions;
2. promote local production by ensuring inclusive market access and participation for local suppliers, small-scale farmers, women, and disadvantaged communities; and
3. encourage ecological food production and consumption patterns through sustainability criteria in procurement processes.

This brief is based on research exploring the legal and policy frameworks guiding PFP in South Africa. The findings suggest that the question is not whether PFP *should* be used to advance broader socio-economic objectives, but rather *how* best to align PFP with human rights and national development to drive progress in these areas. Therefore, strengthening PFP for NCD prevention, as part of South Africa's human rights obligations, is both a national responsibility and a strategic opportunity.

## **Aligning PFP with South Africa's human rights obligations**

At the international level, the right to food is enshrined in key frameworks such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), which in General Comment No. 12 asserts that 'the right to adequate food is realised when every man, woman, and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement'. [9] This is measured through food

availability, accessibility, utilisation, and stability. Access to adequate food is also interdependent on other human rights, including rights to health, life, non-discrimination, and equality.

Additionally, NCD prevention is increasingly recognised at the intersection of the right to food, nutrition, and health, in global frameworks such as the World Health Organization (WHO) Action Plan for the Prevention and Control of NCDs 2013–2020 and the UN Decade of Action on Nutrition 2016–2025, which suggests a range of policy interventions that could improve food and nutrition outcomes, including food procurement. [10, 11]

The WHO Action Framework for Developing and Implementing Public Food Procurement and Service Policies for a Healthy Diet 2021 ('the Framework') recognises PFP as an effective tool for addressing all forms of malnutrition, including diet-related NCDs. It highlights that healthy food procurement should prioritise nutrition criteria to increase the consumption of healthy foods and reduce access to unhealthy foods. The Framework provides a set of voluntary principles, affirming that PFP policies must align with human rights obligations under the right to food and health, including human rights principles such as participation, accountability, transparency, responsibility, and the needs of the people. It identifies several areas where PFP can support a healthy food agenda: by stimulating the supply of nutritious food; making production more economically viable; shaping eating habits and consumption patterns; improving access to healthy foods; and supporting marginalised food-system actors. [12]

Regionally, the African Charter on Human and Peoples' Rights also implicitly protects the right to food. [13] Moreover, the African Commission's Resolution on the Right to Food explicitly calls for states to 'strictly regulate' unhealthy food. [14] The Guidelines and Principles on the Implementation of the Economic, Social and Cultural Rights in the African Charter provide several minimum core obligations for states on the right to food. [15] In particular, to develop national plans and policies to ensure food is accessible, nutritious, and culturally acceptable; to ensure well-functioning food distribution and market

access; and to ensure that food aid does not adversely affect local producers. These frameworks provide a strong legal foundation for integrating food and health objectives in PFP policies.

## A national responsibility

The South African Constitution explicitly recognises everyone's right to sufficient food in section 27(1)(b), the right of children to basic nutrition in section 28(1)(c), and the right of accused, arrested, and detained persons to adequate nutrition in section 35(2)(e). [16] However, the absence of a national legislative framework on the right to food has resulted in fragmented implementation of and accountability for the right to food. The Constitution also provides a dual mandate for procurement, section 217(1) establishes primary objectives that procurement must be 'fair, equitable, transparent, competitive and cost-effective', and, in section 217(2), establishing secondary objectives that procurement must promote 'categories of preference in the allocation of contracts' for historically disadvantaged individuals or groups. [17]

According to the Policy for Food Service Management in Public Health Establishments 2010 ('the Policy'), all meals, snacks, and beverages provided to clients in health establishments, correctional service facilities, welfare facilities, and school hostels must be of 'good quality, safe, wholesome, and nutritious'. The Policy sets minimum standards for food procurement and service, including that food must be culturally and religiously acceptable, adequate in quality and quantity, and meet recommended nutrient goals. While this aligns with international obligations under the right to food and national food and nutrition security priorities, the Policy fails to integrate and enforce these standards. Moreover, implementation remains fragmented across sectors, with minimal coordination between procurement entities and poor alignment with public health objectives. [18]

Similarly, the National Guide for Healthy Meal Provisioning in the Workplace 2016 recognises that unhealthy food environments can influence people's choices and lead to poor health outcomes. It provides guidance on food labelling and nutritional information, food preparation, portion considerations, and menus in public workplaces, recommending that UPFs should be restricted in canteens, cafeterias, coffee shops, and vending machines. [19] Despite these frameworks, PFP in public institutions continues to favour the procurement of low-cost UPFs, highlighting weak enforcement, undermining public health efforts, and reinforcing corporate interests.

However, the *Public Procurement Act No. 28 of 2024 (PPA)* offers an opportunity to align PFP with national food, health, and development objectives. The *PPA* will amend and repeal several existing frameworks through a phased-in approach by the National Treasury, under section 63 of the Act. It aims to standardise and simplify public procurement across all organs of state by consolidating procurement processes under a unified framework. [20]

Chapter 4 of the *PPA* introduces revised preferential procurement objectives, mandating set-aside bids for designated population groups, prioritising Black people, youth, women, people with disabilities, and former military personnel, particularly owners of small enterprises and co-operatives. It also permits pre-qualification criteria for tenders, allowing procurement entities to select suppliers that meet specific criteria, such as nutritional and sustainability standards. Moreover, it mandates measures to advance sustainable development, prioritising local production. This includes sub-contracting for accepted bids, encouraging large suppliers to engage with local and small-scale suppliers, which could bolster economic development while improving access to fresh, nutritious food for local communities.

Chapters 1 and 7 of the *PPA* also introduce mechanisms to enhance transparency and accountability through the

establishment of a Public Procurement Office (PPO) under the National Treasury, and a Public Procurement Tribunal (PPT) as an independent dispute resolution body, strengthening oversight, along with providing accessible and cost-effective legal avenues for local suppliers and small businesses. It also introduces an information and communication technology (ICT)-based procurement system, centralising procurement data and allowing for greater transparency in public contracts. Part 3 of the *PPA* informs the disclosure of procurement information, particularly where there is media or public interest. This provides an avenue for advocacy where certain public contracts demand greater transparency than others.

These provisions create a unique opportunity to align PFP with human rights obligations and broader national development priorities, which could ultimately reduce the NCD burden. However, this requires robust regulations that address policy gaps and amplify strengths.

## Key policy gaps

Following the enactment of the *PPA*, several entry points could be leveraged to use PFP as a tool for NCD prevention. However, the food procurement system operates within a fragmented legal and institutional landscape. Despite their potential to improve health outcomes and support local economies, current procurement practices focus on cost-effectiveness rather than nutritional value or sustainability. Instead, PFP systems should prioritise nutritious, minimally processed foods while creating enabling environments for local and small-scale producers. Assessing current PFP processes could help determine the strengths and weaknesses of the current food procurement system. Moreover, adopting a multisectoral approach would help measure procurement practices against food security, public health, and sustainable development benchmarks.

**1. Fragmentation and policy Incoherence:** Whilst the *PPA* aims to standardise procurement processes, over 85 legal instruments guide procurement. This

has created major inconsistencies across public institutions. In addition, while the Department of Health is responsible for food procurement in public institutions, food security is a function of the Department of Agriculture according to Schedule 4A of the Constitution. However, no department assumes responsibility for coordinating the implementation of the right to food. Moreover, the procurement framework lacks explicit human rights objectives beyond the constitutional mandates in section 217.

- 2. Nutritional deficiencies in public institutions:** Outdated nutritional guidelines have resulted in inconsistent food quality across public institutions. Similarly, institutions struggle to procure fresh, nutritious, and culturally preferred foods due to supply chain challenges; poor service delivery, infrastructure, and transportation; and a lack of enforcement and compliance mechanisms.
- 3. Limited market access for local food actors:** While the *PPA* emphasises preferential procurement for local and small-scale producers, it requires regulations to sustain local food sourcing and healthier food environments. Section 24 of the *PPA* omits the preferred methods of procurement, to be determined by the National Treasury. Currently, procurement processes favour large-scale corporations and suppliers that can meet the demand for bulk low-cost foods, creating market barriers for local food actors to participate in government tenders. Therefore, regulations are needed to inform how the participation of local and small-scale businesses will be supported.
- 4. Lack of accountability and transparency:** Despite the introduction of the PPO, concerns have been raised about whether the National Treasury should monitor itself, given previous cases of procurement-related corruption. [21] In addition, weak monitoring mechanisms hinder the

enforcement of nutritional and sustainability standards in PFP.

## Key policy recommendations

In anticipation of comprehensive regulations following the *PPA*, key policy recommendations are made based on the identified gaps, challenges, and opportunities.

- 1. Regulatory reform:** Following the enactment of the *PPA*, clear policies and regulations are needed to ensure efficient implementation. To strengthen PFP, a centralised framework that aligns procurement processes with human rights obligations and national food, health, and sustainable development objectives is crucial. This could also help clarify the roles of government departments in facilitating healthier PFP practices. With the National Food and Nutrition Security Plan 2025-2030 under development, this provides an opportunity for departments to align their policy priorities. [22]
- 2. Standardise national nutritional standards for food procurement:** The government should establish comprehensive food procurement and service guidelines mandating nutrient-dense, minimally processed food options in all public institutions. These should align with the latest South African Food-Based Dietary Guidelines and evidence-based best practices. This could be incorporated into supplier selection, contract performance conditions, and award mechanisms. For instance, bidding processes could require suppliers to meet specific health and nutrition standards, including restrictions on UPFs and criteria for fresh, nutritious food sourcing.
- 3. Enhance multisectoral coordination and collaboration:** An interdepartmental task force including the Departments of Health, Agriculture, Correctional Services, Education, Social Development, Cooperative Governance, Public Works and Infrastructure, and Trade and Industry, would streamline food procurement processes between departments and ensure alignment with food security, public health, sustainability, and economic objectives.
- 4. Strengthen public awareness, participation, and capacity-building:** The government should implement educational campaigns to promote healthy eating in public institutions, especially schools, creating demand for healthier food procurement. Sufficient resources and technical support for procurement officials are also critical. Initiatives here could include training procurement officers, food handlers, and suppliers, especially at the local level. This would strengthen compliance with nutrition-sensitive procurement and digital procurement systems, enabling food actors to proactively shape healthy food environments.
- 5. Incentivise local and sustainable sourcing:** In line with the *PPA*'s preferential procurement objectives, the government could implement mandatory local sourcing quotas to support smallholder farmers, co-operatives, and women-owned agribusinesses. This could strengthen local food security, economic development, and reduce dependency on corporate supply chains. South Africa can draw lessons from global best practices such as Brazil's Programa Nacional de Alimentação Escolar (PNAE), a national school feeding programme which mandates that 30% of food procured for school meals must come from local smallholder or family farmers. [23]
- 6. Monitor the impact of PFP on public health:** Through the proposed interdepartmental task force, alongside local oversight committees for respective public institutions, the government should conduct regular impact assessments to measure dietary quality and NCD prevalence in



public institutions using PFP frameworks. The ongoing Food Service Management Quality (FSMQ) assessment in public hospitals, which aims to assess the level of policy implementation across 15 thematic areas, including guidelines, menus, recipes, and procurement, can serve as a foundation for broader evaluation mechanisms. [24]

7. **Strengthen oversight and accountability:** As envisioned by the PPA, the government must leverage ICT procurement tracking systems to monitor compliance with nutritional and sustainability guidelines and ensure accountability in food supply chains. This important step in policy implementation is missing from the current Policy and is integral to measuring outcomes and impact. It would also help inform areas for further research and mobilise support for future policies, investment, and political buy-in. Moreover, ensuring transparency through public access to procurement records would help restore public trust in procurement processes.

## Conclusion

PFP is a powerful policy tool that could strengthen NCD prevention efforts and help reduce all forms of malnutrition in South Africa. By aligning food procurement with human rights frameworks and national development objectives, the government can improve food security, health outcomes, and sustainable socio-economic development. The ongoing public procurement reform process provides a unique opportunity to integrate evidence-based interventions to ensure public funds are used to advance a wide range of priorities. Policy-makers should seize this opportunity to transform food procurement systems and create healthier food environments for all South Africans.

## About the Author

Paula Knipe: At the time of writing this policy brief, Paula Knipe was a Doctoral Researcher with the Socio-Economic Rights Project at the Dullah Omar Institute, University of the Western Cape.

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*The Socio-Economic Rights Project is a project of the Dullah Omar Institute at the University of the Western Cape. We engage in high-quality research, teaching and advocacy on legal frameworks addressing diet-related non-communicable diseases. Our work supports targeted evidence-based advocacy and policy development, promoting good governance and human rights, and is anchored in international, regional, and domestic law. We promote policy, law and practice reform based on evidence. For more information, visit our website at [www.dullahomarinate.org.za](http://www.dullahomarinate.org.za).*



Through engaged research, teaching and advocacy, the Institute supports processes in South Africa and the region to build inclusive, resilient states that are accountable to citizens and responsive to human rights. It aims to be the leading think tank on multi-level governance and human rights in Africa.

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