

IMPLEMENTATION OF CHILDREN'S RIGHT TO FOOD IN UGANDA:

A CASE STUDY OF MBALE DISTRICT

BY

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DECLARATION

I, Makori Movin Moraa hereby declare that this dissertation has not been presented to any institution either partially or in total for any academic award, publication, or other use. The works here in are original. Where the works of others are quoted, appropriate references has been given.

I therefore wish to present it for the award of the Degree of Bachelors of Kampala International University.


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Date 19/04/2013
.....

DEDICATION

This dissertation is dedicated to my parents Samwael Makori Ondicki and Jane Nyachama Makori, who raised me and educated me.

To my brothers Vincent Nyaega, Nelson Nyakundi, Samwel Taabu and Geoffrey as well as my dear sister Doris Nyaboke and her husband, for all the encouragement and support they gave me during the course. To my aunty Sarah and my friends especially Clevis, Simon and Mugisha for the company, love and care they gave me..

God bless them.

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LIST OF ABBREVIATIONS

AIDS:	Acquired Immune-deficiency Syndrome
ANPPCAN:	African Network on Prevention and Protection of Children Against Abuse
ARI:	Acute Respiratory Infections
CEDAW:	Convention of Elimination of all forms of Discrimination Against Women
CMR:	Child Mortality Rate
CRC:	Convention on the Rights of the Child
CSEC:	Commercial Sex Exploitation of Children
CSO:	Civil Society Organizations
CWD:	Children with Disabilities
HIV:	Human Immune Virus
IDP:	Internally Displaced Persons
ILO:	International Labor Organization
IMR	Infant Mortality Rate
LC	Local Council
MoFPED	Ministry of Finance Planning and Economic Development
MoGLSD	Ministry of Gender Labor and Social Development
NCC	National Council for Children
NGO	Non Government Organization
OVC	Orphans and Vulnerable Children
PEAP	Poverty Eradication Action Plan
SC	Save the Children
SCA	save the Children Alliance
STDs	Sexually Transmitted Diseases
UBOS	Uganda Bureau of Statistics
UCRNN	Uganda Child Rights NGO Network
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations International Children's Emergency Fund

UPE	Universal Primary Education
WB	World Bank
WHO	World Health Organization

ABSTRACT

This research set out to examine challenges facing implementation of children's right to food in Uganda, with Mbale as the case study. The research analyzed the legal basis for children's right to food both at Municipal and international level, gender roles, control over financial and physical resources and levels of decision making in the household and the effect on fulfillment of child rights.

Data was collected from 116 respondents using both qualitative and quantitative methods. This was complimented by data from secondary sources. A multi-stage sampling technique was used in sample selection. The findings of the study revealed that culture and poverty greatly influence fulfillment of the child's rights to food.

Investigations into the feeding methods of children and child survival rights reveal that women spent most of their time on productive roles and domestic chores with hardly any ample time left to prepare good quality meals on time for their children. Infants whose mothers are caught up with multiple gender roles are introduced to supplements before the age of six months. Findings also reveal that a child's right to proper feeding and nutrition is influenced by who controls resources in the household. Men as controllers of the means of production and incomes make trade-offs between acquiring enough food of adequate quality and meeting non-food costs. Sick children are hardly given a special nutritious meal unless they have failed to eat what is provided as family dishes.

The study also revealed that the high prevalence of HIV/AIDS in Bugisu Sub region has fundamentally undermined the implementation of children's right to food. A number of orphaned children are stunted as a result of poor feeding resulting from their precarious status.

Considering the complex nature of poverty in the sub region under study as indicated in the findings, the researcher recommends a holistic approach that would require the involvement of all stakeholders including children as social actors. Specifically, the government and other stakeholders should: Increase public sensitization, provision of information and training for both adults and children on child rights to food; publicize and encourage debate on the UN committee's concluding observations on the report on implementation of the CRC; Ensure systematic monitoring, evaluation and documentation of examples of effective programmes addressing gender issues and child rights; and conduct a child focused budget analysis in order to identify the proportion of national budgets devoted to fulfilling child food rights.

Other recommendations made include, improvement of access to quality healthcare services for rural areas; Invest in labour saving technologies to enable women have ample time to care for their children; provide education support that include better access to vocational skills, leisure and play facilities for children while at school and subsidize 'other' (non fee) school costs for the poor families.; design gender sensitive policies that will allow pregnant girls to remain in school and complete their education as well as address the greater burden of care that falls on them, often resulting in girls dropping out of school, and the denial of their rights.

Others are, reinforce the capacity of families and communities to provide protection and care and develop systems that will strengthen monitoring of the status of the most vulnerable children and in order to prevent exploitation and abuse; Fully involve children in decisions and actions that affect their lives; Empower children economically, through formation of income generating projects, availing employment opportunities to them to earn income especially those that are above.

CHAPTER ONE

1.0 Introduction

This chapter will deal with the background of the study, statement of the problem, it will also look at the scope, objectives of the study and literature review. It will also mention the research questions, significance of the study and the conceptual framework. Further the organization of the research thesis and limitations to the study will also be highlighted in this paper. This study comes at the back of increased starvation and limited food supplies all over the world. It will recognize the universality of the right to food and at the same time will show the difficulty in the implementation of this right. It is admitted that there is a long history of concern with the right to food, or, more broadly, the right to adequate nutrition, in both municipal and international law.

1.1 Background of the study

Children's rights are the perceived human rights of children with particular attention to the rights of special protection and care afforded to the young, including their right to association with both biological parents, human identity as well as the basic needs for food, universal state-paid education, health care and criminal laws appropriate for the age and development of the child. Interpretations of children's rights range from allowing children the capacity for autonomous action to the enforcement of children being physically, mentally and emotionally free from abuse, though what constitutes "abuse" is a matter of debate. Other definitions include the rights to care and nurturing.

The United Nations' 1989 Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights -civil, cultural, economic, political and social rights. Its implementation is monitored by the Committee on the Rights of the Child. National governments that ratify it commit themselves to protecting and ensuring children's rights, and agree to hold themselves accountable for this commitment before the

international community.

Food is one of the basic necessities of human life existence. Food and water are essential elements that all human beings must have access to in order to live. Access to "the minimum essential food which is sufficient, nutritionally adequate and safe" as well as "sufficient, safe, acceptable, physically accessible and affordable water" is considered human rights. Hunger, malnutrition and starvation are global problems. Hunger is the condition of a person who does not have access to enough food. Malnutrition is caused by hunger, poor food quality, and disease.¹ Although a person might be consuming the appropriate number of calories daily, he/she may still be missing vital nutrients in his/her diet. Malnutrition can cause additional diseases and certain diseases are known to cause malnutrition. Realizing the right to adequate food means eliminating hunger, malnutrition and starvation.

As a matter of law, the right to food has, at least in formal terms, been accorded universal recognition as a human right. In spite of this recognition, the problems of hunger, malnutrition and starvation are rampant in many parts of the world. Although the problem is not confined to a few countries, in general terms, the largest food related problems are found in the developing countries of Asia, Latin America and Africa. According to Goober Tumushabe², what characterize Uganda are not only the shortage of food and a lack of infrastructure, but primarily mal-distribution and inadequate access to food amongst the biggest part of the population.

Governments are responsible for ensuring access to adequate food to eliminate hunger, malnutrition and starvation. The right to food is directly addressed in the International Convention on Economic, Social and Cultural Rights (1966). In article 11, governments "Recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food... and the

¹ Grigg, David (1985) *The World Food Problem* (Oxford: Basil Blackwell), 55

² In His book on Right to Food, Bugisu Sub Region, P 32

continuous improvement of living conditions."

The international community is the last resort, the outer ring of responsibility in looking after the welfare of children. The very outermost ring includes international governmental organizations (IGOs) such as UNICEF, the Food and Agriculture Organization of the United Nations, the World Health Organization, and the United Nations Committee on Human Rights. There is a long history of concern with the rights of children under international law. Article 24 of the Convention on the Rights of the Child says that "States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and shall take appropriate measures to combat disease and malnutrition through the provision of adequate nutritious foods, clean drinking water, and health care."

In Uganda, the National Health Policy and the Health Sector Strategic Plan also identify the poor nutritional status of the population especially women and children as a major health problem in Uganda. Though the 1995 Constitution does not expressly provide for the right to food, it has some provisions on food security and nutrition. The state is obliged to: Take appropriate steps to encourage people to grow food and store adequate food, Establish national reserves, and Encourage and promote nutrition through mass education and other appropriate means in order to build a healthy state.

1.3 General Objective of the study

The major objective of this study is to examine the implementation of children's right to food in Uganda, with Mbale District as the case study under focus.

1.4 Specific Objectives of the study

- 1) To establish whether there are sufficient legal instruments for implementation of children's right to food in Uganda..
- 2) To establish the major challenges affecting the implementation of children's right to food in Uganda.

3) To establish what should be done to strengthen children's access to food in Uganda

1.5 Research Questions

The questions that this study hopes to answer are:

- 1) Are there sufficient legal instruments for implementation of children's right to food in Uganda?
- 2) What are the challenges affecting the implementation of children's right to food in Uganda?
- 3) What are the major factors affecting the implementation of children's access to food in Uganda?

1.5 Scope of the Study

The study will be descriptive in nature with the unit of analysis being a household where domestic/household chores, productive, reproductive and community roles control over financial and physical resources and decision making will be examined with reference to fulfillment of child rights to proper feeding and access to food will be examined. The research also will examine, selected socio-demographic characteristics such as sex, age, education, marital status, occupation and religious affiliation of the respondents. The research will be conducted in Mbale District and will cover a representative sample of both women and men; and boys and girls. .

LITERATURE REVIEW

1.6 Introduction

This chapter presents related literature on implementation of children's right to food and child rights from both international and national studies. This is laid out on the basis of the objectives as set out in chapter.

1.7 Meaning of Children's Right to Food

Consensus on defining children's rights has become clearer in the last twenty years. According to some researchers, the notion of children's rights is still not well defined, with at least one proposing that there is no singularly accepted definition or theory of the rights held by children. Children's rights are defined in numerous ways, including a wide spectrum of civil, cultural, economic, social and political rights. Rights tend to be of two general types: those advocating for children as autonomous persons under the law and those placing a claim on society for protection from harms perpetrated on children because of their dependency. These have been labeled as the right of empowerment and as the right to protection. Children's rights law is defined as the point where the law intersects with a child's life. That includes juvenile delinquency, due process for children involved in the criminal justice system, appropriate representation, and effective rehabilitative services; care and protection for children in state care; ensuring education for all children regardless of their origin, race, gender, disabilities, or abilities, and; health care and advocacy.

1.8 Aspects of Children's Right To Food in Uganda

The Universal Declaration of Human Rights of 1948 provides that "everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food."³ Article 11 of the International Convention on Economic, Social, and Cultural Rights recognizes "the fundamental right of everyone to be free from hunger." Article 24 of the Convention on the Rights of the Child says that "State Parties recognize the right of the child to the enjoyment of the highest attainable standard of health" and shall take appropriate measures "to combat disease and malnutrition"⁴ through the provision of adequate nutritious foods, clean drinking water, and

³ Article 25, paragraph 1

⁴ Ibid. Article 27

health care.

The United Nations Convention on the Rights of the Child defines a child as "every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier." According to the Children's Act⁵, a child is a person below 18 years of age.

Parents affect the lives of children in a unique way, and as such their role in children's rights has to be distinguished in a particular way. According to the Children's Act, section 5: every child has a right to, live with his or her parents, Education, get enough and proper food, get proper medical care, get immunized against killer diseases, not being discriminated in any form, and being protected from violence, ill-treatment. Parents have a responsibility of providing basic needs and services to their children in order to promote their proper growth and development. The best parents do not support their children out of a sense of obligation or as investments. Parents take upon their responsibility as the primary organs in protection of children's rights.

The Children's Act lists the rights of children under Section 5. It provides that children should be well fed, given shelter, taken to school, be given religious training, learning of social norms, among others.⁶ Today, the major institutional organs under the crusade of protecting and enforcing children's rights include the Probation office, Police, National Council for Children, Non Government Organizations, the Court⁷, local councils, children remand homes, the religious organizations like churches and mosques, the community, family, international agencies, among others.

All the named child's rights are an obligation of the parent.⁸ In the twenty first century, there is need to have organized families, with responsible parents who

⁵ Section 2, Children's Act Cap 59, Laws of Uganda

⁶ These are broadly categorized under the 'best interest and welfare principle'

⁷ Specifically the Family and Children Court

⁸ Section 6 of the Children's Act, Cap 59

can educate and put desirable discipline into their children. The international labour organization Annual Report (2000) shows that 20% of the children are not with their parents and 18% are staying with single parent either father only or mother only. It is a common occurrence in slum areas like Kisenyi, Katanga and Makerere Kivulu in Kampala. This indeed is a responsibility of the family.

Governments are expected to assure citizens of accessibility, availability and security of food and water. Availability is the very presence of food or means of production of food in a community or household; this includes a water source. Accessibility is the ability of the people to actually obtain the available food and resources; in many countries accessibility is more of a problem than the actual availability. Security means that food and water are always available and accessible to the population, both in the present and for future generations⁹.

However, historically the idea of the right to adequate nutrition has not been taken seriously. There have been many nutrition programmes within countries and internationally, but they have been provided as a matter of charity, not entitlement. There has not been any legal recourse for those who fail to receive service. The right has not been effectively implemented.

The challenge in Uganda is not the absence of food but a poor distribution of it that leaves a large number hungry. The Children's Act¹⁰ in Section 5 (1) (c) elaborates the rights of children to include an adequate diet. This obligation is primarily that of the parents and the state. The Penal Code Act¹¹ lists a number of offenses relating to maintenance of children. Section 157 in particular criminalizes any action by a parent who abandons or neglects to provide food to his or her children. But notwithstanding the above law, the problem of inadequate food is critical for vulnerable and disadvantaged individuals and groups such as the elderly, women and children. For example in Uganda, nutrition levels among children from poor families are so high that over 30% of

⁹ Action against Hunger (2001) *The Geopolitics of Hunger, 2000-2001: Hunger and Power* Boulder, Colorado: Lynne Rienner Publishers, 121

¹⁰ Cap 59, Laws of Uganda

¹¹ Cap 120, Laws of Uganda

the children are stunted. 75 or more out of every 1000 children die before the age of five due to malnutrition and the resultant kwashiorkor.

METHODOLOGY

1.9 Introduction

This section will present methods that will be used in conducting the study on gender relations and child rights in Uganda. It will begin with a description of the study design, area and population of study and proceed to show sample selection, data collection, research instruments, procedure, data processing and analysis.

1.10 Research design

A cross sectional survey design will be used by the researcher. This design will be used for finding out opinions or facts of people concerning the current status and nature of the problem at the time of investigation. The researcher will intended to draw a current picture concerning a comparative study of implementation of children's right to food in Uganda taking Mbale district as a case study. According to Amin .M (2005) the cross sectional survey method is good because it describes the characteristics of an event, community or region providing data about the population or an item being studied. It aims at a complete enumeration where the researcher explores in depth a programme or an event, an activity, a process or individual often in a natural environment at one point in time.

1.11 Area of study and study population

The study will be conducted in Mbale District that is located in the Eastern region of Uganda boarding Kenya in the east, Tororo District in the south, Mbale in the west and Bududa District in the north and Manafwa in the North West. The district has got a Municipal council and 5 Lower Local Government

councils (s). UBOS¹² indicate that Mbale has a population of 464, 523 out of which 130,413 are males and 134,110 are females. Ninety two per cent (92%) of the population is in rural areas. Out of the total population, children under 18 represent fifty five per cent (55%). In terms of religion, the report shows that the highest population are Anglicans/protestants (45%), Catholics (25%), Moslems (18%), Pentecostals (10%), Seventh Day Adventists (SDA) (1%) and none (1%). Mbale District is inhabited by Bantu speaking people commonly referred to as Bagisu or Bamasaba who speak Lumasaba commonly known as Lugisu. They constitute 1,117,661 of the total national population (23,878,736) of ethnic groups in Uganda (UBOS, 2003).

The Bamasaba are well known throughout the country for the cultural ritual of male circumcision. This is practiced during even years. It is characterized by a three-day ceremony of dancing (commonly known as Kadodi dance), visiting relatives, friends and receiving gifts. The candidate(s) are decorated with skins and wave two black and white colobus monkey tails in the air. A combination of sounds including the ringing of bells attached to the candidates' thighs, the traditional drums, fiddles, flutes, and group songs, make this event memorable to anyone watching. It is of great importance for the -candidate to stand strong during circumcision to show that he is capable and ready to become a man. This transition to manhood has contributed to maintaining the gender stereotypes in households. Once a boy gets circumcised, he assumes extra powers in the household, can take decisions without consultation, free to marry and become a head of the household and overall controller of resources.

Majority (80%) of the people are peasant farmers whose major cash crop has been Arabic coffee and cotton. These have of recent been affected by changing climate and market. People have now shifted to growing of maize, beans, cassava, groundnuts, potatoes, bananas, Soya beans, sorghum, onions and

¹² In the 2003 population census estimates

vegetables on a small scale for commercial and domestic consumption. Mbale district was selected for various reasons among which include the existent cultural ties of male circumcision that has contributed to high rates of child abuse (in particular defilement, sexual harassment, early marriages and early pregnancies) during the season. As described above, the dancing season attracts many young people making the girl child in particular vulnerable to all sorts of abuses.

The literacy rate is still low at 64.0 percent for males and 49.0 percent for females. In Primary schools, pupil: teacher ratio is 1:52, pupil classroom ration is 1:780, pupil textbook ration is 1:8 and no meals are provided to the pupils. The proportion of schools with healthy physical environment is 45.0 percent. Pupil to latrine ration is 1 stance: 40. In terms of health, the indicators are worrying. The Health Information Management Systems Report 2005/06 revealed IMR at 88/1000 live births, Under 5 MR 143/1000 live births and MMR 506/100,000 live births.

The district is also faced with the challenge of HIV/AIDS and its impact on families and children in particular. The researcher was also interested in Mbale because this is her home district making communication in local language easy allowing in-depth probing. Last but not least no such research has ever been conducted in the district. The research population included adult women and men above 18 years particularly those with a parenting role as duty bearers and boys and girls below the age of 18 as rights holders. Key informants included a cross section of duty bearers such as local council secretaries for children affairs, police, judiciary, NGOs, Probation and Social Welfare Officers (PSWO), teachers, Chief Administrative Officers (CAO), religious leaders and clan heads.

1.12 Population of the Study

The study involved total number of 116 respondents who included 2 District Education Officers, 1 Archdiocese education secretary, 75 Children, 25 Parents, 10 Community leaders like LCs, 4 Human rights activists and 2 NGOs. They were selected because they play a strong role in determining the implementation of children's right to food in Uganda and Mbale in particular. They also directly involved in the development of the district under this study. This population was thus considered appropriate for the study.

1.13 Questionnaires

A self-administered, structured and semi-structured questionnaire was designed and administered to children and Parents. The researcher used a questionnaire because she wanted to collect much data from many respondents and in a limited time. The method was cheaper and time saving. Respondents were able to give their independent view without prejudice at their own convenience. Section A: constituted questions that were sought out personal demographic information. Section B comprised of questions testing the respondents' opinion, feelings, views about the implementation of children's right to food in Uganda taking Mbale district as a case study. This section was used to test the four research questions

1.14 Interview guide

The researcher assisted by interview guide was conducted face-to-face interviews to Children, Parents, Human rights activists, Community leaders like LCs and the Ngos. The interviews were open ended and were predominantly single in nature, questioning one person at a time. The question structure was not fixed or rigid, thus allowing change of question order and even addition of new questions where it was found necessary. This offered the interviewer the freedom in presenting the questions, changing the wording and order and

adjusting the interview so that it met the goals of the study. Interviews helped the researcher to generate more data that w strengthened facts got from other instruments. The technique was preferred because it allowed flexibility and direct contact between the researcher and respondents.

1.15 Observation

In order to get first hand information concerning the subject under investigation, using all the five senses and to avoid biasness and a possibility of a language barrier from the respondents the researcher used observation checklists to get information which the informants may have under-looked or was unwilling to reveal to her.

CHAPTER TWO

LEGAL FRAMEWORK FOR PROTECTION OF CHILDREN'S RIGHT TO FOOD

2.0 The human right to food—normative content and implementation

In order to use the Right to Food effectively to fight hunger and malnourishment it is crucial to fully understand what does the right mean and entail and the obligations of the States under the right. This chapter endeavors to set out the contextual framework of the children's Right to Food. For the purpose of this paper, the historical background of the Right to Food and the debate regarding food as a human right is not repeated because there is a clear endorsement that adequate food and freedom from hunger is a human right. Therefore, the first section of this chapter sets out the existing formulations of the Right to Food in various international and regional instruments, its definition in legal terms and the relationship with other human rights.¹³

The second section of this chapter outlines the legal obligations of the States: respect, protect and fulfill (facilitate and provide) and the implementation of the children's Right to Food at the national and International level.

2.1 The children's right to food—contours and contents

2.1.0 Existing formulations of the children's Right to Food in international and regional instruments

The Right to Food, despite its neglect in practice, has essentially been recognized in a wide range of human rights instruments; it is embodied mainly in the twin International Covenants and has refined by the useful and creative

¹³ In light of the recent significant developments and relevance to this study particular reference is made only to

work of the Committees set up to monitor the implementation of the Covenants and other international and regional instruments. However in this section I propose to specify only a limited range of relevant provisions. President Roosevelt's "Four Freedoms" speech in 1941¹⁴ outlined one of the freedoms as "The freedom from want." These freedoms were gradually refined and became the basis of the *United Nations Charter*¹⁵ and more significantly later the *UDHR* encompassed the concern of "freedom from want" through inclusion of economic and social rights, particularly by recognizing some of the recognized human rights which are directly applicable to the Right to Food, in particular the right to life, the right to livelihood, the right to water and freedom for association (e.g. for rural workers), as opposed to other, indirectly related rights, such as freedom from torture (e.g. through food deprivation) or the right to health care.

Right to Food as a component of an adequate standard of living.¹⁶ ICESCR, an international instrument which has been ratified by 144 States, deals with the Right to Food more comprehensively than any other treaty. In article 11.1, States parties recognize "the right of everyone to an adequate standard of living for himself and his family, including adequate food," while Article 11. 2 is concerned with "the fundamental right of everyone to be free from hunger." Further the General Comment No. 12 (hereafter GC 12) of the Committee on Economic, Social and Cultural Rights (hereafter CESCR) provides that "The human right to adequate food is of crucial importance for the enjoyment of all rights. It applies to everyone; thus, the reference in article 11.1 to 'himself and his family' does not imply any limitation upon the applicability of this right to individuals or to female-headed households."¹⁷

¹⁴ The "State of the Union" message, delivered on 26 January 1941 "Roosevelt FD "War And Aid to Democracies," in Rosenman S. L. The Public Papers and Addresses of Franklin Roosevelt, (New York, MacMillan Company, 1941), p 672.

¹⁵ Article 1(3) of the UN Charter 1945

¹⁶ Article 25 of the UDHR 1948

¹⁷ HREGEN/L/Rev 4, p. 66, para 1

Further more common article 1 of the twin Covenants is also relevant in this regard which provides that “All peoples may ... freely dispose of their natural wealth and resources” and, consequently, “In no case may a people be deprived of its own means of subsistence (para. 2).”¹⁸

Furthermore, Article 6 of the Covenant on Civil and Political Rights (ICCPR) warrants particular mention in the context of the Right to Food. It provides for the inherent right to life of every human being. The Human Rights Committee (HRC) insists that the right should not be interpreted in a restrictive manner.¹⁹ In its General Comment No. 6, the HRC observes that “... the protection of this right requires that States adopt positive measures ... and it would be desirable that States took all possible measures to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics.”²⁰

There are several other human rights instruments which constitute recognition of, or have some direct bearing on the children’s Right to Food, however it would be of limited value to enunciate the exhaustive list of these provisions here. Nonetheless, it is appropriate to note that these provisions range from Article 2 of the Convention on Prevention and Punishment of the Crime of Genocide, 1948; Articles 20 and 23 of Convention relating to the Status of Refugees, 1951; to Article 12 of Convention on Elimination of All Forms of Discrimination against Women, 1979; and Articles 24 and 27 of Convention on the Right of Child, 1989.

¹⁸ Supra n 6, para.42, p 14, also see *Guide A : Right to Adequate Food as a Human Right*, Human Rights Study Series No. 1, United Nations publication (Sales No. E.89.XIV.2), (New York, United Nations, 1989)

¹⁹ Supra n 17, p. 114, para 5

²⁰ Ibid

Under the Maastricht Guidelines, it is stated that States and appropriate international bodies should actively pursue the adoption of new standards on specific economic, social and cultural

2.2 IMPLEMENTATION OF THE CHILDREN'S RIGHT TO FOOD

2.2.0 Legal obligations of the State Parties—respect, protect, fulfill (facilitate and provide)

The children's Right to Food is, of course, meaningless unless it is upheld. Under the international law governments are the primary body responsible for ensuring people's human rights are met. The State Parties are obliged to take steps to achieve progressively the full realization of the Right to Food by all appropriate means, including particularly adoption of legislative measures.²¹ The qualification "within its available resources" refers to those available resources within a State as well as resources available from the international community.²² While acknowledging that the Right to Food should be realized progressively, GC 12 points out that as minimum core obligations, every State is obliged to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger.²³ Thus, a State where a significant number of individuals

²¹ Article 2, ICESCR. However progressive realization is subject to limitations like "minimum core obligations" and "maximum utilization of available resources" and therefore the State cannot use the "progressive realization" as a pretext for non-compliance. (Guideline 8, the Maastricht Guidelines) Also in the landmark case of *Government of the Republic of South Africa v. Irene Grootboom & others, The Constitutional Court of South Africa, (2000) 10 BHR 84*, the Constitutional Court utilized the criteria of "reasonableness" to review Government action or inaction on progressive realization of the rights within the limits of available resources.

²² GC 3 (1990), para 13 and the Limburg Principles (1986), para 26.

²³ GC 12, para 14; cf. also GC 3, para 10. It is noted in the Maastricht Guidelines that violations of the Covenant occur when a State fails to satisfy what the CESCR has referred to as minimum core obligation to ensure the satisfaction minimum essential levels of each right (Guideline 9). In *Tribunal fédéral suisse, références ATF 121 I 367-371, 373 V* (JT 1996 389), the Swiss Federal Tribunal, which is the highest court in Switzerland, recognized the right to minimum basic conditions, including "the guarantee of all basic human needs, such as food, clothing, and housing" to prevent a situation where people "are reduced to beggars, a condition unworthy of being called human." This case suggests that in Switzerland the Right to Food is a right recognized as inherent in everyone as a human being.

are deprived of essential foodstuffs is, *prima facie*, violating the Covenant.²⁴

The World Food Summit provides that States can fulfill this obligation through developing national laws, strategies, policies and programs. The measures would also, as stated in Commitment 7.4 of the Plan of Action, assist in clarifying the content of the right to adequate food and the fundamental right of everyone to be free from hunger.²⁵

Article 11.2, which was added to the draft Covenant in 1963 through an initiative by the Director-General of FAO, provides State's obligations in respect of the children's Right to Food more vigorously: States shall take the measures which are needed:

- To improve methods of production, conservation and distribution of food;
- To disseminate knowledge of the principles of nutrition;
- To develop or reform agrarian systems.

All these efforts shall be aimed towards more efficient utilization of natural resources. Further, Article 11.2(b) also obliges States to "ensure an equitable distribution of world food supplies in relation to needs."

The Right to Food, like any other human right, imposes three (or four) levels of obligation on State Parties:²⁶ the obligations to respect, to protect and to fulfill (which incorporates both an obligation to facilitate and to provide).

2.2.1 Obligation to respect

The obligation to respect requires States to ensure that every child has

²⁴ The Right to Food, Report of the High Commissioner for Human Rights, E/CN.4/1998/21, para 17

²⁵ Item 12 of the Plan of Action adopted at the World Food Programme, Rome 13-17 November 1996

²⁶ GC 12, para 15, Guideline 6, part II, the Maastricht Guidelines.

permanent access at all times to sufficient and adequate food, and not to take any measures that would result in preventing children from having access to adequate food.⁶⁸ Eide explains: principle 25 of the Limburg Principles reaffirms that “States Parties are obligated, regardless of the level of economic development to ensure respect for minimum subsistence rights for all.”

This implies that the State must not do anything that interferes with people’s ability to provide for themselves and their families. They must not be taken off their lands, they must be free to work and earn money, they must not have goods confiscated by the government, they must not be taxed excessively, etc.²⁷

In addition to national obligations of the States, the recent report of the Special Rapporteur also spells out the transnational obligations to respect of the States. States must not take actions that negatively impact on the children’s Right to Food in another country (e.g. refrain from food embargos, or from using food as an instrument of political and economic pressure, or ensuring that their trade relations do not violate the Right to Food of people in other countries).²⁸

2.2.2 Obligation to protect

Under this obligation, States must ensure that individuals and companies do not deprive children of permanent access to adequate and sufficient food. According to Eide: At a secondary level, therefore, state obligations include active protection against other, more assertive or aggressive subjects, in particular against more powerful economic interests. There is a need for state protection from fraud, unethical behavior in trade and contractual relations, and the marketing and dumping of hazardous or dangerous products.²⁹

²⁷ Supra n.3, Chapter VII, p.7

²⁸ Supra n.2, para 29, p.10

²⁹ Supra n.69

Similar to the protection of one's capacity to provide for oneself and his family against any threat by government action, one of the major duties of the State is to provide its citizens with a measure of security, from those outside the country and also from fellow citizens. Transnationally, the States have a duty to regulate their companies and corporations that operate in other countries to prevent violations.³⁰

2.2.3 Obligation to fulfill (facilitates and promote)

Fulfilling the children's Right to Food means that government must take positive steps to ensure that everyone is, at a minimum, free from hunger.³¹ This does not imply that government must feed everyone, since most people have the resources to feed themselves. Rather, it requires that government must create the conditions ("enabling environment") where children can be fed by their parents.³²

The State's third obligation to "fulfill" the children's Right to Food is summarized by Eide as: At the tertiary level, the state has the obligation to facilitate opportunities by which the rights listed can be enjoyed... It takes many forms, some of which are spelt out in the relevant instruments. For example, under ICESCR Article 11(2), the state shall take steps to "improve measures of production, conservation and distribution of food by making full use of technical and scientific knowledge and by developing or reforming agrarian systems."³³

Furthermore, according to GC 12 the obligation to "provide" involves: "... whenever an individual or children is unable, for reasons beyond their control,

³⁰ Supra n 71

³¹ GC 12, paras 14 and 21

³² GC 12 para. 15, Eide, Supra n 69

³³ Supra n 69

to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfill (provide) [the Right to Food] directly.”³⁴

When “no other possibility exists,” for the elderly or the disadvantaged, when unemployment sets in, or for those who are marginalized by structural shifts in the economy, for example, government must provide direct subsidies of food or resources to procure food.³⁵ In addition, governments are also responsible for ensuring the full realization of the Right to Food including food security—that is, ensuring the ready availability of nutritionally adequate and safe food, using sustainable, socially acceptable and dignified means.³⁶ The obligation to fulfill by the government’s directly providing what is needed is treated as a kind of residual category, becoming operational when respect, protect and facilitate prove inadequate.³⁷

Under transnational obligations, the States are required to create social and international order (e.g. by way of international cooperation and assistance) in which the children’s Right to Food could be fully realized.³⁸

2.3 Implementation of the State obligations for realization of the Right to Food

2.3.1 Implementation at the national level

The global reaffirmation and recognition of the right is by itself not sufficient. The right must be enforced and its corresponding obligations must be implemented. Under international law the primary obligation to realize the

³⁴ GC 12, para 15

³⁵ GC 12, paras 13 and 15, also see *Idre supra* n 69

³⁶ GC 12, paras 14 and 21

³⁷ *Supra* n 3, Chapter VII, p.10

³⁸ 81 Art.28, UDHR.

children's Right to Food is incumbent upon national governments. Article 11.2 of the Covenant states that the State Parties will take appropriate steps to ensure realization of this right. As enunciated in GC 12 the most appropriate ways and means of implementing the Right to Food would inevitably vary from one State to another and thus, every State has a margin of discretion in choosing its own approach. However GC emphasizes the adoption of national strategy to ensure food and nutrition for all and the formulation and implementation of such national strategies requires full compliance with the principles of accountability, transparency, people's participation, decentralization, legislative capacity and the independence of the judiciary. Good governance is essential to the realization of all human rights, including the elimination of poverty and ensuring a satisfactory livelihood for all.³⁹

2.4 Legislative measures for the implementation of the children's Right to Food are part of States'

Obligations under Article 2 of the Covenant. GC 12 recommends in particular the adoption of framework law as a major instrument in the implementation of national strategy concerning the Right to Food.⁴⁰

Such a regulatory framework of law although not mandatory would be very useful for the reasons like, it would allow allocation of clear responsibilities to different governmental agencies, which would result in greater accountability and such legislation could provide room for participation in decision-making by formalizing the role of community, NGOs and civil society at large. It would also allow defining which aspect is actionable and the recourse in case of violations (e.g. Ombudspersons, Human Rights Commissions and the Courts).⁴¹

³⁹ Supra n.17, paras 21-28

⁴⁰ Supra n.17, para 29

⁴¹ Vidar M., Implementing the Right to Food: Achievement, Shortcomings and Challenges, *Advantages of Framework Law. Keynote address by FAO Legal Officer, 24-26 February 2003, Indian Social Institute, New Delhi, India* organized by FIAN International with support from GIDS, p 11, at [www.fao.org/legal/Right to Food/statements/india.doc](http://www.fao.org/legal/Right%20to%20Food/statements/india.doc), accessed on 16-08-03

Further many international efforts have been afoot since the adoption of Plan of Action of the *WFS, 1996* where *State Parties pledged to clarify the content of the Right to Food and ways of implementing it*.⁸⁵ For instance, three NGOs prepared a draft of a Code of Conduct on the *Human Right to Adequate Food in 1997 which was adopted by 800 other NGOs. This International Code, inter alia, provided for ways and methods of implementation of the Right to Food*.⁴² Further, the UN High Commissioner for Human Rights, prompted by the FAO, organized a series of expert consultations in 1997, 1998 and 2001.⁴³ The first two (along with the NGO Code of Conduct) inspired the work of the CESCR on drafting of GC 12. Finally, at the World Food Summit: five years later, the decision was taken to establish within the FAO an Intergovernmental Working Group (IGWG) to elaborate a set of voluntary guidelines to support the progressive realization of the right to adequate food⁸⁸ and the same was established in November 2002.⁴⁴ In furtherance of this, a Joint North-South Civil Society contributed the *Voluntary Guidelines for Implementation of the Right to Adequate Food* ⁹⁰ to the FAO Council which illustrates principles and proposals to facilitate the implementation of the Right to Food.

2.5 Implementation at the international level

States are obliged to respect the children's Right to Food also of children living in other States. They must guarantee that their own policies do not contribute to violations of the right to adequate food but contribute, as far as possible, to the protection and full implementation of the children's right to adequate food. On

⁴² Commitment 7, Objective 7.4, the Plan of Action of the WFS, 1996.

⁴³ The right to food, Report of the High Commissioner for Human Rights, UN Document No. E/CN.4/1998/21, 15 January 1998. The right to food, Report of the High Commissioner for Human Rights, UN Document No. E/CN.4/1999/45, 20 January 1999. The right to food, Report on the Third Expert Consultation on the Right to Food, UN Document No. E/CN.4/2001/148, 30 March 2001.

⁴⁴ FAO, Establishment of the Intergovernmental Working Group requested in Paragraph 10 of the Declaration of the *World Food Summit: five years later, Report of the 123rd Session of the Council, 28 October to 2 November 2002*, paragraphs 26-28 and Appendix D.

the other hand they have the duty to promote and help other States to implement the children's Right to Food. GC 12 succinctly spells out that in the spirit of Article 56 of the UN Charter, the specific provisions in Articles 11, 2.1 and 23 of the Covenant and the Rome Declaration of the WFS, State Parties should recognize the essential role of international cooperation and comply with their commitment to take joint and separate action to achieve the full realization of the Right to

CHAPTER THREE

DISCUSSION OF THE FINDINGS

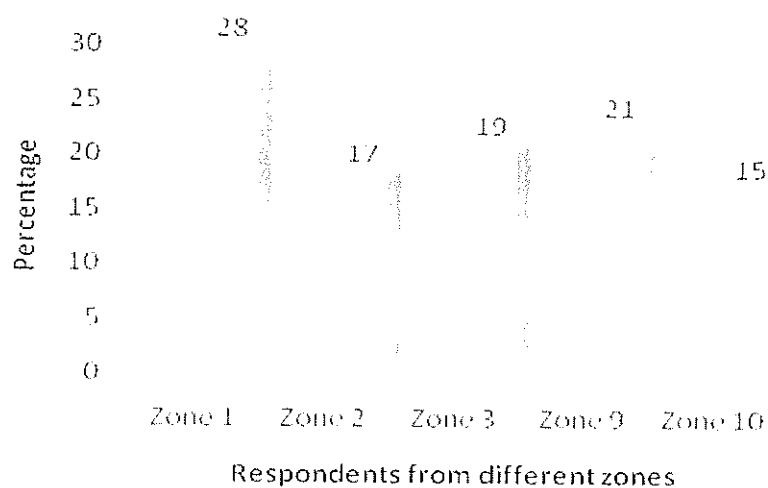
3.0. Introduction

Under this section, results of the study are discussed in the order of the stated research questions. The Discussion is based on findings presented in the previous chapter and how they concur with the available scholarly literature.

3.1 Discussion of the Findings

This chapter includes discussion of results of this study. As a starting point, the chapter begins with results of the assessment of the environment for the Right to food in Uganda. This is intended to provide a basis against which all other survey results and discussion should be judged. Except for beginning with objective 1.6 as has been explained, the results are presented and discussed according to the specific objectives set out in chapter one. All statistical results are based on responses of 116 respondents that were found to have valid responses upon data entry. Qualitative information from duty bearers are (where appropriate) included in the results to make the focus of the presentation stronger.

Overall, the survey was carried out in the months of January and February 2013. Initially, a computed sample size comprising at least 241 children was required for this survey. This figure was however increased by 10% to 265 children so as to cater for contingencies that could arise in the research process. Despite this measure, only 116 questionnaires were valid upon data entry.



3.1.1 Availability and accessibility of structures considered necessary for the realization of the Right to food in Mbale District

An assessment of the existing legal, regulatory and institutional structures considered necessary for realization of the Right to food in Uganda was done for the purpose of determining the conducive environment to the progressive realization of the Right to food of slum dwellers in the study area. The assessment was mainly done by reviewing documentation on the Right to food in Uganda vis-à-vis International documents on this right (mainly UDHR, ICESCR and GC 12) coupled with information from rights holders and duty bearers that were interviewed for the survey. Results of this assessment are presented in three different but interrelated sections. The first section is on the legal structure of the Right to food while the second and third sections more comprehensively deal with institutional and regulatory structures.

It is argued that recognition of the Right to food and related rights is a fundamental first step for a State to realize Art. 11 of the ICESCR as it is essential for the justifiability of this right. At the international level, Uganda ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1987, and thus recognizes the Right to food as a human right.

Nationally, the need to fulfill the fundamental right of all Ugandans to adequate food is fairly recognized in objectives XIV and XXII under the section of social and economic objectives of Uganda's 1995 Constitution⁴⁵. Much as Uganda's Constitution has a provision for recognizing the Right to food, the respondents at the Uganda Human Rights Commission cited a lack of clear understanding of the Right to food in Uganda's Constitution as objectives XIV and XXII are not explicit on this right. Objectives XIV and XXII of the Constitution of Uganda also make no mention of the State obligations on the Right to food in terms of respect, protect and fulfill as specified in GC 12 (CESCR, 1999). This arises from the fact that the Constitution was adopted in 1995 while GC 12 was adopted by CESCR in 1999.

Lack of a clear definition of the State obligations on the Right to food in Uganda's Constitution raises an issue of justifiability of this right in Uganda. The informant at the Uganda Human Rights Commission however explained that:

Although justifiability of the Right to food is not explicitly stated in Uganda's Constitution, it is seconded by article 45 of the Constitution. He added that, there is however a lack of awareness about the justifiability of the Right to food, hence those whose right to food is violated do not take their complaints to court.

Article 45 of the Constitution of the Republic Uganda states that, —The rights, duties, declarations and guarantees relating to the fundamental and other human rights and freedoms specifically mentioned in this Chapter shall not be regarded as excluding others not specifically mentioned.⁴⁶. This in essence means that Uganda is bound by international obligations on the Right to food whether or not these are incorporated in domestic law.

In accordance to the UHRC' mission, the respondent at UHRC' highlighted several roles the Commission had played in promoting realization of the Right to food. These were however broadly presented with a lack of specificity on what had particularly been done

⁴⁵ Constitution of the Republic of Uganda, 1995

⁴⁶ Ibid

to highlight the plight of slum dwellers in realizing their Right to food. Take for instance the role of reporting on issues relating to violation of human rights in Uganda. UHRC publishes periodic reports on its findings and it submits annual reports to Parliament of Uganda. This presents a great opportunity of putting across the Right to food to the agenda of policy makers in the country. However a look at the latest UHRC annual report indicated that only 1 case out of 82 cases decided upon by the Commission tribunal pertained the Right to food (UHRC, 2008). Also, no mention of the need to promote realization of the Right to food of slum dwellers was mentioned anywhere in that report. None the less, the 10th UHRC report (UHRC, 2007) dedicated a section on the Right to food that highlighted problems of access to adequate food, and also made useful recommendations of the need to respect other rights that have immediate bearing on the Right to food. It however did not precisely call upon the State to respect, protect and fulfill the Right to food of slum dwellers.

3.1.2 Availability and accessibility to safe food

Table shows that about 50% of the respondents bought their household food from the local food market. However respondents also said that bought food from local shops and from people selling food at the roadsides. Majority of the respondents (about 77%) reported their households as having gone with little or almost no food in the past month. Out of the total number of households going with little or no food, about 29% of respondents reported having gone without food for more than 10 times in a month. Lack of resources (money) to buy food was reported to be the biggest challenge to accessing food (about 71% of respondents). This was followed by high food prices (about 26% of respondents). Unavailability of desired food(s) was not a big challenge to almost all the respondents.

3.1.3 Availability and accessibility to safe water (indicator 5)

Four main sources of water for households were identified in Mbale District and is linked to apparently high levels of unemployment as was discovered in Mbale District.

When asked to comment on the nature of the food market in Mbale District (as regards to possibility of food contamination), the respondent of Mbale Municipality had this to say:

The food market in Mbale District is owned by a private individual who also runs it. However, the general condition of the market is poor due to lack of proper food storage, poor hygiene and sanitation. The council however tries to offer advice on how to maintain good hygiene and sanitation so as not to contaminate foods sold from the market. Currently the council has no plans of constructing a modern market in the area and as such people are advised to use Mbale Municipality Central market which has better facilities and is considered to be a bit more hygienic. Facilities as being a big challenge to them since they had to always pay money to be able to use available public toilets in the area. Since many could not always afford to pay money for each individual in the household, it was reported that some household members make use of polythene bags which they later dispose off with the rubbish.

The respondents at Mbale Municipality Council said that: To provide public toilets, the Council needs to own land onto which public toilets can be constructed. The Council however does not own any such land and people have refused to avail free land that can be utilized by the Council. With help from Red Cross, an Ecological Sanitation (EcoSan) toilet was constructed in Zone 3 but this was misused by the public and

3.1.4 State of hygiene and sanitation in Mbale District

The table bellow indicates that the majority of respondents (about 67 %) seem not to have access to adequate toilet facilities in Mbale District. While in the field, some respondents described the lack of toilet.

Item	Frequency	Percentages
Availability and accessibility to safe food	28	24.1
Availability and accessibility to safe water	24	20.6
State of hygiene and sanitation in Mbale District	30	25.8
Summary on the availability and accessibility to safe food, water, health services and state of hygiene and sanitation	18	15.5
Availability and accessibility to safe food	16	13.7

3.1.5 Summary on the availability and accessibility to safe food, water, health services and state of hygiene and sanitation

Almost all right holders interviewed in Mbale District buy rather than grow food needed by their households. The highest percentage of respondents (about 50 %) interviewed reportedly bought their food from the local food market. Other sources for food were roadside food sellers, and the local food shops. About 71% of the respondents who acknowledged having at least gone with little or almost no food cited lack of money to buy enough food as the most limiting factor to accessing safe food; this was despite that food is available in the market.

The level of food safety in the food market was reported to be compromised by lack of proper food storage, and general poor hygiene and sanitation in the market. Suffice to say that general environmental hygiene and sanitation was also poor in the District with about 67% of the respondents having no access to adequate toilet facilities. Making matters worse waste is poorly disposed off into pits or surfaces that are left unattended for long even when full. Mbale Municipality Council was reportedly constrained by lack of resources to buy land onto which to construct public toilets and or place garbage collection skips so as to improve on environmental hygiene and sanitation in Mbale District.

As regards to water and accessibility to health facilities, most of the respondents had access to piped water (about 63%). Never the less, about 59% of respondents that bought water from public taps found the water to be expensive for them to buy it in required amounts. Despite efforts to construct protected wells and springs in Mbale District, a percentage of respondents (about 4%) still used water from unprotected wells and springs. Even then, underground water in Mbale District was reported to be grossly contaminated because of the adjacent industrial area that was thought to contribute to water contamination. In this case whether wells are protected or not, the water seems already to be exposed to industrial pollutants. As stated by a respondent at UHRC, accessibility to safe water is constrained by ineffective targeting of the poor as water lines are mainly only laid along main roads, away from where the poor stay. Impressively, above 90% of respondents had access to a health worker in case of a disease infection. Sadly however, 69% of the respondents sought treatment from private clinics in the area; these clinics only deal with the treatment of minor ailments.

3.1.6 Adherence of existing processes considered necessary for the realization of the Right to food in Mbale District to key human rights principles

The last but not least objective of this survey was to identify some of the human rights principles that appear to be violated by duty bearers of Mbale District in implementing would be Right to food related activities. This was made possible through the interviews that were carried out with duty bearers while at the same time drawing from responses made by rights holders.

Both duty bearers that were interviewed said corruption was the biggest hindrance to implementation of the Right to food. Other issues identified included; not giving the Right to food the same interest as that given to civil and political rights, political interference in implementing human rights, poor targeting of policies to the vulnerable groups, and a failure to include the local community in the implementation of all local projects.

However, as regards to including rights holders in the implementation of local projects, the respondent at Mbale Municipality Council emphasized that the Council sometimes involves local communities in choosing developmental projects to be undertaken in the District. An example was given of a case where Mbale community members on being consulted chose construction of roads, water drainage channels, and the improvement in garbage collection as their areas of interest.

CHAPTER FOUR

CONCLUSIONS AND RECOMMENDATIONS

4.0 Conclusions

Food is one of the basic necessities of human life existence. Food and water are essential elements that all human beings must have access to in order to live. Access to “the minimum essential food which is sufficient, nutritionally adequate and safe” as well as “sufficient, safe, acceptable, physically accessible and affordable water” is considered human rights.

Children's rights are the perceived human rights of children with particular attention to the rights of special protection and care afforded to the young, including their right to association with both biological parents, human identity as well as the basic needs for food, universal state-paid education, health care and criminal laws appropriate for the age and development of the child.

4.1 Recommendations

4.1.0 The idea of children's right to food and adequate nutrition

In protection and realization of children's right to food, a number of proposals are here below enumerated to make this right more meaningful and realistic. Historically, the idea of children's right to food and adequate nutrition has not been taken seriously. There have been many nutrition programmes within countries but they have been provided as a matter of charity, not entitlement. There has not been any legal recourse for those who fail to receive service. The right has not been effectively implemented. This in my view is a matter of urgent concern and it should be considered by policy makers.

4.1.1 Ideally drafted or spelt out with the desirable detail

The laws need to clearly and explicitly spell out food as a right. Such an approach builds on a normative, legal basis, even if that is not ideally drafted or spelt out with the

desirable detail. It is further recommended that special attention be paid to children with disabilities. Implementing children's right to adequate nutrition does not necessarily mean creating new programmes; it means assuring that they get the nutrition services to which they are entitled.

4.1.2 To Increase food production and nutrition education

With the increasing food prices all over the world, it is important to reconsider laws on producing genetically modified foods as well as putting a real effort in increasing food supplies. Increasing food production, nutrition education, feeding programmes, and all the other conventional approaches have important roles to play in ending hunger in the world, but so far they have not been adequate. Perhaps it would be useful to work more directly with the social/legal/political tools of entitlements, rights and responsibility by governments to avert hunger. Present agricultural and other economic practices, which bank on the food resources of future generations, need to be stopped as a matter of human rights. For instance, the poor countries especially in the developing world should be discouraged from exporting raw food items at very low prices and instead encouraged to store for the future.

4.1.3 Issues on how to reform the agricultural sector in Mbale district

It is important to reform the agricultural sector by encouraging commercial farming and providing technical assistance to the farmers. For a considerable number of countries, hardly any serious expert believes that these countries will be able to implement the right to feed oneself for the rural masses in the foreseeable future without agrarian reform. Evading agrarian reform measures under such circumstances violates the right to feed oneself. Such evasion may take different forms. Obviously, the crudest form is the simple absence of agrarian reform legislation or agrarian reform programs. The most common form, however, is that of deficient agrarian reform programs/laws with loopholes that prevent the distribution of land to landless peasants. Agrarian reform that meets the obligation to fulfill access to adequate food may require more than merely the distribution of productive resources (land, water, technology, etc.).

4.1.4 Issues concerning conferences as political grounds on right for food by children

There is further need to implement International resolution passed on hunger instead of merely using the conferences as political grounds. Despite the fact that the right to food was included in the Universal Declaration of Human Rights adopted by the United Nations in 1948, commitment to enforce the right has been only very gradual. Laws addressing the question of climate change should be a primary concern for states trying to fight hunger. In a message from IFAD President Lennart Bage it was noted that “three quarters of the world’s one billion extremely poor people live in rural areas, many already suffer from hunger and malnutrition, but new and growing challenges such as climate change are making them all the more vulnerable. So, this area needs prioritization.

4.1.5 Struggle to eliminate child hunger in Uganda

All governments should also take immediate steps to eliminate child hunger. This should include programmes to address food security and adequate livelihoods, as well as nutritional security, especially in vitamin A, iron and iodine deficiencies and the promotion of breastfeeding. School meal programmes should be made universal, and should ensure adequate nutrition for all children. We can picture this as a set of nested circles, with the child in the centre of the nest, surrounded, supported, and nurtured by family, community, government, and, ultimately, international organizations. Central Governments, local communities and well off people in the community should not take children away from inadequate parents but should help parents in their parenting role. State governments should not replace local governments, but should support local governments in their work with children. The international community should help national governments in their work with children. The same reasoning should apply to care for the physically disabled and the mentally ill.

4.1.6 To involve international agencies on right to food by children

It is my view that all governments and international agencies should be urged to address the root causes of migration and armed conflict. This included the right to food where children are forced to enlist in armed groups in order to procure food for themselves and their families. Besides, Governments should not expel, return or extradite a person to another State where there are substantial grounds for believing that he/she would be in danger of suffering from hunger, chronic under-nutrition or violations of the right to food.

It is further recommended after an examination of the causes of hunger that one compelling line of analysis that since hunger is due primarily to a failure of entitlements rather than, say, to inadequate agricultural productivity or population growth⁴⁷. If that is so, the remedy lies in strengthening entitlements. One way to do this is through the law. Children should have a fully implemented legal right to adequate nutrition.

4.1.7 On international obligation about right for food by children

If human rights are used as an entry point for development or fulfilling an international obligation, the entire human rights framework is brought into play because of the indivisibility of human rights. Consequently, a particular right such as the right to food ought to be viewed within the context of other rights including political, civil and other economic, social and cultural rights. International human rights obligations must be matched with corresponding legal and administrative measures within individual states; by which all member states are compelled in to compliance.

⁴⁷ Tomasekyski, Katarina (1987) *The Right to Food: Guide Through Applicable International Law*, Dordrecht, The Netherlands: Martinus Nijhoff Publishers.

4.1.8 Population Control

Human rights require active and effective remedies accessible to the majority of the population including vulnerable groups. This is what must be done in respect of the third world. A human rights approach implies accountability both at the domestic and international level through a system of effective reporting and remedial actions where appropriate. In this regard, there must be serious penalties for those who intentionally deprive these rights especially for the vulnerable. Indeed, the progressive realization of the right to food in particular and other social and economic rights, whether at the national, sub-regional or household level, will require the government to address selected critical arrears ranging from the character of the Ugandan state to national policy, including the rural development strategy, food self-sufficiency, and the conservation of genetic resources.

4.1.9 How to increase food security

There must be intensity of research to increase food security. The pursuance of classical neo-liberal economic policies in the absence of a rights-based approach to policy formulation and policy implementation can only aggravate the food rights situation in the country. Future research should therefore seek to understand the legal and human rights basis for selected economic policies and their implications for the progressive realization of the right to food in Uganda.

4.1.10 Understanding the legal basis and the status of population control

Food is the condition within which a discourse on the right to food becomes meaningful. What is needed therefore is more action-based multi-disciplinary research on the right to food focusing mainly on seeing to understand the legal basis and the status of control of the critical means of production. There is consequently a need to convene high level policy dialogues on the right to food and nutrition security targeting selected audiences such as senior level policy makers, legislators, local government leaders and civil society

organizations. This process would help move the discourse on the right to food from the Constitutional and other policy frameworks to the realm of planning and implementation.

4.1.11 Facilitation and provision of the needs for children

In order to fulfill the food needs of the population the state must both facilitate and provide for the people. Facilitation and provision are the long and short-term solutions to food shortages and malnutrition. The judicial intervention by the SC has provided impetus to policy change as well as to ensure effective implementation of the governmental obligations. But it is not normally available to ordinary people on a local basis. Therefore, government should establish effective mechanisms for assuring the realization of the right to adequate food in Uganda. Finally, a human rights approach implies accountability both at the domestic and international level through a system of effective reporting and remedial actions where appropriate.

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APPENDIX 1

QUESTIONNAIRE FOR CHILDREN

Dear Child,

This questionnaire is for the purpose of obtaining information that will assist to write a dissertation that is a partial fulfillment for the Degree of Law of Kampala International University. It is not meant for any other purpose; and the information provided herein will be kept with utmost confidentiality. You are therefore kindly requested to cooperate in answering the questions honestly to provide the required information. The topic of study is *“IMPLEMENTATION OF CHILDREN’S RIGHT TO FOOD IN UGANDA: A CASE STUDY OF MBALE DISTRICT”*.

1. Sex: Male Female

2. Age (in complete years)

3. Class

4. Which meals do you have at home?

a) Breakfast ☐

b) Lunch ☐

c) Evening tea ☐

d) Supper ☐

5. Are your Parents staying together?

Yes ☐ No ☐

6. Are you staying with both parents in the same home?

Yes ☐ No ☐

7. Where is the food you eat from home sourced from?

Garden ☐ Market ☐

8. If bought from the market, what is the rate of the food bought from the market?

High ☐ Low ☐ Moderate ☐

9. Do you occasionally delay to have meals at home?

Yes ☐ No ☐

10. If yes, what do you consider to be the cause of delayed eating of food at home?

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.....

Explain how the above affects you

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How are you able to cope with this food shortage at home?

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.....

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.....

13. Suggest ways in which this situation should be improved.

.....

.....

.....

Thank You for Your Cooperation

APPENDIX II

QUESTIONNAIRE FOR PARENTS

Dear parents,

This questionnaire is for the purpose of obtaining information that will assist to write a dissertation that is a partial fulfillment for the Degree of Law, Kampala International University. It is not meant for any other purpose; and the information provided herein will be kept with utmost confidentiality. You are therefore kindly requested to cooperate in answering the questions honestly to provide the required information. The topic of study is ***"IMPLEMENTATION OF CHILDREN'S RIGHT TO FOOD IN UGANDA: A CASE STUDY OF MBALE DISTRICT"***

1. Sex: Male ☐ Female ☐

2. Number of children

3 Your age (in complete years).....

4 Ages of children

5 Do you know anything about children's right to food?

Yes ☐ No ☐ Sometimes ☐

6. What are the main rights that children have to food in your view?

7. Do you implement these rights at home?

Yes ☐ No ☐

8. Do you stay with your spouse?

Yes ☐ No ☐

9. If yes do you think these impacts on your children's right to food?

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.....
.....

10. If no do you think these impacts on your children's growth and stability?

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.....

11. What is the rate at which children miss food in your community?

High ☐ Low ☐ Mild ☐

12. What do you consider to be the cause of this?

.....
.....
.....

13. Explain how the above affects the growth of children?

.....
.....
.....

15. Suggest ways in which this situation should be

.....
.....
.....

THANK YOU FOR YOUR COOPERATION

APPENDIX III

SAMPLE INTERVIEW GUIDE FOR THE COMMUNITY LEADERS LIKE LCS, HUMAN RIGHTS ACTIVISTS AND NGOS

The questions that this study hopes to answer are:

- Are there sufficient legal instruments for protection of children's right to food?
- What Municipal and international legislation do you consider most relevant in the protection of children's rights?
- Are the laws in their current form capable of protecting children's right to food?
- What are the major factors affecting the efficacy of the children's access to food?
- What do you consider should be done to strengthen children's access to food in Uganda and internationally?