



FIAN ZAMBIA 2024

CASE REPORT 2024

IMPACT OF DROUGHTS IN NYIMBA DISTRICT, EASTERN PROVINCE, ZAMBIA.

ANALYSIS OF THE NYIMBA CASE FROM A HUMAN RIGHTS PERSPECTIVE



FIAN
INTERNATIONAL
ZAMBIA



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LIST OF ACRONYMS

ACPHR: African Commission on People and Human Rights

CEDAW: International Covenant on the Elimination of All forms of Discrimination against Women

CRC: Convention on the Rights of a Child

FISP: Farmers Input Support Programme

FSP: Food Security Pack

FAO: Food and Agriculture Organisation

FPIC: Participatory Consultation and Free Prior and Informed Consent

GMA: Game Management Area

IDC: Industrial Development Corporation

ICCPR: International Covenant on Civil and Political Rights

ICESCR: International Covenant on Economic Social and Cultural Rights

RtFN: Right to Food and Nutrition

UNDROP: United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas

UN: United Nations

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INTRODUCTION

FIAN Zambia is human rights organization that has advocated for the realization of the right to food. FIAN's mission is to expose violations of people's right to food wherever they may occur. FIAN stands up against unjust and oppressive practices that prevent people from feeding themselves. The struggle against gender discrimination and other forms of exclusion is integral part of FIANs' mission. FIAN strives to secure people's access to the resources that they need in order to feed themselves, now and in the future. FIAN envisions a world free from hunger and malnutrition, in which every person fully enjoys all human rights, particularly the human right to food and nutrition, alone, in association with others, or as a community, in dignity and self-determination. In pursuit of this vision, FIAN follows a case-based human rights approach by documenting and analysing concrete violations of the right to food and nutrition. FIAN identifies and addresses human rights violations, interviews people threatened or affected by violations of their right to food and nutrition and verifies the facts of a situation. Face-to-face contacts with local counterparts are established and serve as a basis for trustful collaboration. On the request of those affected, FIAN reacts quickly, analyses cases, and mobilizes members and supporters worldwide. Violations are also followed-up in long-term casework. In close collaboration with the affected communities, FIAN persistently approaches the responsible authorities and identifies breaches of obligations flowing from the right to food and nutrition.

FIAN Zambia is implementing the Stronger Together: Supporting Civil Society to advance the right to food for all individuals, households and communities in Zambia Project that is supported by Swedish International Development Corporation Agency (SIDA) through We Effect.

Between in December 2023 and March 2024, FIAN Zambia undertook fact-finding mission to assess the situation of the right to food in Nyimba district. Nyimba District is among the district heavily affected by droughts in the 2023-2024 farming season. Nyalungwe Chiefdom in Eastern province of Zambia is among the heavily affected areas with the drought.

The communities visited are located in Chief Nyalungwe's Chiefdom, from the following; Sichelunzi, Mikwaya, Kwa Malipa, Sivili, Chimuna, Katyola, Mutuulumwale, Mwalanga Mwala, Paloba Njoka, Mutuutumali, Mikwala, Sirgen, Peturo, Kausa, Nyamalila, Tizolo, Nyaigwele, Chusi, Kantukilo, Musonda, Lamek, Chilungwe, Muzenge, Kanavette, Nyalugwe and Kausausamula village.

EXECUTIVE SUMMARY

In 2022/2023 season Zambia started experiencing floods at the beginning of January, 2023 following an increase in the frequency and intensity of the rains. Flash and riverine floods have since affected at least forty-one districts across the country with the most severe impact experienced in the Southern Province, Central Province and some parts of Lusaka Province, the Eastern Province and the Western Province.¹

The recent floods have caused extensive damage, particularly affecting food security. Key impacts include the submerging of crop fields, destruction of critical infrastructure, and loss of livestock. This disruption has significantly hindered livelihoods, leading to food shortages, loss of nutrition, and displacement of both people and animals. Tragically, eight lives were lost in Sinazongwe, Mushindamo, and Lusaka.

As at 2nd March, 2023, about 373,581 people representing 62,264 households have been affected by floods. In addition, 600,000 livestock were at risk.² In the Southern Province alone, 2,881 cattle have died from tick-borne diseases due to flooded dip tanks and at least, fifty-five from drowning due to rising water levels. Over 278,863 acres of crop fields have been adversely affected by the on-going flooding.

In the water sector, four dams were breached with sixty-eight at risk of being breached due to their compromised structural integrity. In the road and transport sector, a total of nine-four roads infrastructure such as roads, crossing points and bridges have been damaged or washed away hindering economic activities and disrupting the normal functioning of some communities.

Twenty-two camps for the Internally Displaced Persons (IDPs) were established in the Southern Province accommodating about 7,458 people representing 1,479 households. In Mambwe District in the Eastern Province, 474 people representing about 79 households;

203,914 people were in need of immediate food relief, 160,070 people were in need of support to access clean drinking water, 7,458 in need of shelter, 3,444 people were unable unable to access schools in some flooded areas across the country.

¹ Richard Davies (2023), Zambia – “Catastrophic Situation” After Floods Hit Southern and Central provinces, accessed on 27th December 2024, <https://floodlist.com/africa/zambia-floods-southern-central-province-january-2026>

² Mwiche Nalwimba (2023), 600,000livestock at risk due to flooding – DMMU, accessed on 27th December 2024, <https://diggers.news/local/2023/02/24/600000-livestock-at-risk-due-to-flooding-dmmu/>

In the 2022/2023 season Government of Zambia declared a declared the drought situation a national emergency and disaster. In his address President Hichilema indicated that the this drought has devastating consequences on many critical sectors such as agriculture, water availability, and energy supply, risking our national food security and livelihoods of millions of our people.

The dry spells have affected 84 districts in Lusaka, central, copperbelt eastern, north-western, western, and southern provinces. at national level the estimated planted area for maize is 2.2 million hectares and of this, approximately 1 million hectares has been destroyed affecting over affecting over 1 million of our farming households. equally affected is the energy sector that is expected to have a deficit of around 430 megawatts of electricity, potentially reaching more than 520 megawatts by december 2024.

The drought conditions have also affected the availability of both ground and surface water, pasture for livestock and wildlife and has potential to increase the incidence of human and animal conflict, as well as disease. the drought compounds the challenges the country was already facing, such as the covid-19 pandemic, it is also diverting resources initially intended for accelerating economic and social development.

Nyalungwe Chieftdom in Eastern province of Zambia is among the heavily affected areas with the drought. The villages of T: Sichilunzi, Mikwaya, Kwa Malipa, Sivili, Chimuna, Katyola, Mutuulumwale, Mwalanga Mwala, Paloba Njoka, Mutuutumali, Mikwala, Sirgen, Peturo, Kausa, Nyamalila, Tizolo, Nyaigwele, Chusi, Kantukilo, Musonda, Lamek, Chilu, Muzenge, Kanavette, Nyalugwe and Kausausamula have experienced divastating impacts. These impacts range from access and availability of food, extreme hunger, loss of seed resources, lack of pasture for animals, drying of water wells, loss of livelihoods. These factors put challenges for the enjoyment of the right to food and nutrition as outlined in the International Covenant on Economic Social and Cultural Rights. Heavy reliance on maize production is one of the major factors contributing to the already difficult situation. Maize is one of the severely affected crops.

Human dignity has been lost as people are not able to feed themselves, and government response measures have not had any positive impacts for the community.

This report recommends a change in the food systems to move away from dependency on maize to other climate resilient crops such as sorghum, millet, cassava. And the farmer Input Support Programme and the Food Reserve Agency should be used to promote the transformation of the country's food system. Government should put in place strong public response strategy on climate related impact.

RIGHT TO FOOD AND NUTRITION IN ZAMBIA

WHAT IS THE RIGHT TO FOOD?

The right to adequate food is realized 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.³

According to the United Nations Special Rapporteur, the right to have regular, permanent and free access to, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.

The right to food means that national governments have legal obligations to protect the capacity of people to feed themselves, and to provide emergency humanitarian support in times of need when people are unable to feed themselves. Where countries do not have sufficient resources, appeals must be made to the international community, which also has the duty to respond to the extent that resources permit. The right to food is a human right that must be guaranteed by governments to the best of their ability. A rights-based approach to food security emphasizes the satisfaction of people's basic needs as a matter of rights, rather than of benevolence.⁴

There are three main elements on the right to food, Food must be available, accessible and adequate;

Availability requires on the one hand that food should be available from natural resources either through the production of food, by cultivating land or animal husbandry, or through other ways of obtaining food, such as fishing, hunting or gathering. On the other hand, it means that food should be available for sale in markets and shops.

Accessibility requires economic and physical access to food to be guaranteed. Economic accessibility means that food must be affordable. Individuals should be able to afford food for an adequate diet without compromising on any other basic needs, such as school fees, medicines or rent. For example,

Affordability of food can be guaranteed by ensuring that the minimum wage or social security benefit is sufficient to meet the cost of nutritious food and other basic needs. Physical accessibility means that food should be accessible to all, including to the physically vulnerable, such as children, the sick, persons with

³ OHCHR fact no 16 (Rev.1) The Committee on Economic Social and Cultural Rights

⁴ FAO, 2004

disabilities or the elderly, for whom it may be difficult to go out to get food. Access to food must also be guaranteed to people in remote areas and to victims of armed conflicts or natural disasters, as well as to prisoners. For example, to guarantee physical access to food to people living in remote areas the infrastructure could be improved, so that they can reach markets by public transport.

Adequacy means that the food must satisfy dietary needs, taking into account the individual's age, living conditions, health, occupation, sex, etc. For example, if children's food does not contain the nutrients necessary for their physical and mental development, it is not adequate. Food should be safe for human consumption and free from adverse substances, such as contaminants from industrial or agricultural processes, including residues from pesticides, hormones or veterinary drugs. Adequate food should also be culturally acceptable.

THE RIGHT TO FOOD IN INTERNATIONAL LAW

THE RIGHT TO FOOD IS A FUNDAMENTAL ASPECT OF INTERNATIONAL HUMAN RIGHTS LAW AND IS CLOSELY LINKED TO OTHER ESSENTIAL RIGHTS, SUCH AS THE RIGHT TO LIFE AND HEALTH. ZAMBIA HAS RATIFIED KEY INTERNATIONAL TREATIES THAT RECOGNIZE THESE RIGHTS, INCLUDING THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR, 1966) AND THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR, 1966) ON 10 APRIL 1984. ZAMBIA ALSO RATIFIED THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW, 1979) ON 21 JUNE 1985, AND THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC, 1989) ON 6 DECEMBER 1991. THESE COMMITMENTS OBLIGATE ZAMBIA TO ENSURE ACCESS TO ADEQUATE FOOD, WATER, A HEALTHY ENVIRONMENT, AND THE PROTECTION OF WOMEN'S AND CHILDREN'S RIGHTS.⁵

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR, 1948) SERVES AS A FOUNDATION FOR RECOGNIZING THE RIGHT TO FOOD GLOBALLY. WHILE NOT LEGALLY BINDING, IT SIGNIFICANTLY INFLUENCED SUBSEQUENT HUMAN RIGHTS INSTRUMENTS. ARTICLE 3 OF THE UDHR ASSERTS THE RIGHT TO LIFE, AND ARTICLE 25 EMPHASIZES THE RIGHT TO AN ADEQUATE STANDARD OF LIVING, INCLUDING FOOD.⁶ THESE PRINCIPLES WERE LATER CODIFIED IN THE ICESCR, PARTICULARLY IN ARTICLE 11, WHICH GUARANTEES THE RIGHT TO AN ADEQUATE STANDARD OF LIVING, INCLUDING ADEQUATE FOOD. THE UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS ELABORATED ON THIS IN GENERAL COMMENT NO. 12 (1999), OUTLINING STATE OBLIGATIONS TO RESPECT, PROTECT, AND FULFILL THE RIGHT TO ADEQUATE FOOD.⁷

THE ICCPR, UNDER ARTICLE 6, ALSO AFFIRMS THE RIGHT TO LIFE, WHICH HAS BEEN INTERPRETED TO INCLUDE ACCESS TO ESSENTIAL GOODS AND SERVICES LIKE FOOD AND WATER. GENERAL COMMENT NO. 36 (2018) FURTHER CLARIFIES THAT MEASURES TO ENSURE THE RIGHT TO LIFE MUST ADDRESS MALNUTRITION AND PROVIDE ACCESS TO ESSENTIAL NUTRITION.⁸ SIMILARLY, THE CRC ADDRESSES CHILDREN'S NUTRITIONAL RIGHTS UNDER ARTICLE 24, REQUIRING STATES TO COMBAT MALNUTRITION THROUGH MEASURES SUCH AS PROVIDING NUTRITIOUS FOOD, PROMOTING BREASTFEEDING, AND MANAGING SEVERE MALNUTRITION. GENERAL COMMENT NO. 15 (2013) ELABORATES ON THIS OBLIGATION, EMPHASIZING CULTURALLY APPROPRIATE AND SAFE FOOD ACCESS FOR CHILDREN.⁹

⁵ International Covenant on Economic, Social and Cultural Rights (1966); International Covenant on Civil and Political Rights (1966); Convention on the Elimination of All Forms of Discrimination against Women (1979); Convention on the Rights of the Child (1989).

⁶ Universal Declaration of Human Rights (1948), Articles 3 and 25.

⁷ International Covenant on Economic, Social and Cultural Rights (1966), Article 11; General Comment No. 12 (1999).

⁸ International Covenant on Civil and Political Rights (1966), Article 6; General Comment No. 36 (2018).

⁹ Convention on the Rights of the Child (1989), Article 24; General Comment No. 15 (2013).

WOMEN'S NUTRITIONAL RIGHTS ARE EXPLICITLY ADDRESSED IN CEDAW. GENERAL RECOMMENDATION NO. 24 (1999) HIGHLIGHTS THE IMPORTANCE OF ENSURING WOMEN'S NUTRITIONAL WELL-BEING, PARTICULARLY DURING PREGNANCY AND LACTATION. IT UNDERScores THE NEED TO COMBAT DISCRIMINATION AND IMPROVE ACCESS TO FOOD AS PART OF ADVANCING WOMEN'S HEALTH AND WELL-BEING.¹⁰

AT THE REGIONAL LEVEL, THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (1981) IMPLICITLY RECOGNIZES THE RIGHT TO FOOD THROUGH ITS PROVISIONS ON THE RIGHT TO LIFE, HEALTH, AND SOCIO-ECONOMIC DEVELOPMENT. THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS HAS INTERPRETED THESE PROVISIONS TO INCLUDE MEASURES TO ELIMINATE MALNUTRITION.¹¹ ADDITIONALLY, THE COMMITTEE AGAINST TORTURE HAS EMPHASIZED THAT THE LACK OF ADEQUATE FOOD IN PRISONS CONSTITUTES INHUMAN AND DEGRADING TREATMENT UNDER THE CONVENTION AGAINST TORTURE (1984).¹²

THESE INTERNATIONAL INSTRUMENTS AND INTERPRETATIONS COLLECTIVELY HIGHLIGHT THE IMPORTANCE OF THE RIGHT TO FOOD AS A CORNERSTONE OF HUMAN DIGNITY AND DEVELOPMENT. ZAMBIA, AS A SIGNATORY TO THESE TREATIES, IS OBLIGATED TO ADOPT MEASURES THAT ENSURE FOOD SECURITY AND ADDRESS MALNUTRITION WHILE ADVANCING THE BROADER RIGHTS TO LIFE, HEALTH, AND EQUALITY.

THE RIGHT TO FOOD IN DOMESTIC LAW

The Constitution of Zambia, as the supreme law of the land, renders any law inconsistent with its provisions void. Adopted in 1991 and amended in 1996, 2009, and 2016, the Constitution contains a Bill of Rights that recognizes fundamental civil and political rights but does not expressly include economic, social, and cultural rights, including the right to food. As a result, the right to food lacks constitutional recognition in Zambia.¹³

Zambia follows a dualist system for international treaty obligations, requiring domestication before treaties have legal effect within its jurisdiction. The Ratification of International Agreements Act, No. 34 of 2016, provides a framework for the ratification and domestication of treaties signed after its enactment. Despite this progress, domestication of international instruments remains critical for their enforcement in national courts.¹⁴

Customary law is recognized under the Local Courts Act of 1996, allowing its application in judicial settings. However, this dual legal system presents challenges, as conflicts between customary and statutory laws often arise. The

¹⁰ Convention on the Elimination of All Forms of Discrimination against Women (1979), General Recommendation No. 24 (1999).

¹¹ African Charter on Human and Peoples' Rights (1981), interpreted by the African Commission.

¹² Convention against Torture (1984), as interpreted by the Committee against Torture.

¹³ Zambia Constitution (Amended 2016).

¹⁴ Ratification of International Agreements Act, No. 34 of 2016.

lack of updated rules governing such conflicts undermines judicial remedies and citizens' effective access to justice.¹⁵

Efforts to broaden human rights protections faced a significant setback in 2016 when Zambians voted against a proposed constitutional amendment to include economic, social, and cultural rights, such as the right to food, in the Bill of Rights. Consequently, the right to food remains non-justiciable under Zambia's Constitution.

While Zambia ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1984, its provisions are not self-executing, and individuals cannot invoke them in court without domestication. This limits the enforceability of the state's obligations under the Covenant, including respecting, protecting, and fulfilling the right to food.

Despite these limitations, a landmark judgment by the Zambian Supreme Court in *George Peter Mwanza and Melvin Beene v. Attorney General* (2019) highlighted the right to food in a specific context. The case involved two HIV-positive prisoners who claimed the state-provided food was inadequate and failed to meet their nutritional needs, violating their constitutional rights to life and freedom from inhuman and degrading treatment. The court ruled in their favor, holding that the right to life encompasses the right to nutrition. Although limited to the unique circumstances of the case, this precedent underscores the potential for legal avenues to enhance nutrition rights in Zambia.¹⁶

The Committee on Economic, Social and Cultural Rights (CESCR) General Comment 12 emphasizes the need for a framework law to implement the right to food, outlining objectives, targets, timelines, monitoring mechanisms, and recourse procedures. However, Zambia lacks dedicated framework legislation for the right to food.¹⁷

The Second National Agricultural Policy (2016) aims to reduce food and nutrition insecurity but does not meet the CESCR framework standards. Among the 63 Acts passed by the Zambian Parliament between May 2017 and December 2019, only two address economic, social, and cultural rights.¹⁸ The Food Safety Act No. 7 of 2019 defines food safety standards, while the Food and Nutrition Act No. 3 of 2020 explicitly promotes the right to food and nutrition and the implementation of related international treaties. Legislative processes, under the direct control of the state, could provide a more impactful route to realizing the right to food in Zambia.

RIGHT TO FOOD FROM POLICY PERSPECTIVE

¹⁵ Local Courts Act of 1996

¹⁶ *George Peter Mwanza and Melvin Beene v. Attorney General*, Supreme Court of Zambia, 2019.

¹⁷ Committee on Economic, Social and Cultural Rights, General Comment 12 (1999).

¹⁸ Second National Agricultural Policy (2016)

The national guiding Vision 2030 (2006) is based on 'respect for human rights' as one of seven basic principles, establishing the foundation for Zambia's long-term development strategy. The Seventh National Development Plan (2017) builds on this vision and articulates more specific goals, including ensuring rights to education, health, development for family farmers and farm workers, economic resources, access to basic services, and ownership and control over land.¹⁹ The Zambia National Health Policy (2012) recognizes that the Zambian constitution guarantees the right to life and health, although it does not consistently invoke rights language throughout the document.²⁰

Rights are invoked more explicitly in the country's National Food and Nutrition Policy (2008), which states, "the Government reaffirms that equity of access to food and nutrition is a basic human right" and emphasizes that "its citizens have a right to adequate and safe food supply."²¹ However, the National Food and Nutrition Strategic Plan (2011), which operationalizes the policy, only notes that "the use of the rights-based approach has also been identified as a catalyst" to achieving nutrition targets. Additionally, the 1,000 Most Critical Days Programme (2013), a key outcome of the strategy, does not explicitly mention rights.²²

On 9th October 2018, the Minister of Agriculture gave a Ministerial Statement on the floor of the National Assembly regarding food and nutrition programs. The Statement acknowledged Zambia's high burden of undernutrition, particularly among children under five years old. The Statement outlined several initiatives to combat undernutrition, including:

- (i) promotion of the production and consumption of diverse foods at the household level for improved nutrition,
- (ii) development of recipes using traditional foods and compilation of recipe books for dissemination to communities,
- (iii) promotion of the cultivation of bio-fortified crops to improve accessibility to foods that address micronutrient deficiencies,
- (iv) promotion of value addition through food processing, preservation, and improved storage technologies, and
- (v) implementation of the Scale-Up Nutrition and the first 1,000 Most Critical Days Programme from 2014 to 2017.²³

The Second National Agricultural Policy (2016-2025) aims to ensure that the country meets its food and nutritional goals, including the right to adequate and

¹⁹ Seventh National Development Plan (2017)

²⁰ Zambia National Health Policy (2012)

²¹ National Food and Nutrition Policy (2008)

²² National Food and Nutrition Strategic Plan (2011)

²³ Ministerial Statement by the Minister of Agriculture, October 9, 2018

nutritious food as one of its guiding principles. The Government of Zambia has identified the agricultural sector as a key driver for diversifying the economy.²⁴

The Government allocates around 53% of the budget to the Ministry of Agriculture for input support to farmers. The Farmer Input Support Programme provides subsidized inputs to at least 1.6 million smallholder farmers, either through the conventional approach or a new E-voucher system. Under the new system, which was intended to replace the conventional approach entirely by the end of 2017, farmers are issued pre-charged cards to purchase inputs from authorized agro-dealers. However, the new system has faced challenges in its implementation, particularly due to a lack of technological infrastructure.²⁵

In Zambia, the most recent public figures indicate that between 85% and 90% of land is under customary tenure, with the remainder constituting State land. According to the 1995 Lands Act, all land in Zambia is administered and controlled by the President or by traditional chiefs for the direct or indirect use or common benefit of all people.²⁶

The land tenure system provides that landholders on State land enjoy full protection of their property rights, whereas those under customary tenure are considered occupants and users without the same level of legal protection. There is also a lack of agreed-upon documentation to protect customary land at the family, village, and chiefdom levels. Under the 1995 Land Act, no land may be sold, transferred, or assigned without the President's consent. The President must consult with any affected persons before converting customary land to State land.²⁷

ABOUT NYIMBA DISTRICT

DEMOGRAPHIC SITUATION OF NYIMBA

Nyimba District has an estimated population of 136,238 out of which 68,371 are females and 67,867 are males (Zamstast 2022).

The Nyimba District, which was chosen as the landscape for study, is 10,509 km² in area and is located in Eastern Province of Zambia. It is the second largest district in this province. The agrarian history of Nyimba cannot be separated from that of Zambia's Eastern Province and therefore some brief aspects pertaining to the Eastern Province are covered here. The Eastern Province of Zambia sits on the country's Eastern Plateau, at an

²⁴ Second National Agricultural Policy (2016-2025)

²⁵ Farmer Input Support Programme and E-Voucher System (2017)

²⁶ 1995 Lands Act

²⁷ 1995 Lands Act

altitude of ≥ 900 masl with a small section of the province located in what is known as the Luangwa valley (part of the Rift Valley) at an altitude of ≤ 600 masl. The Eastern Province was one of the country's first areas to grow improved maize varieties and use chemical fertilizers. Used initially by the province's large-scale farmers in the early 1960s, such technologies would only come to smallholder farmers a decade later, until then they continued to grow traditional maize varieties (Harvey 1973; Kumar 1994; Rainer et al. 1999). The post-independence period witnessed a greater focus on improving the livelihoods of smallholder farmers through agriculture (Sitko and Jayne 2014). This meant that the maize production base was expanded in the Eastern Province so much that by the late 1980s and early 1990s, the province had earned the title of the nation's maize basket (Saasa 2003). This trend has continued and as late as the 2009/2010 cropping season, some 20% and 40% of smallholder farmers used hybrid seed and fertilizer, respectively, and produced 420 tons of maize in the same season (Tembo and Sitko 2013). Agrarian change across Zambia has largely been seen through the adoption of improved maize varieties, agrochemical use and increased utilization of draft power by smallholder farmers (Kumar 1994; World Bank 1995; Saasa 2003; GRZ 2004, 2013; Sitko and Jayne 2014).

ECONOMIC ACTIVITIES

Nyimba District is predominantly known for agrarian, making it very rich in agricultural produce for both domestic and commercial value. Farmers in the district are known for banana, sunflower, soya beans, groundnuts, maize and mango processing.

Nutrition Measures

The 2007 Demographic and Health Survey revealed that 89.7% of children aged 6 to 35 months in the Eastern Province consumed foods rich in vitamin A, while 45.5% consumed iron-rich foods (CSO et al., 2009). Furthermore, 61.4% of children under five years of age received vitamin A supplements within six months of the study, and 64.0% took deworming medicine within the same period (CSO et al., 2009).

Breastfeeding was a common practice among mothers, with 98.3% breastfeeding their children, and the average breastfeeding duration was reported as 21 months (CSO et al., 2009). For women, the Body Mass Index (BMI) assessment found that 6.6% were underweight, 14.4% were obese, and 79% were classified as having a normal BMI (CSO et al., 2009).

Indicators of Malnutrition

The 2013/14 Demographic and Health Survey found that 17.4% of children

under six years of age in the Eastern Province were stunted, and 43.3% were severely stunted. The national averages for stunting were slightly lower, at 17.2% and 40.1%, respectively (CSO et al., 2014).

Wasting was identified in 5.0% of children, with 6.0% classified as severely wasted. Additionally, 2.2% of children were found to be underweight, and 12.8% were severely underweight (CSO et al., 2014).

2023-2024 DROUGHT SITUATION IN ZAMBIA

The forecast for Zambia 2023-2024 highlighted that the El Niño climate phenomenon, which warms the Pacific Ocean, would impact the rainfall pattern. This influence would lead to below-average rainfall, accompanied by short episodes of heavy rain and long dry spells.²⁸

The impact of El-Niño is not a new phenomenon to Zambia. In the 2015/16 farming season the impact of El-Niño resulted in reduced water levels at Kariba that resulted in a national wide load shedding schedule of up to 12 hours per day. Our farmers were hard hit resulting in a 39 percent drop in agriculture output and a 28 percent decline in the country's Gross Domestic Product (GDP). The drought costed the Zambian government around US\$300 million to stabilise the social-economic fundamentals of the economy.

How does climate change influence El Niño? The relationship between climate change and stronger El Niño is a topic of ongoing scientific research. While there is no definitive agreement in the scientific community, recent studies suggest that global heating may be leading to stronger El Niño events.

In 2023 Zambia was grappling with a severe drought that has been declared a national emergency due to its far-reaching impact across multiple sectors. The drought has devastated critical areas of the economy, particularly agriculture, energy, and water resources, placing millions of livelihoods at risk.

In agriculture, dry spells have affected a significant portion of the country, with over 84 districts experiencing reduced rainfall. The staple crop, maize, has been severely impacted, with nearly half of the estimated 2.2 million hectares of planted maize destroyed. This loss directly affects over one million farming households, threatening national food security.

The energy sector was also under significant strain, as reduced water levels in reservoirs compromise hydroelectric power generation. Current projections indicate a power deficit of approximately 430 megawatts, which could increase to more than 520 megawatts by

²⁸ El-Niño is a phenomenon that happens when sea temperatures rise significantly in the Pacific Ocean off South America resulting in dry air which affects the rain formation process globally. The phenomenon is associated with extreme weather conditions of droughts and floods. It is usually associated with abnormal rainfall in the Horn of Africa, parts of Southern Africa, Central Asia as well as several other regions. On the other hand, it is associated with droughts in parts of Southern Africa, Central Asia as well as several other regions.

the end of 2024. This shortfall exacerbates the ongoing energy crisis, further impacting households and businesses already struggling with prolonged power outages.

Water scarcity is another critical concern, as both surface and groundwater resources have been depleted. The resulting lack of pasture for livestock and wildlife heightens the risk of human-animal conflicts and disease outbreaks, compounding the challenges faced by rural communities.

The drought intensifies pre-existing national challenges, such as the economic recovery from the COVID-19 pandemic, by diverting resources from essential development initiatives to crisis management. This underscores the urgency for coordinated efforts to mitigate the impact of the drought and build resilience against future climate-related disasters.²⁹

SHORT-TERM MEASURES RESPONSE IN THE DROUGHTS BY PRESIDENT HAKAINDE HICHILEMA

1. Channelling more resources towards humanitarian relief purposes. to ensure that our affected citizens do not go hungry.
2. Importing additional electricity and rationing energy use as well as promoting alternative energy sources.
3. Ensuring that citizens do not engage in bush burning.
4. Source additional maize and other food to mitigate the deficit.
5. Leveraging Zambia's defence forces to expand irrigation schemes as a way to increase food production.
6. Farmers across the country to embark on planting early and winter maize through various forms of irrigation.
7. Ministry of community development and social welfare to enhance the numbers under the social cash transfer so that more vulnerable people are covered.
8. The Food Reserve Agency will enhance community sales to the vulnerable and work hand in hand with the DMMU on the provision of purchasable maize in the communities.
9. calling upon our partners, local and international to avail food and other support that they may have, in order to provide the needed relief.

LONGER TERM MEASURES

1. Focus on enhancing water harvesting mechanisms to enable precision and other irrigation development so as to stimulate agricultural production. specifically, we will aggressively increase investment in water harvesting, genetics, and technology to support irrigation and productivity improvements.
2. Increase the provision of FISP and soft agriculture loans to our citizens for mechanisation and increased productivity.

²⁹ Zambia's President Hakainde Hichilema declared the drought a national disaster on 29 April 2024, citing its widespread consequences on agriculture, energy, and water resources.

3. Accelerate the development of alternative energy sources such as solar, wind and others. to achieve these measures,
4. Realign the 2024 national budget.

KEY FINDINGS FROM NYIMBA

Nyimba districts has good agriculture production and the people do not have any other economic means besides agriculture and fishing. Over the years the changes to the climate have affected most parts of Zambia and thus the drought of 2023/2024 farming seasons has severely affected nyimba. Some of the works affected villages include, Sichilunzi, Mikwaya, Kwa Malipa, Sivili, Chimuna, Katyola, Mutuulumwale, Mwalanga Mwala, Paloba Njoka, Mutuutumali, Mikwala, Sirgen, Peturo, Kausa, Nyamalila, Tizolo, Nyaigwele, Chusi, Kantukilo, Musonda, Lamek, Chiluh, Muzenge, Kanavette, Nyalugwe and Kausausamula. FIAN Zambia visited 21 villages and these are composed of 700 households. These households produce food on a combined size of approximately 700 hectares of land.

These households in the villages depend on agriculture, they produce food for domestic use and sale. Before the droughts the affected persons narrated being able to afford to feed themselves, take their children to school, pay for education, access water for domestic use and afford other basic needs for their families.

The 2023-2024 droughts have severely affected the people of Nyimba district, majority of the people are unable to feed themselves. The droughts have negatively affected the availability of food at household and community level. Majority of the households that have an average family size of eight people, eat at least one meal a day. When there is nothing to eat, they eat seasonal and wild fruits such as mangoes and bananas.

The information on the drought was not received timely by most of the respondents and therefore they could not adjust their farming practices. Therefore, the input used in farming have been wasted including; seed, labour, fertiliser and money.

The Villages presented the following grievances:

Loss of Seed diversity

As a common practice farmer in Zambia preserve their own seed for use in the forthcoming seasons. Because of the droughts most farmers have not been able to harvest and preserve seed for the coming season. Most households rely on maize and government programs support monocropping.

Hunger

Majority of the households do not have food to feed themselves and their families. This situation is worsened by the currently high cost of food items

and unavailability of the staple food maize. Majority of households are starving as alternative wild fruits and vegetables are not available too.

Education

Due to hunger, children are unable to go to school and learn. In other instances, guardians and parents have failed to meet financial commitments to send their children to school. While children spend considerable amount of time hunting for wild food.

Lack of drinking Water

Availability of water in the wells has reduced and the affected people have to depend on open water bodies, the Luangwa River to fetch water for domestic uses.

Loss of crop fields

Crop fields have been lost, from the visit an approximately 700 hectors of land was cultivated. The crops grown include maize, groundnuts, soyabeans, sunflower. An annual harvest of their fields provide the families with sufficient food and income for a year until the next farming season. All the farmers depend on annual rains to grow food.

Loss of capital

The communities visited are self employed farmers, they lack skills to in engage other economic activities. These farmers produce an average of one hector of land. This costs them about 5,800 Kwacha production costs per hector. The cost is composed of four (4) bags of fertiliser, bags of seed, labour and chemicals. On an average hectareage of 700, these farmers have lost approximately Zambian Kwacha 4,060,000.

Pasture of animals

Pasture for animals is not available, most of the households are resorting to sell their domestic animals.

Biodiversity loss

The drought has disturbed the availability of indigenous foods in the area. It is feared that in the coming years some of the indigenous food may not grow.

Government responses

In responding to the drought, government has introduced low cost subsidized maize meal. Unfortunately for the people of Nyimba this maize meal is not available. They have to travel long distances and spend approximately 100 Zambian kwacha to access this maize meal. The mealie meal (Zambia staple food) is not readily available and in other instances they have to spend nights in the designated selling places in order to purchase the maize meal.

ANALYSIS OF THE GRIEVANCES FROM A HUMAN RIGHT PERSPECTIVE

LEGAL HUMAN RIGHTS FRAMEWORK

INTERNATIONAL: Zambia is a state party and signatory to the following; International Covenant on Economic, Social and Cultural Rights (CESCR), the African Charter on Human and Peoples Rights (ACHPR), Convention on the Elimination of All forms of Discrimination Against Women (CEDAW), Convention on the Rights of a Child (CRC), United Nations Framework Convention of Climate Change (UNFCCC), Universal Declarations of Human Rights (UDHR), Convention on the Rights of Persons with Disabilities (CPRD), United Nations Declarations on the Rights of Peasants and other People living in Rural Areas (UNDROP). Given the above the state of Zambia has the responsibility to respect, fulfil and protect human rights.

The right to food has been a part of the corpus of the international human rights law since the adoption of the Universal Declaration of Human Rights (UDHR) in 1948. The right was first recognised in Article 25(1) of the UDHR as part of the right to an adequate standard of living. Subsequently, it was codified in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the first legally binding instrument that deals comprehensively with the right to food. Article 11 provides:

According to the committee on ESCR, the right to adequate food is realized 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.

Article 22 African Charter on Human and People's Rights; All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.

Aside from the UDHR and the ICESCR, the right to food has been incorporated into various other international instruments. For instance, CEDAW deals with nutritional aspects of the right to food, requiring states to provide adequate nutrition during pregnancy and lactation. Footnote⁷ While Article 14 of CEDAW, elaborating on the rights of rural women,

does not explicitly mention the right to food, it otherwise deals with key components of the right, such as access to land and agricultural credit. Similarly, the Convention on the Rights of the Child (CRC) includes provisions on nutrition in the context of children's rights to health (specifically, to combat disease and malnutrition through, inter alia, adequate nutritious foods, Article 24) and an adequate standard of living (Article 27). The Convention on the Rights of Persons with Disabilities (CPRD) recognises the right to food of persons with disabilities in the context of their rights to health (Article 25) and an adequate standard of living (Article 28). The International Labour Organization's (ILO) Indigenous and Tribal Peoples Convention deals with the right of indigenous peoples over the lands to which they have traditionally had access for their subsistence (Articles 14 to 19).

NATIONAL : Zambian Constitution of 1996, Part 3 Article 11.(It is recognized and declared that every person in Zambia has been and shall continue to be entitled to the fundamental rights and freedoms of the individual that is to say the right whatever his race, place of origin, political opinion, colour, creed, sex or marital status but subject to limitation contained in this part, to each and all of the following) protection for the privacy of his home and other property and from deprivation of property without compensation.

12. [Protection of right to life] (1) No person shall be deprived of his life intentionally except in execution of the sentence of a court in respect of a criminal offence under the law in force in Zambia of which he has been convicted.

LAWS AND POLICIES: Agriculture policy, Resettlement policy, Land Act of 1995, Investment Act of 1993, vision 2030, Sustainable Development Goals (SDG's)

SOFT LAWS: UNDROP, Tenure guidelines, General Comment 12.

It is an underlying premise of the Covenant that perpetual hunger and inadequate food are anathema to a good standard of living. As a consequence, the right to food, has evolved to meaning food security. In this regard, the Food and Agricultural Organisation, in its Voluntary Guidelines on the right to food has stated: Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy lifestyle. The four pillars of food security promulgated by the FAO, of, availability, stability of supply, access, and utilisation are an integral part of the assessment of the right to food in Zambia in this report.

The General Comment 12 of the UN Committee on Economic, Social and Cultural Rights (the "CESCR General Comment") is authoritative on interpretation of the right to food under the Covenant detailing specific state obligations to respect, protect and fulfil the right to food. In General Comment 12, the CESCR affirms "that the right to adequate food is indivisibly linked to the inherent dignity of the Human Person and is indispensable for the fulfilment of other human Rights". The General Comment also emphasises that the

Right to Food is inseparable from social justice and requires the adoption of appropriate economic, environmental and social policies at national level.

Therefore, any national human rights agenda must have in place at a minimum measure for the progressive realisation of the right to food.

ANALYSIS OF HUMAN RIGHTS VIOLATIONS: FROM A HUMAN RIGHTS PERSPECTIVE THE RIGHT FOOD

The human right to reparation is a principle of international law as per the reaffirmation by the Inter-American Court of Human Rights, the Escazú Agreement, and the General Comment No. 26 on Children's Rights and the Environment. States, in accordance with the principle of Common But Differentiated Responsibilities and Respective Capabilities (CBDR-RC), must restore what has been damaged and compensate, both in financial and non-financial forms, for what has been lost. It is also a duty for the States to develop measures to facilitate full implementation of Article 8 of the Paris Agreement. Establishment of liability and due compensation for loss and damage is critical to ensure the full implementation of Article 8.

The obligations of States to ensure the principle of intergenerational equity and justice in addressing the impacts of loss and damage. According to the Maastricht Principles on the Human Rights of Future Generations, States must refrain from conduct which will deprive future generations of their rights. The Principles further spell out the obligation of ensuring that the burdens of mitigating and remedying climate change and other forms of environmental destruction are not shifted to future generations.

- Climate debt of the Global North countries must be paid based on the principles of Polluters pay and CBDR-RC
- In addressing loss and damage, Global North countries must be bound by their extraterritorial obligations, regulate their corporations and be held accountable for their extractive and exploitative business practices focusing merely on economic growth while undermining ecological sustainability and human rights. States are responsible to mobilize the maximum available resources to avert, minimize and address loss and damage and its impacts to the full enjoyment of human rights

Those countries with historic high emissions to drastically cut off emissions through immediate, just and equitable phase out of fossil fuels as a precondition to address their historical responsibilities and avoid false solutions while promoting human rights-centred climate actions to address loss and damage.

The IPCC special report on land which recognized the importance of land tenure security for rural communities in the climate debate, and state the need for real climate solutions need to place people at the forefront and based on their sustainable land and forest management practices (such as agroforestry and agroecology), and that they can only fulfill this role if their right to land and tenure systems is effectively protected, e.g. through

recognition, restitution, redistribution, and restoration of land, that are in many places incomplete and have been neglected.



The climate related changes have contributed to severe weather changes in Zambia evident by droughts and floods. In 2023 Droughts have caused human rights violations and at the centre of these violations are women and children. Women and children have to walk long distances in search of clean and safe drinking water, wild fruits, wild food and firewood.

The violation of the right to food and nutrition of the affected community members is a breach of the article 15 of the UNDROP which stipulates that “Peasants and other people working in rural areas have the right to adequate food and the fundamental right to be free from hunger. This includes the right to produce food and the right to adequate nutrition, which guarantee the possibility of enjoying the highest degree of physical, emotional and intellectual development. States shall ensure that peasants and other people working in rural areas enjoy physical and economic access at all times to sufficient and adequate food that is produced and consumed sustainably and equitably, respecting their cultures, preserving access to food for future generations, and that ensures a physically and mentally fulfilling and dignified life for them, individually and/or collectively, responding to their needs.

States shall take appropriate measures to combat malnutrition in rural children....” UN Convention on the Rights of the Child (UNCRC 1989) which recognizes ‘the right of the child to the enjoyment of the highest attainable standard of health’, with states parties taking appropriate measures to ‘combat disease and malnutrition, including within the framework of primary health care through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water’ and to ensure that society is supported in ‘the use of basic knowledge of child health and nutrition’.

The ongoing situation presents a failure on the part of the state in accordance to International Covenant on Economic, Social and Cultural Rights, Article 2: 1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the

maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

International Covenant on Economic, Social and Cultural Rights, Article 11: 1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

THE RIGHT WATER AND TO A HEALTHY ENVIRONMENT



Figure 1 Woman and her child drawing water in Mombe Ward.

The villages in Mombe and Vizimumba wards with population ranging from 28 to 108 households have only one borehole in each village. The village population has outweighed the capacity of water provided. Women and young children are greatly affected by the lack of water and boreholes. They would walk long distances to the nearby water point which tend to be overcrowded. People queue as early as 5 am to get water. Ooftentimes, the last person to draw water leaves the borehole and 5pm.

The women and girls also draw water for their animals. The situation has affected school children's performance and attendance, because they often spend long hours in queues for water and would often be too tired to concentrate in class during lessons. The women who have children with disabilities that need special care often delay fetching water which is needed on a regular basis. Several human rights instruments protect the right to water or outline the general responsibility of the State to ensure access to safe drinking water and sanitation for all.

These include the CRC, the CEDAW and the Convention on the Rights of Persons with Disabilities and the UNDROP. Article 21 of the UNDROP highlights that "Peasants and



other people working in rural areas have the human rights to safe and clean drinking water and to sanitation, which are essential for the full enjoyment of life and all human rights and human dignity.”

Figure 2 FIAN Zambia team walking in the dried river, Mikwala Village, Mombe Ward

Furthermore, “Peasants and other people working in rural areas have the right to water for personal and domestic use, farming, fishing and livestock keeping and to securing other water-related livelihoods, ensuring the conservation, restoration and sustainable use of water. They have the right to equitable access to water and water management systems, and to be free from arbitrary disconnections or the contamination of water supplies.”

The UNDROP in the article 20 also stipulates that “States shall take appropriate measures, in accordance with their relevant international obligations, to prevent the depletion and ensure the conservation and sustainable use of biodiversity in order to promote and protect the full enjoyment of the rights of peasants and other people working in rural areas.”

According to Zambia’s Eighth National Development Plan, GRZ has allocated funds through the Constituency Development Fund (CDF) to assist in accelerating investment in the water and sanitation sector. “Constituencies and wards will be supported in identifying areas of need for water supply and sanitation services as well as plan for the provision of such services to reduce developmental inequalities. The Government will prioritise the provision of clean and safe water across the country, especially in districts, constituencies and wards where there have been water deficiencies. Key measures to be implemented will include development and maintenance of water supply infrastructure, water quality monitoring and protection of aquifers and other water sources.”

In addition, GRZ increased the amount of the CDF from K1.6 million to K25.7 million per Constituency in 2021. The expanded scope of the CDF covers three (3) specific areas namely; Community Projects; Youth, Women and Community Empowerment and Secondary Boarding School and Skills Development Bursaries. Constructing boreholes is among the community projects. The two wards only have a borehole in each village. This contradicts Government’s commitment to invest and improve water and sanitation sector. The residents right to water has been violated.

RIGHT TO SEED

During the droughts, the affected community members lost their seeds which were saved to be used for the next farming season. Farmers therefore have to depend on the government input programme the Farmer Input Support Programme (FISP) to access seeds. FISP has limitation as it provides largely maize and an option of one legume mainly soyabeans, sunflower, groundnuts. FISP lacks the diversity to support the needs of most households. Further FISP takes up a huge budget already and it is unsure of government would be able to expand FISP to cover more beneficiaries or increase seeds. According to the Ministerial statement issued by Government in 2023, “the total estimated cost to the Government for the 2023/2024 FISP is K7,152,481,292.47.



Further in Vizimumba ward farmers reported that they are given a handful of seeds to plant in the hectares of land that they own. They are only given maize seeds which rarely produces yields. They are also given only 5 kg of basal dressing and 5 kg of top-dressing fertiliser instead of the 3 x 50 kg of basal and top dressing fertiliser.

Figure 3 Mrs Alidah Tembo, showing FIAN Zambia team the 5 kg basal and top dressing received from FISP

Further, UNDROP Article 19 states that “Peasants and other people working in rural areas have the right to maintain, control, protect and develop their own seeds and traditional knowledge.” Therefore, “States shall take measures to respect, protect and fulfil the right to seeds of peasants and other people working in rural areas.”

RIGHT TO DECENT WORK

In most cases, the women are told to form cooperatives and build houses in exchange of seeds and fertiliser from the influential people in the community. After building the houses, they are given a bag of fertiliser to share among at least six people. Most of the affected people do not have skills to go and look for alternative work in order to earn a living. And there are no job opportunities in their localities.

Article 13 of the UNDROP stipulates that “Peasants and other people working in rural areas have the right to work, which includes the right to choose freely the way they earn their living.” Therefore, “States shall create an enabling environment with opportunities for work for peasants and other people working in rural areas and their families that provide remuneration allowing for an adequate standard of living.”

RIGHT TO EDUCATION

To be free from hunger and malnutrition, individuals need to know how to maintain a nutritious diet and have the skills and capacity to produce or obtain food as a livelihood. Thus, access to education, including vocational education, is essential for the enjoyment of the right to food. However, some families in the Mombe and Vizimumba wards reported that their children are not attending school due to a variety of issues, including a lack of food for their children to eat at school, lack of school necessities such as uniforms and books, a long commute, a shortage of teachers, and a lack of clean water and proper sanitation at the community schools.

This has breached article 25(2) of the UNDROP which says that “All children of peasants and other people working in rural areas have the right to education in accordance with their culture, and with all the rights contained in human rights instruments.”

This is also a breach of GRZ commitment to ensure that free education for all and provide food for vulnerable children through the school feeding programme.



Figure 4 Illustration of collapsed house

CONCLUSION

The Republic of Zambia ratified the International Covenant on Economic, Social and Cultural Rights in 1984. Zambia therefore has obligations under the Covenant, and specifically with respect to this Report, a duty to respect, protect and fulfil the right to food. Zambia describes itself as a country “under a constitutional form of governance.” In addition to being the superior law of the land, the Constitution also promulgates constitutionally enshrined national values and principles. These include human dignity, social justice, equality, good governance, and sustainable development. These national values and principles apply to, firstly, interpretation of the Constitution, secondly, enactment and interpretation of the law, and lastly, development and implementation of State policy. The President is required by law to report annually before the National Assembly on progress made in the application of the national values and principles. Zambia has a constitutionally enshrined Bill of Rights which comprises fundamental rights and freedoms traditionally known as civil and political rights.

The Constitution, however, does not expressly provide for the protection of economic, social, and cultural rights. The right to food does not therefore enjoy constitutional recognition. It is worth noting that Zambia practices duality with respect to international treaty obligations. International treaty obligations thus only have the force of law after domestication. In 2016, Zambia passed the Ratification of International Agreements Act, No. 34 of 2016 which provides processes for both ratification and domestication. This should create a clear roadmap for the domestication of international agreements ratified after June 2016, when Presidential assent was given. The above notwithstanding, the Zambian Supreme Court, recently delivered a landmark judgment on the right to food. It must be conceded that it is very likely not a general recognition of the right to food as the facts in the case were uniquely suited to an expansive reading of the law. The individuals who brought the suit were properly in the custody of the State having been tried, convicted, and imprisoned for malefactions.

The CESCR General Comment 12 stresses “states should consider the adoption of a framework law as a major instrument for implementation of the national strategy concerning the right to food... [which would include inter alia], its purpose, the targets or goals to be achieved and the time frame to be set for achievement of those targets, the means for achieving those targets, intentioned collaboration with civil society and private sector and institutional responsibility for the process, national mechanisms for its monitoring as well as recourse procedures ”. There is absence of dedicated Framework legislation for the right to food in Zambia. The Second National Agricultural Policy 2016, whose overriding objective is to accelerate reduction of food and nutrition insecurity, is supported by a total of twenty (20) Acts of Parliament, which do not specifically address the right to food or meet the legal framework standards as promulgated by the CESCR General Comment 12. Further, between the 12th May 2017 (when the Special Rapporteur

concluded her mission to 12 Zambia) and 31st December 2019, the Zambian Parliament has enacted 63 Acts and only 2 are in the arena of economic, social and cultural rights.

One, the Food Safety Act No.7 of 2019, relates to the right to food by defining a definition for food. Additionally, the Food and Nutrition Bill 2020 has been adopted by the National Assembly. If enacted, it has some promising provisions. Among those most pertinent are an express requirement to promote a person's right to food and nutrition as well as the implementation of regional and international treaties relating to food and nutrition. Until enacted, the Bill merely presents an intention to make some progress in the arena of the right to food.

dress Acts of Parliament, Zambia's Progress towards Implementation of Right to Food

The Special Rapporteur on the right to food visited Zambia from 3rd to 12th May 2017. In her report to the Human Rights Committee the Special Rapporteur made various recommendations for the Republic of Zambia to implement. The recommendations included the following; i. Guarantee the inclusion of the explicit recognition in the constitution of the right to food; ii. Prepare and adopt a human rights-based national framework law on the right to food; iii. Enact impending legislation including fast tracking the bill on food and nutrition; iv. Strengthen the protection against forced evictions; v. Continue to support small-scale food producers and increase incomes by ensuring fair access to land and other productive resources; vi. Extend the coverage of school meals to cover 100% of children giving priority to rural areas; and vii. Develop properly financed comprehensive nutrition policies aimed at dealing with stunting and wasting in children. The recommendations highlighted above relate to the right to food and cover legal and institutional framework, availability of, accessibility to, and adequacy of, food. The protection of the right to food in Zambia still remains weak as little or no progress has been made since the Special Rapporteur's visit and report. "The Bill of Rights remains limited in scope as economic, social and cultural rights have not been made justiciable rights...The national referendum held in 2016 was an unsuccessful attempt at expanding the Bill of Rights to include economic, social, cultural and further and special rights..." It is accurate to describe the referendum process in those terms. However, that characterization lays the failure to recognize economic, social and cultural rights only on the failed referendum. What it does not state is that there are seemingly no other concrete steps that have been taken by the Government of Zambia to meet its obligations under the ICESCR. 13 The Zambian Government's refrain from progressive realization of the right to food and nutrition remains consistent with the positions espoused in July 2005, in its Initial Report on the Implementation of the African Charter on Human and People's Rights. In that report for example, Zambia consistently pointed to lack of sufficient financial resources for its failure to advance the protection of economic, social, and cultural rights. The Human Rights Committee of the United Nations has stated unequivocally that, "...while the realization of relevant rights, which is an obligation of result – may generally be achieved progressively, the duty to take steps – which is an obligation of conduct – is immediate." The failure by the Republic of Zambia to exhibit concrete, deliberate and targeted steps is in breach of its obligations under the ICESCR. When the actions of the Republic of Zambia are analyzed against the Covenant standard of "all appropriate means," the undertakings and intentions attributed to the Government of Zambia, fall short of the Covenant obligations. In the period January 1, 1984

to June 30, 2020, the Government has sponsored three constitutional amendments. The Government is currently sponsoring a further constitutional amendment which is still at bill stage. The bill, like two out of the three before it does not include economic, social and cultural rights. With respect to policy initiatives, on 9th October 2018, the Minister of Agriculture gave a Ministerial Statement on the floor of the National Assembly on food and nutrition programmes. The Statement acknowledged and conceded that Zambia had a high burden of under nutrition particularly in children under five years old. The Statement laid out a number of initiatives to combat this including: (i) Promotion of production and consumption of diverse foods at household level for improved nutrition, (ii) Development of recipes of traditional foods and compiled recipe books for dissemination to communities, (iii) Promotion of cultivation of bio-fortified crops to improve accessibility to foods that help address micro-nutrient deficiencies, (iv) Promotion of value addition through food processing, preservation and improved storage technologies, and While these are noteworthy, it is pointed out that they are not founded on Zambia human rights obligations (respect/protect/fulfill) to the right to food and nutrition. This is because the Constitution does still not expressly recognize the right to food and nutrition. As highlighted above the last constitutional referendum attempt to remedy this failed. Hence, processes that the State has more control over like legislation in the National Assembly may be more impactful and should be the preferred route now to address the right to food and nutrition.

RECOMMENDATIONS

The following are the recommendations from the affected community members:

1. Strengthening the Agricultural Sector

- Enhance access to fertile land, affordable credit facilities, and high-quality farm inputs for small-scale farmers, prioritizing marginalized groups such as women, youth, and Indigenous Peoples.
- Support the adoption of climate-resilient, sustainable farming practices like agroecology, conservation farming, and crop diversification, especially for drought-resistant and regionally appropriate crops.
- Foster the diversification of crops and farming systems to reduce dependency on a single crop, enhancing long-term agricultural resilience.
- Expand agricultural extension services to provide training, technical support, and guidance on sustainable farming practices to smallholder farmers, particularly in rural and Indigenous communities.

2. Improving Infrastructure

- Prioritize investments in irrigation systems, boreholes, and sustainable water sources to support year-round farming, particularly in drought-prone areas.
- Upgrade rural transportation networks, roads, and storage facilities to facilitate the transportation of agricultural produce and reduce post-

harvest losses.

- Construct and improve schools in rural areas and ensure access to teaching and learning materials to enhance educational outcomes, especially in marginalized communities.

3. Supporting Vulnerable Groups

- Scale up social protection programs like the Farmer Input Support Program (FISP), Social Cash Transfer (SCT), and School Feeding Programs to target vulnerable groups, including women, children, the elderly, and people with disabilities.
- Ensure access to nutritious food for vulnerable communities through targeted relief and food distribution programs.
- Design gender-sensitive social protection programs, addressing the unique needs of women and ensuring their active participation in agricultural development and food security.

4. Enhancing Education and Awareness

- Strengthen agricultural education programs at the primary and secondary levels to focus on sustainable farming techniques, agroecology, and climate change adaptation.
- Conduct public awareness campaigns on nutrition and healthy diets, particularly for rural and Indigenous communities, emphasizing the importance of diverse, balanced diets and locally grown foods.
- Develop training programs for smallholder farmers to improve knowledge on climate-smart agricultural techniques, market access, and sustainable farming practices.

5. Strengthening Collaboration and Coordination

- Promote partnerships between government agencies, local communities, non-governmental organizations (NGOs), and the private sector to ensure effective implementation of food sovereignty and agriculture programs.
- Establish and strengthen local governance structures to ensure communities are involved in decision-making processes related to agricultural development, land use, and food security initiatives.
- Foster regional and international collaboration to share best practices in agroecology, disaster response, and climate change adaptation to address food security challenges.

6. Accountability and Human Rights

- Ensure that the Zambian government adheres to international human rights obligations, particularly the right to food as outlined in the International Covenant on Economic, Social, and Cultural Rights (ICESCR).
- Promote transparency in the allocation of agricultural resources and relief food to ensure vulnerable populations receive timely and equitable support.
- Strengthen monitoring and evaluation mechanisms for social protection programs like FISP and SCT to ensure they effectively contribute to food security and improved livelihoods.

7. Promoting Agroecology and Ensuring Inclusive Transition

- Develop binding national transition plans to agroecology, ensuring gender-sensitive support mechanisms for rural populations and Indigenous Peoples. These plans should include clear timelines, responsibilities, and benchmarks to track progress.
- Respect and protect tenure rights, including collective and customary tenure systems, for Indigenous Peoples, small-scale farmers, and rural communities, ensuring equitable access to land, forests, and aquatic resources.
- Promote restitution and redistribution of resources to communities that have historically protected and nurtured these resources, in line with international frameworks such as UNDRIP, UNDROP, and ILO conventions.
- Incorporate Indigenous knowledge, practices, and innovations into agroecological strategies and guarantee their right to meaningful participation throughout the transition process.
- Design agroecology programs that specifically address the needs of rural women, providing them access to resources, training, and financial support to actively participate in the transition.
- Build institutional capacity at the national and local levels to support the agroecology transition and ensure effective implementation of policies and programs.

8. Including the Right to Food in Zambia's Constitution

- Advocate for constitutional amendments to explicitly recognize the right to food as a fundamental human right, ensuring that public policies are aligned with this right and that citizens are legally protected in their access to sufficient and nutritious food.

9. Strengthening International Frameworks and Guidelines

- Ensure the national implementation of FAO's Voluntary Guidelines on the Right to Food, in line with international standards, to secure food sovereignty.
- Fully integrate the United Nations Declaration on the Rights of Peasants (UNDROP) and FAO guidelines on land, fisheries, and forests into national policies, ensuring the protection and support of rural communities and their natural resources.
- Foster international partnerships to support the implementation of the right to food and agroecology in Zambia, drawing on global best practices and resources for food security.

10. Holding Climate Polluters Accountable and Strengthening International Climate Cooperation

- Advocate for the accountability of developed nations and major polluters for their role in driving climate change and ensure that compensation, rehabilitation, and remedial actions are provided to vulnerable communities in Zambia that have suffered loss and damage due to climate change impacts.
- Strengthen international collaboration to secure climate adaptation funding, technology transfer, and capacity building for rural communities,

ensuring they can withstand and adapt to climate-induced disasters such as droughts and floods.

- Build stronger regional disaster response mechanisms and enhance Zambia's preparedness for climate-induced challenges, ensuring that the country can effectively mitigate and adapt to changing weather patterns.
- Mobilize international and local resources to support the development of climate-resilient agricultural systems that can help vulnerable communities adapt to the increasing unpredictability of weather patterns and secure sustainable livelihoods.
- There is need to emphasize the transition to agroecology including binding transition plans that include gender-sensitive support mechanisms for rural populations and Indigenous Peoples, in line with UNDRIP, UNDROP, CEDAW and ILO conventions, as well as comprehensive public policies and programs to ensure the respect and protection of tenure rights, including collective and customary tenure systems, as well as to ensure the restitution and redistribution of land, forests and aquatic resources to those people and communities who respect and nourish them.
- The knowledge, practices, and innovations of Indigenous Peoples, peasants, small-scale fishers, pastoralists, and other rural people must be recognized and their right to effective, meaningful and informed participation guaranteed throughout the transition process.
- Hold those responsible for climate change accountable and demand compensation, rehabilitation and remedy for loss & damage
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- 1. Strengthening the agricultural sector: Enhancing access to fertile land, credit facilities, and farm inputs for small-scale farmers, as well as promoting sustainable agricultural practices and diversification of crops in that survive in the region's climatic conditions.
- 2. Improving infrastructure: Investing in rural infrastructure development, particularly irrigation systems and boreholes, markets and trading centres, roads, and storage facilities, to facilitate the transportation and preservation of agricultural produce. There is need for constructing schools and providing teaching and learning materials for pupils.
- 3. Supporting vulnerable groups: Implementing targeted social protection programs such as FISP, SCT and School feeding programme that prioritize vulnerable groups such as women, children, and people living with disabilities, ensuring they have access to adequate and nutritious food.
- 4. Enhancing education and awareness: Promoting agricultural training programs, increasing awareness on nutrition, and providing information on sustainable farming practices to enhance productivity and knowledge about healthy diets.
- 5. Strengthening collaboration and coordination: Encouraging partnerships between government agencies, non-governmental organizations, and local communities to ensure effective implementation of food sovereignty

- initiatives such as FISP and SCT and exchange of best practices.
6. It is also recommended that the Zambian State must be accountable and fulfill its obligation of respecting, promoting, and protecting the rights of the people in the two wards as agreed in various international treaties. The wards must be given relief food. By doing so, the wards can achieve significant progress in realizing the right to food.
 7. Promote agroecology among small holder farmers
 8. Include the right to food in Zambia's constitution
 9. Strengthen implementation of the FAO voluntary guidelines on the right to food, UNDROP, FAO voluntary guidelines on land, forest and fisheries
 10. Strengthen International cooperation to respond to climate disasters.

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