

**THE RIGHT TO FOOD IN MOZAMBIQUE: A CONCEPTUAL CRITIQUE ON THE
APPLICABILITY OF THE CONVENTION ON THE RIGHTS OF THE CHILD
TOWARDS FULFILMENT OF THE RIGHT TO FOOD**

By

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DECLARATION

I, **Lor Ibraimo Mussagy**, student No **17313458** declare that the mini-dissertation entitled *the Right to Food in Mozambique: A Conceptual Critique on the Applicability of the Convention on the Rights of the Child towards of the Fulfilment of the Right to Food* is my own work. In this respect:

1. I know that, I should not make use of another student's work and present as my own.
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DEDICATION

This study is dedicated to my mum Maria Matilde Bernardo Fernandes, who has encouraged me, supported me and prayed a lot for me during my studies. I thank you mum for your abundant love and care; the sacrifices you have made for me just to see my master's degree dream becoming a reality. I dedicate this study also to the vulnerable children who are deprived their basic right to adequate food and nutrition in Mozambique.

LIST OF ABBREVIATIONS

AU	African Union
ACHPR	African Charter on Human and Peoples' Rights
ACHPR	African Commission on Human and Peoples' Rights
ACRWC	African Charter on the Rights and Welfare of the Child
CRC	Convention on the Rights of the Child
ESAN I	Strategy of Food Security and Nutrition I
ESAN II	Strategy of Food Security and Nutrition II
ESCRs	Economic, Social and Cultural Rights
FAO	Food and Agriculture Organization
NGO	Non-Governmental Organisation
OMD	Objectives of the Millennium Development
OHCHR	Office of the High Commissioner for Human Rights
PAMRDC	Multi-sectoral Plan for the Reduction Chronic Undernutrition
PASAN	Action Plan of Food Security and Nutrition
PNAC II	National Action Plan for children II
PEDSA	Strategic Plan for the Development of the Agrarian Sector
PNISA	National Agrarian Investment Plan
RM	Republic of Mozambique

SAHRC	South Africa Human Rights Commission
SETSAN	National Food Security and Nutrition Secretariat
SERAC	Social and Economic Rights Action Centre
SDGD	Sustainable Development Goal
UDHR	Universal Declaration of Human Rights
UN	United Nation

ABSTRACT

The right to food is a fundamental right for children; it is an enabler of many other children's rights including the most sacrosanct, their right to life. Without adequate food, there can be no life, good health, nor development for children. The violation of this right has a detrimental impact on them, they are often left motherless or even lose their precious and innocent lives because of the lack of adequate food. The human rights society try to fight against the encroachment of this right by compelling governments to respect, protect, promote and fulfil the right to food for their children, but in practice, the contrary remains the case.

The most disappointing issue is the way states ratify international human rights treaties, and subsequently lay their provisions aside contributing nothing to the improvement of society. It is concerning to see countries such as Mozambique, rich in natural resources, with access to water and an abundance of land still being affected by chronic hunger and starvation. This is one of the factors that prompted this research.

The main objective of the study is to conduct a conceptual critique on the applicability of the Convention on the Rights of the Child towards the fulfilment of children's' rights to food in Mozambique. Further, the study provides recommendations derived from the findings of the research. The study finally concludes that Mozambique is not compliant with international and regional human rights law obligations as far as protection, and realisation of the right to food for children is concerned. As state party to the CRC Mozambique is obliged to domesticate the provisions of the right to food for children at a national level and take all measures possible to ensure the fulfilment of this fundamental right for children. The state has a responsibility to reduce the infant mortality rate and increase life expectancy in the country through the adoption of measures that alleviate poverty, malnutrition, corruption and all the causes of starvation in the country.

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CHAPTER ONE: INTRODUCTION

1.1 Background of the study

The Republic of Mozambique has a population of about 28 million and half are children.¹ However, it is estimated that around 43% of children in Mozambique are affected by chronic malnutrition.² A case study made by the European Commission in the country during the year of 2015, stated that almost one child in every two homes are underdeveloped and 50% of Mozambican women in the neonatal period are considered anaemic due to consumption of inadequate food.³ According to the same case study children that suffer hunger and malnutrition do not have good health and have many other of their human rights violated such as the right to development.⁴

The right to food and nutrition is a fundamental human right for children.⁵ The children that are affected by the lack of adequate food have their right to life at risk, because, such situations can contribute to the death of children.⁶ The right to food for children is one of the serious issues that needs to be addressed to protect future development of Mozambique.⁷

The right to food for children is protected by global and regional instruments for children that Mozambique has ratified. Globally, Mozambique is a state party to the

¹ United Nations General Assembly 'National Report Submitted in accordance with paragraph 5 of the annex to Human Rights Council Resolution 16/21, Mozambique 18-29 January 2016, page17, para 90. A/HRC/WG.6/24/MOZ/1 available at: <https://www.upr.info.org> (accessed 6 July 2018).

² LM Garcia-Cruz *et al* 'Factors associated with stunting among children aged 0 to 59 months from the central region of Mozambique' (2017) 1-12 *Journal List Nutrients* 9 (5).

³ European Union *We can overcome undernutrition: Mozambique case study* (2015) 1-8.

⁴ Garcia-Cruz *et al* (n 2 above) 1.

⁵ See <https://www.fao.org> (accessed 6 July 2018).

⁶ Garcia-Cruz *et al* (n 2 above) 1-12.

⁷ Garcia-Cruz *et al* (n 2 above) 1-12.

International Convention on the Rights of the Child (CRC)⁸ since 1994,⁹ the Optional Protocol to the CRC on the sale of children, Child Prostitution and Child pornography ratified on 06 March 2003.¹⁰ In October 2004, Mozambique ratified the Optional Protocol to the Convention on the Right of the Child on the involvement of children in armed conflict.¹¹ At a regional level, Mozambique ratified the African Children's Charter (ACRWC)¹² in 1998¹³, the Banjul Charter (ACHPR)¹⁴ on 07 March 1989¹⁵, the Optional Protocol to the Banjul Charter¹⁶ in 2005¹⁷ and the Protocol to the ACHPR on the Rights of Women in Africa (Maputo Protocol)¹⁸ in 2005.¹⁹

Mozambique, by ratifying these instruments, committed and pledged itself to protect, promote, respect and fulfil the human rights to food for all children without any form of

⁸ United Nations General Assembly, Convention on the Rights of the Child, 20 November 1989, Resolution 44/25. Treaty Series, Vol. 1577, p.3 available at: <http://internet.ohchr.org> (accessed 6 July 2018).

⁹ <http://www.tbinternet.ohchr.org> (accessed 6 July 2018).

¹⁰ <https://treaties.un.org> (accessed 6 July 2018).

¹¹ <https://treaties.un.org> (accessed 6 July 2018).

¹² African Charter on the Rights and Welfare of the Child was adopted in Addis Ababa, Ethiopia on 11 July 1990 and come into force 29 November 1999 available in the Compendium of Key Human Rights Documents of the African Union (2016) 80.

¹³ See <http://www.achpr.org> (accessed 12 July 2018).

¹⁴ African Charter on Human and Peoples' Rights was adopted by the AU in Nairobi, Kenya on 27 June 1981 and entered into force on 21 October 1986, instrument available in the Compendium of Key Human Rights Documents of the African Union (2016) 29-40.

¹⁵ See <http://www.achpr.org> (accessed 12 July 2018).

¹⁶ Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights was adopted in Ouagadougou, Burkina Faso on 10 June 1998 and entered into force 25 January 2004, instrument available in the Compendium of Key Human Rights Documents of the African Union (2016) 41.

¹⁷ See <http://www.achpr.org> (accessed 12 July 2018).

¹⁸ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa was adopted in Maputo, Mozambique on 11 July 2003 and entered into force on 25 November 2005, instrument available in the Compendium of Key Human Rights Documents of the African Human Union (2016) 65.

¹⁹ See <http://www.achpr.org> (accessed 12 July 2018).

discrimination relative to their geographical distribution or social condition.²⁰ The reality, however, shows the opposite; the problems concerning the fulfilment of the right to food persists.²¹ Issues of a lack of food and the consumption of inadequate food, especially for the vulnerable (poor children living in rural and urban areas), are a challenge for the country.²² Most poor families in Mozambique are not able to provide adequate food to their children resulting in chronic malnutrition.

1.2 Problem statement

Mozambique has been listed as one of the countries affected by malnutrition.²³ Other writers have decried the terrible food security and nutrition situation for children in Mozambique.²⁴ The authors have revealed that most children in Mozambique as in most African countries are underfed which grievously affects their health and hence their lives.²⁵ Another problem affecting the country is the economic crisis, dating from 2016, which has led to unemployment, low income and access to food therefore malnutrition.²⁶ The majority of the population depends on agriculture and yet the country is frequently affected by natural disasters, such as floods, cyclones, erosion, and drought, which have an adverse impact on the agriculture sector causing low productivity.²⁷

It has been calculated that 43% of Mozambican children under five years old are affected by chronic undernutrition.²⁸ Poor diet, associated with the consumption of

²⁰ Human Rights Situation in Mozambique 'Still leaves a lot to be desired' Bar Association, Club of Mozambique (2018) 1 available at https://clubmozambique.com/news/human_rights_situation (accessed 7 July 2018).

²¹ Ministry of Economy and Finance 'Millennium Development Goal Indicator' (2015) 10.

²² Club of Mozambique 'Mozambique still facing Human Rights Challenges', Bar Association (2017) 1.

²³ J Carrilho *et al* 'Food Security and Nutrition in Mozambique' (2017) 7.

²⁴ Carrilho *et al* (n 23 above) 40.

²⁵ Carrilho *et al* (n 23 above) 41.

²⁶ Carrilho *et al* (n 23 above) 42.

²⁷ I Aid 'Mozambique Climate Change Action Report' (2016-2017) 3.

²⁸ United Nation Agenda for the Reduction of Chronic Undernutrition in Mozambique (2015-2019) 8.

inadequate food, is one of the causes of 35% of deaths of small children.²⁹ Fifty percent of Mozambicans are facing problems of finding satisfactory food, mostly in Cabo Delgado and Nampula provinces in Northern Mozambique,³⁰ followed by other provinces, such as Tete, Niassa, Manica, Gaza, Inhambane³¹ and Maputo.³²

Every child is entitled to enjoy the right to an adequate living and to the food necessary for his/her normal growth.³³ This means that families have a primary responsibility of ensuring adequate food for their children³⁴ and, therefore, efforts to ensure that every child has the right to food and nutrition must be considered as integral obligations under human rights enforcement within the country.

A problem lies in determining how the Mozambican government protects, promotes, and fulfils the right to food for children throughout the country, and how the global and regional normative framework on the right to food for children assist to resolve the issue of chronic malnutrition in the country. This study aims to critique the applicability of the Convention on the Right of the Child with regard to the fulfilment of the right to food in Mozambique.

1.3 Research questions

In light of the problem stated above, the study seeks to answer the following questions:

1.3.1 The main question

- To what extent has Mozambique applied the Convention on the Rights of the Child as fulfilment to the right to food?

²⁹ Carrilho *et al* (n 23 above) 7.

³⁰ T Sequeira *et al* Multi-Sectoral Action Plan for the Reduction of Chronic Undernutrition in Mozambique 2011-2015/2020 (2011) 16.

³¹ Sequeira *et al* (n 30 above) 17.

³² IM Raimundo *et al* *The State of Food Insecurity in Maputo, Mozambique* (2014) 6.

³³ J Symonides *Human Rights: Concept and Standards* (2000) 266.

³⁴ Symonides (n 33 above) 266.

1.3.2 Subquestions

- How does Mozambique protect, promote, respect and fulfil the right to food for children?
- How does the global and regional normative framework on the right to food for children assist to resolve the issue of chronic malnutrition in Mozambique?
- What are the domestic legal frameworks or policies put in place by Mozambique to promote and protect children's right to food?

1.4 The research objectives

1.4.1 Main objective

- To conceptually critique the applicability of the Convention on the Rights of the Child towards fulfilment of the right to food?

1.4.2 Specific objectives

- To investigate how Mozambique protect, promote, respect and fulfil the right to food for children?
- To assess the extent to which global and regional normative frameworks on the right to food for children assist to resolve the issue of chronic malnutrition in Mozambique.
- To examine how domestic legal frameworks or policies put in place by Mozambique protect and promote children's right to food?

1.5 Relevance of the study

This study is relevant for Mozambican society because most of her children have been affected by chronic malnutrition owing to factors such as poverty and corruption, therefore, limited access to adequate food. Poverty and corruption are the problems that still affect the country especially vulnerable groups such as poor children living in rural/urban areas with regard to the enjoyment of the right to an adequate standard of living, such as access to acceptable food. In Mozambique, the fight against poverty, corruption, hunger, and malnutrition is a national priority of the government's

intervention. The protection, promotion, and realisation of the human right to food for children are important to enable children to achieve an adequate standard of living and welfare.

1.6 Research methodology

This research will be desktop based. The study will depend primarily on secondary data where books, articles, journals and statutes will be explored. This method has been found appropriate to obtain data for this research taking into account the given time limits. To answer the main question of the study, the standard instruments of human rights will be analysed to set out Mozambique's obligations for children's right to food. Further, the policies, strategies and action plans on the right to food for children will be reviewed in order to establish the level of implementation of the CRC towards the fulfilment of the right to food for children.

1.7 The limitation of the study

A Portuguese-speaking student has conducted this study. The research must, however, be carried out in English which the student sometimes finds difficulty with regarding some English terms and usage. To some extent this may interfere with the quality of the information gathered for the study. On the other hand, there are some sources written in the Portuguese language, which will require translation into English for this research.

1.8 Literature review

The right to food is one of the crosscutting development issues at international, regional and national levels. As an enabler of other fundamental rights, the issues related to this right, continue to be a subject of debate on international, regional and local platforms. Research has been conducted on issues relating to the right to food generally, but there is a lack of literature on the right for food for children, yet they are the most vulnerable and affected by lack of food in many societies. The current study seeks to add to the existing literature on the right to food by exploring the status of Mozambique on the right to food for children.

According to Carrilho *et al* geographically, Cabo Delgado, Nampula, Sofala, Gaza, and Inhambane are categorised as some of the provinces severely affected by the lack of food.³⁵ The abovementioned writer's observed that malnutrition in these provinces is higher and critical owing to a lack of quality food. Many people from these areas rely on cassava and other cereals, which is produced as the main source of food for their survival, yet this alone is not sufficient for the body as it lacks other important nutrients essential for the body. In addition, they state that in these areas, low income at the family level, contributes significantly to the persisting problem of malnutrition.³⁶

Raimundo *et al* also provide useful information for the current study regarding food insecurity in southern Mozambique, they describe the status of poor families living in urban areas, such as Maputo, often referred to as the 'poverty belt'.³⁷ They further provide details regarding the national food consumption of the families and the problems of food insecurity in relation to children.³⁸

Wabwile deals with protection of socio-economic rights of children in developing countries, and he focuses on the implementation of the rights of the child at the national level.³⁹ The principles highlighted in this book can also be applicable to Mozambique as a developing country.

Benson in line with the above highlighted that access to food is not the only issue for consideration, other aspects concerning nutrition are also very important in developing countries. He noted that in developing countries, such as Mozambique, where there are elevated levels of poverty, the lack of food could limit children and their families from actively participating and contributing freely within their communities.⁴⁰

³⁵ Carrilho *et al* (n 23 above) 7.

³⁶ Carrilho *et al* (n 23 above) 7.

³⁷ Raimundo *et al* (n 32 above) 17.

³⁸ Raimundo *et al* (n 32 above) 17.

³⁹ MN Wabwile *Legal Protection of Social and Economic Rights of the Children in Developing Countries: Reassessing International Cooperation and Responsibility* (2010) 35.

⁴⁰ T Benson *Improving Nutrition as a Development Priority in Sub-Saharan Africa, the International Food* (2008) 1-5.

Carrilho *et al*⁴¹ touched on the problem of lack of implementation of the food policies, programmes and other strategies that aim to ensure food security in the country. They posit that the Mozambican government has a special role in terms of protection of the right to food in provinces, and they highlighted the importance of the inclusion of diverse foods, increased productivity in the agricultural sector as well as improving the use of resources and ensuring implementation by local government.⁴²

Invernizzi & Williams discuss the applicability of the CRC in its states parties, which include Mozambique.⁴³ This book provides a useful explanation of the challenges of the implementation of the children's Convention in these countries. The book is relevant and very useful for the current research.

Di Gennaro *at al* provide a comprehensive explanation of the national food consumption by the children and the situation of malnutrition in Mozambique. They further discuss health associated problems resulting from consumption of inadequate food for children in the country as well as the consequences of lack of adequate food for mothers during the neonatal period.⁴⁴

Cruz *et al* and Azzarri *et al* also provide a discussion on the status of childhood malnutrition in the country, the factors that contribute to chronic malnutrition for children, specifically for small children with the ages of 0 to 59 months in the central part of Mozambique.⁴⁵ They make a comparison of the status of children's malnutrition between rural and urban children.

Mandlate above all posits that the economy of a country, which encompasses factors such as the level of poverty, reliance on external aid and available workforce, have an

⁴¹ Carrilho *et al* (n 23 above) 7.

⁴² Carrilho *et al* (n 23 above) 7.

⁴³ A Invernizzi & J Williams *The Human Rights of Children: From Visions to Implementation* (2011) 99-117.

⁴⁴ F Di-Gennaro *et al* 'Local food resources to fight children malnutrition and infectious diseases in Mozambique' (2016) 1 *Journal of Infectious Disease and Pathology* 1-6.

⁴⁵ Garcia-Cruz (n 2 above) 1-12.

See also C Azzarri *et al* *A Child undernutrition in Mozambique* (2011) 7-13 article available at https://www.researchgate.net/publication/Child_undernutrition-in-Mozambique (accessed 28 November 2018).

impact on the realisation of all children's rights.⁴⁶ He states that these issues necessitate the countries affected by these problems to take action toward ensuring adequate protection of the interest of the children such as the adoption of sound measures fostering the best interests of children.⁴⁷

Mandlate further states in line with the above, though the importance of international co-operation especially aid donors cannot be over emphasised in the light of the pervasive financial problems facing the world today such as overreliance on external assistance and aid affect the government capacities to implement national programmes. This include those affecting children because normally aid comes with strings attached.⁴⁸ An example is that some of the donor assistance given to these countries have underlying objectives that are divorced from initiatives geared towards the realisation of children's rights.⁴⁹ He advises that it is critically important for the states to adopt clear policies on the type of assistance they need and to ensure that international co-operation helps them advance the rights of children without creating onerous future burdens for states.⁵⁰

According to Gawaya⁵¹, the problems of food security may be addressed by investing in women. She posits that women in many countries are primarily responsible for field production, particularly of staple foods, yet they face problems of discrimination when it comes to owning land, resources and access to productive resources.⁵² Importantly, women are also the main providers of childcare and nutrition for infants and young children, which is critical to their cognitive development.⁵³

⁴⁶ ACTS Mandlate 'Assessing the Implementation of the Convention on the Rights of the Child in Lusophone Africa: Angola and Mozambique' (2012) 46-249 Published Ph.D. thesis, Faculty of Law, University of Western Cape, South Africa.

⁴⁷ Mandlate (n 46 above).

⁴⁸ Mandlate (n 46 above).

⁴⁹ Mandlate (n 46 above).

⁵⁰ Mandlate (n 46 above).

⁵¹ R Gawaya 'Investing in women farmers to eliminate food insecurity in Southern Africa: Policy related research from Mozambique' (2008) 151, 16, rural livelihoods and Agriculture.

⁵² Gawaya (n 51 above) 151.

⁵³ Gawaya (n 51 above) 157.

The current study seeks further to add to the existing knowledge of this subject matter with a direct focus on Mozambique. The study seeks to conduct a conceptual critique on the applicability of the children's right to food in the country and to assess whether Mozambique has been compliant with regard to its obligations towards the realisation of the children's right to food. The study seeks to examine the initiatives towards respecting, protecting, promoting and fulfilling the right to food for children critically.

1.9 An overview of the chapters

This study is structured in five chapters. Chapter one introduces the whole research topic where the background of the study, the relevance of study for Mozambique, the problem statement, research questions, the objectives of the study, the research methodology, the limitation of the study, the literature review and the chapter's outline will be articulated.

Chapter two contextualises the right to food in Mozambique in relation to children's right to food. Furthermore, the chapter focuses on the role of poverty, issue of corruption, challenges in distribution of food and gender inequality on how these can affect the lives of children and, therefore, their enjoyment of their right to food.

The third chapter investigates how Mozambique contributes to the protection, promotion, and realisation of the right to food in relation to children. Furthermore, the chapter seeks to present Mozambique's obligations towards the right to food for children under the international and regional human rights instruments as well as through national law.

Chapter 4 seeks to assess the applicability of the CRC towards the fulfilment of the children's rights to food conceptually.

Chapter 5 provides a conclusion and recommendations of the study.

CHAPTER TWO: BRIEF CONTEXTUALISATION OF CHILDREN'S RIGHTS TO FOOD IN MOZAMBIQUE

2.1 Introduction

The purpose of this chapter is to provide a brief context of the right to food for children in Mozambique. The context below does not only provide a view and some statistics but also highlights some of the causes that significantly affect the enjoyment of the right to food for children in Mozambique, such as poverty, corruption, unemployment, challenges of unequal distribution of food and gender equality.

2.2 Concepts

Children are defined in this study as 'every human being below the age of eighteen years'.⁵⁴

Vulnerable children in the study are defined as children whose lives are at risk relative to others in the community, or who are affected by extreme poverty because of corruption, climate change and other problems in the country.⁵⁵

Chronic malnutrition is defined as a health problem, which results from the absence of the consumption of adequate food, a lack of access to nutritious food or poor breastfeeding practices affecting the children, which can contribute to many childhood diseases and, in some cases, death.⁵⁶

Applicability is defined as measures provided by the state to make the Convention practical and real in the country. Applicability can be described as the legal procedure that gives effect to the rights contained in the CRC in national legislation to protect, promote, and realise all children's rights, but also to implement the state's legal obligations at a domestic level.⁵⁷

⁵⁴ Article 2 of African Children's Charter of 1999.

⁵⁵ <https://bettercarenetwork.org> (accessed 20 July 2018).

⁵⁶ World Health Organization (WHO) Malnutrition: Key Facts (2018) 1.

⁵⁷ UN Committee on Economic, Social and Cultural Rights, Factsheet No.16, Rev.1, (1996), page 13, para 2 available at: <https://www.refworld.org/docid/4794773cd.html> (accessed 18 August 2018).

Fulfilment, in relation to the children’s right to food, is understood as the duty of the state to provide access to land to be used to produce food.⁵⁸ In other words, fulfilment means providing access to food for vulnerable children or creating a mechanism that will help their families improve within the agricultural sector to enable them to produce nutritious food.⁵⁹

The realisation in this context is used interchangeably with the term fulfilment of the right to food for children. They both refer to the appropriate actions taken by the government and non-state actors to ensure that the children enjoy their right to food and nutrition.⁶⁰

The right to food for children

In this study the right to food for children is defined as the right to have “regular, permanent and unrestricted access, either directly or by means financial purchases, to access quantity, quality and culturally acceptable food for the children to which the consumer belongs and which ensure a physical, mental, moral and development of the children”.⁶¹

The right to be free from hunger for children

This study defines the right to be free from hunger as a right to access a minimum nutritious food for the daily diet of children that assures their right to survival and development.⁶²

⁵⁸ <https://www.sahrc.org.za> (accessed 18 August 2018).

⁵⁹ R Kunnemann *Food and Freedom: A Text Book for Human Rights Education* (1999) 45.

⁶⁰ <http://www.fao.org/right-to-food/en/>(accessed 20 August 2018).

⁶¹ United Nations Special Rapporteur on the Right to Food, available at <https://www.ohchr.org/EN/Issues/Food> (accessed 20 August 2018).

⁶² <http://www.fao.org> (accessed 20 August 2018).

2.3 Relevant children’s rights principles

2.3.1 The principle of the ‘best interest of the child’

The principle of the ‘best interest of the child’ entrenched in CRC provides that; in actions undertaken by “public or private social welfare institutions, courts of law, administrative authorities or legislative bodies”, the ‘best interest of the child’ must be primarily considered.⁶³

The ‘best interest of the child’ principle requires that active measures be undertaken at all levels of government, by parliament and the judiciary.⁶⁴ Every legislative, administrative and judicial body or institution is required to apply the best interest principle by systematically considering how children’s rights and interests are or will be affected by their decisions and actions.⁶⁵

In addition to the above the ACRWC provides that any person or authority taking a decision on issues regarding children, the best interest of the child must be given primary consideration.⁶⁶

2.3.2 The principle of non-discrimination

The principle of non-discrimination under General Comments No. 7 on the implementation of rights on early childhood provides as follows, ‘[...] another general obligation of the state party implies the recognition that the right of children should be respected, protected and promoted [...] without any form of discrimination’.⁶⁷ This principle bestows upon the state party an obligation to eliminate all forms of discrimination against children.⁶⁸ Thus, all children must be granted access to food,

⁶³ Article 3(1) of CRC of 1989.

⁶⁴ Article 3(1) of CRC of 1989.

⁶⁵ Article 3(1) of CRC of 1989.

⁶⁶ Article 4 of the African Children’s Charter of 1999.

⁶⁷ UN Committee on the Rights of the Child, Convention on the Rights of the Child, General Comment No.7: Implementing Child Rights in Early Childhood, Geneva September 2005 UN/CRC/C/GC/7 Rev.1 page 5, para 11 available at <https://www.refworld.org> (accessed 18 August 2018).
See also Article 2 of the CRC of 1989.

⁶⁸ UN Committee on the Rights of the Child, Convention on the Rights of the Child

regardless of their status. The food must be distributed equally throughout the country to ensure that all have access to food notwithstanding their location.

2.3.3 Children's right to have adequate food and nutrition

This principle is recognised under Article 27 of the CRC⁶⁹ as well as under the General Comment No 7,⁷⁰ where the children have the right to exercise their right to food against their government and the state party is obliged to provide appropriate assistance to the families and parents who are responsible for the care of children.⁷¹ This right compels the state party to provide material assistance and support programmes to ensure nutrition for children in the country.⁷²

2.4 Factors contributing to lack of food in Mozambique

2.4.1 Poverty and the right to food for children

After the independence of the country, the national poverty headcount was 80%.⁷³ Between 1990 and 2003, poverty decreased to approximately 54.1%.⁷⁴ In subsequent years, however, the statistics with regard to poverty have not changed much. They stayed around 50% until 2015.⁷⁵ During 2016, the poverty rate worsened.⁷⁶ Currently, studies reveal that the poverty rate in the country remains very high⁷⁷, with 82% of people living 'on less than 2 USD/day', and about '60% on less than 1USD/day'.⁷⁸ It is declared that approximately 50% of Mozambican children live in poverty⁷⁹, and 43% are affected by chronic undernutrition.⁸⁰ The majority of the Mozambican population

⁶⁹ Article 27(3) of the CRC of 1989.

⁷⁰ UN/CRC/C/GC/7 Rev.1 (n 67 above), page 9, para 20.

⁷¹ UN/CRC/C/GC/7 Rev.1 (n 67 above), page 9, para 20.

⁷² UN/CRC/C/GC/7 Rev.1 (n 67 above), page 9, para 20.

⁷³ 'Report on the Millennium Development Goals' (2008) 14.

⁷⁴ See Mozambique Action Plan for the Reduction of Absolute Poverty 2001-2005 (2001) 10.

⁷⁵ See Mozambique Action Plan for the Reduction of Absolute Poverty (n 74 above) 14.

⁷⁶ See Raimundo *at al* (n 32 above) 11.

⁷⁷ See APA New agency de press Africanise *Mozambique social poverty* (2017) 2.

⁷⁸ See BTI 'Mozambique Country Report' (2018) page 13, para 6.

⁷⁹ B Cunguara & J Hanlon *Poverty is not being reduced in Mozambique* (2010) 8.

⁸⁰ United Nation Agenda (n 28 above) 8.

(70%) live in rural areas, and the remaining citizens (30%) are concentrated in the cities.⁸¹ Rural Mozambique is characterised by high levels of poverty and chronic undernutrition and, therefore,⁸² the children living in rural places are struggling to access adequate food and nutrition.⁸³

Indeed, as noted by Sen, the lack of food, an inadequate diet, and chronic undernutrition are characteristic of the poor societies of developing countries.⁸⁴ Poverty affects children significantly with regard to the enjoyment of their right to have adequate access to food,⁸⁵ which also affects their human dignity.⁸⁶ It is generally an impediment to the enjoyment of the rights of children.⁸⁷

In this study, poverty is defined by the inability of individuals or groups of individuals to enjoy their right to an adequate standard of living, particularly the incapacity of the families to ensure the provision of adequate basic needs for their children, including nutritious food for their wellbeing.⁸⁸ In the country, malnutrition and chronic undernutrition presents a complex problem for the government, the problem of lack of food contributes to several childhood illness that hinders the normal growth of children, at times even resulting in their premature death.⁸⁹

To understand the issues of the child it is necessary to look at the lives of their families, other parents or another adult person.⁹⁰ The upbringing of children is dependent on

⁸¹ Global Alliance for Improved Nutrition (GAIN) *Market and consumer evaluation of market place for nutritious foods program: A case study approach*, Maputo Mozambique (2017) 5.

⁸² Global Alliance for Improved Nutrition (n 81 above) 5.

⁸³ Human Rights Council Advisory Committee study on discrimination in the context of the right to food, 17-21 January 2011, page 8, para 28 UN/A/HRC/AC/6/CRP.1 page 8, para 28 available at <https://www.ohchr.org/Documents/HRBodies>.

⁸⁴ A Sen *Poverty and Famine: An Essay on Entitlement and Deprivation* (1981) 12.

⁸⁵ The Westminster Consortium Human Rights and Parliaments (2011) 150.

⁸⁶ D Weissbrodt *et al Human Rights and Children* (2017) 359.

⁸⁷ *My own emphasis*

⁸⁸ UN Committee on Economic, Social and Cultural Rights Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights: Poverty and the International Covenant on Economic, Social and Cultural Rights (2001), page 2, para 7.

⁸⁹ Sequeira *et al* (n 30 above) 16.

⁹⁰ Symonides (n 33 above) 259.

their families, who are the ones with full responsibility towards them.⁹¹This responsibility includes providing economically and materially for the subsistence of the children.⁹² However, often families find themselves in a situation where they cannot provide for themselves as well as the children, where they cannot even provide the minimum basic needs of the children such as good nutrition.⁹³ In these cases it becomes the responsibility of the state for the child, hence states ratify treaties confirming this responsibility of the state towards its children in the absence of or in conjunction with families where the latter are not able to provide.⁹⁴

It is, therefore, important to comprehend that the contributors toward the families' inability to provide for their children and their incapacity to sustain their children go beyond the simple definition of poverty.⁹⁵ For the purposes of this study, poor children will be categorised based on the consumption and incomes of their families.⁹⁶

In Mozambique, the income and consumption of the families are what is relevant when defining who is poor.⁹⁷ Many studies in the country have argued that the poorest children are concentrated primarily in the rural areas of the Central and Northern provinces because these provinces have a lower income when compared with the southern provinces which have been considered privileged in this regard.⁹⁸ Contrary to this, the reality shows otherwise, because it is possible to find the poorest in the city deprived of the same basic rights.⁹⁹ This study, therefore, argues that location cannot be considered an influencing factor with regard to poverty rather the income and consumption rate as stated above. A recent study conducted in Maputo in southern Mozambique provides distinct categories where poor families make the distinction

⁹¹ Symonides (n 33 above) 259.

⁹² Symonides (n 33 above) 259.

⁹³ Symonides (n 33 above) 259.

⁹⁴ Article 18(2) of CRC of 1989.

⁹⁵ Sen (n 84 above) 9-10.

⁹⁶ *My own emphasis.*

⁹⁷ BVD Boom 'Analysis of poverty in Mozambique: Household poverty status, child malnutrition, and other indicators', 1997/ 2003 & 2009 (2011) 10-12.

⁹⁸ K Nicholson *et al Poverty and social impact analysis: Fuel tax in Mozambique* (2003) 10-12.

⁹⁹ Raimundo *et al* (n 32 above) 6.

themselves according to their living conditions.¹⁰⁰ The different situations that one can find are as follows:¹⁰¹ first, it is possible to meet Mozambican families without means to improve their social condition; second, families headed by single or divorced women without any piece of land in rural areas of the country to produce their own food; third, families whose nutrition is based on very little food for survival such as eating bread and drinking tea the whole day; fourth, there are those large and poor families headed by single women living with many children in their home; finally, there is the situation where a small family lives under extremely difficult conditions where access to adequate food to feed each person in their house is almost impossible. These conditions force poor people to resort to living in large households to escape the harshness of the conditions of their poverty, hoping to acquire help from one another and to share whatever little they have with one another in a large household.¹⁰²

The poor people living in the biggest cities, such as Maputo and Beira, are very dependent on the markets to have food because they do not have access to land to produce food, and, as a result, they are vulnerable to price changes and limited access to the quality and quantity of food to eat.¹⁰³ The different examples of lives stated above make it possible to understand how poverty can influence children's rights to access adequate food and nutrition.

2.4.1.1 Factors contributing to poverty

The main factors contributing to the sustained plague of poverty in Mozambique and concurrently affecting the right of children to an adequate standard of living are as follows: first, the Civil War that occurred for sixteen years in the country, between 1976 and 1992, which resulted in the destruction of various aspects of infrastructure, such as bridges, ports, roads and houses;¹⁰⁴ second, the geographical location of the country (being close to the Indian Ocean) has made the country vulnerable to natural disasters such as floods, cyclones, and erosion all of which have affected the

¹⁰⁰ Raimundo *et al* (n 32 above) 6.

¹⁰¹ Raimundo *et al* (n 32 above) 6.

¹⁰² Raimundo *et al* (n 32 above) 6.

¹⁰³ Nicholson *et al* (n 98 above) 16.

¹⁰⁴ The Action Plan for Reduction Poverty in Mozambique 2001-2004 (2001) 12.

agricultural sector negatively;¹⁰⁵ third, the political situation of the country during 2016 where there was high tension between the centre and southern part of the country;¹⁰⁶ and, finally, another relevant problem was the Mozambican hidden debt crisis in 2016 which caused the gross domestic product (GDP) growth to be reduced to 3.7% in 2017, down from 3.8% in 2016, and below 7% if we compare this with the country's GDP growth achieved between 2011/2015.¹⁰⁷

In addition to this, another significant cause contributing to poverty is the lack of employment opportunities.¹⁰⁸ As stated by the World Bank Group in Mozambique, the reason why the country is facing problems regarding a lack of employment is that 'many enterprises have fallen back and their capacity to offer employment to the nationals as well as non-nationals has diminished'.¹⁰⁹ The right to work has a great influence on the right to have adequate food because it helps people to access the most basic needs to which all human beings are entitled.¹¹⁰

Education is another relevant factor to be considered.¹¹¹ Education plays a significant role in the wellbeing of families. As noted by the World Bank, 'the more educated people are the lowest is the likelihood of their living' in inadequate conditions.¹¹² There is no poverty for those children living in educated families, but, in contrast, 'poverty is high for those living with uneducated household heads'.¹¹³

Sen noted that the problem of hunger and malnutrition in many societies is not explained by the absence of food or its availability in the country.¹¹⁴ On one hand, hunger and malnutrition are explained by the incomes of families that remain low

¹⁰⁵ <http://www.borgesproject.org> (accessed 18 August 2018).

¹⁰⁶ Mozambique Baseline Report 'Yes I Want Baseline Report Mozambique' (2016) 1.

¹⁰⁷ The World Bank in Mozambique 'Country Overview' (2018) 2.

¹⁰⁸ Raimundo *et al* (n 32 above) 13.

¹⁰⁹ The World Bank (n 107 above) 2.

¹¹⁰ Symonides (n 33 above) 143.

¹¹¹ World Bank Group 'Accelerating Poverty Reduction in Mozambique: Challenges and Opportunities' (2016) 26.

¹¹² World Bank Group (n 111 above) 26.

¹¹³ World Bank Group (n 111 above) 26.

¹¹⁴ Sen (n 84 above) 14.

because of poverty or the lack of employment opportunities.¹¹⁵ On the other hand, it can be explained by a lack of resources to improve the agriculture sector to enable families to produce their own food for survival.¹¹⁶

2.4.2 The issue of corruption and the right to food for children

Another significant problem that contributes to the lack of food for children is corruption.¹¹⁷ Mozambique is rated as one of the highest in corruption rate in the Sub-Saharan region.¹¹⁸ There is an enormous lack of transparency in the procedures and processes, supported by a lack of good governance in the country.¹¹⁹ Therefore, equal distribution of resources is not something that can be easily found in the country.¹²⁰ The resources tend to be distributed to those who are living in urban areas and who are connected to those in power.¹²¹ The poor in rural areas and their children continue to be severely affected by hunger while the rich become richer.¹²² Many children are affected by this, especially those coming from poor families who do not know anybody in leadership.¹²³ Those children do not have an opportunity to voice out their needs and concerns about food, hence more suffering.¹²⁴

Corruption deprives the children of the benefits they are entitled to as citizens of Mozambique.¹²⁵ It is a further an impediment to the attempts of International

¹¹⁵ Sen (n 84 above) 14.

¹¹⁶ Sen (n 84 above) 14.

¹¹⁷ FN Uchendu & TA Olatunbosun 'Corrupt practices negatively influenced food security and live expectancy in developing countries' (2015) 3 *Pan African Medical Journal* 1-10.

¹¹⁸ The Corruption Perceptions Index Reported by Transparency International listed the Republic of Mozambique as 153 lack of transparency of their resources out of 175 countries in Sub-Saharan Africa (2017) 3 Information available at: <https://trading@economics.com/mozambique/corruption-rank> (accessed 9 November 2018).

¹¹⁹ The Corruption Perceptions Index Reported by Transparency International listed the Republic of Mozambique (n 118 above).

¹²⁰ Republic of Mozambique 'The International Monetary Fund (FMI) Report' (2018) 71.

¹²¹ International Monetary Fund Report (n 120 above) 71.

¹²² International Monetary Fund Report (n 120 above) 71.

¹²³ USAID 'Corruption assessment: Mozambique' (2005) 1-15.

¹²⁴ USAID (n 123 above)

¹²⁵ Uchendu & Olatunbosun (n 117 above) 1-5.

Investments in eradicating hunger and chronic malnutrition.¹²⁶ There is no way the initiatives for food security and poverty eradication can be effective in a country categorised by unethical public behaviour and poor governance.¹²⁷ On the other hand, it can be argued that the issues of poverty and starvation affecting children in Mozambique just as in many African countries are largely manmade.¹²⁸ In the process of poverty alleviation and other factors affecting children's right to nutritious food, corruption should not be left out.¹²⁹ It also contributes to the child and maternal mortality rate.¹³⁰

2.4.3 The challenge in the equal distribution of food in the country

Another important thing that really needs attention is the challenge of distribution of food in the societies around the world including within Mozambican territory.¹³¹ Globally it is a truism that, 'some societies have more food and others do not have enough;' 'some children can throw away food whereas others do not know what they will eat for their next meal in a day'.¹³² There is a need to rethink the redistribution of food policies and procedures at international, regional and national levels to ensure that children in poor countries such as Mozambique have access to nutritious food.¹³³ The principle of solidarity under international human rights law pleads that those having plenty should assist those in need.¹³⁴ Not every country is able to provide food for the children but it is also the responsibility of the international community to ensure that they help the communities, which are in need.

The concept of equal distribution of resources in this context simply means that food should be equally distributed within the country, without bias ensuring that even those

¹²⁶ Uchendu & Olatunbosun (n 117 above) 1-5.

¹²⁷ M Limon *et al* 'Corruption: A human rights impact assessment' (2018) 5.

¹²⁸ Limon *et al* (n 127 above) 5.

¹²⁹ Limon *et al* (n 127 above) 5.

¹³⁰ Limon *et al* (n 127 above) 5.

¹³¹ <http://sites.google.com/human> issues/unequal distribution of food (accessed 10 November 2018).

¹³² <http://www.thinkeatsave.org/index.php/stop-wasting-food> (accessed 10 November 2018).

¹³³ <http://www.thinkeatsave.org/index.php/stop-wasting-food> (accessed 10 November 2018).

¹³⁴ <http://sites.google.com/human> issues/Unequal distribution of food (accessed 10 November 2018).

in remote areas have access to adequate and nutritious food.¹³⁵ The government must ensure that rural children also have access to nutritious food in local shops and markets, fresh food such as fruit, milk and other types of food.¹³⁶

2.4.4 Low-income and lack of employment

In general, the poor children located in areas of provinces, like Niassa, Cabo Delgado, Nampula, Zambezia and Maputo, are the most affected by lack of food.¹³⁷ Food eaten by low-income families in these areas is not nutritious for the children and so it severely affects their growth and health.¹³⁸ Most families rely on traditional food, such as cassava and other cereals, because it is the best they can afford.¹³⁹ Children are limited to eating what their families provide for them because it is generally expensive to access adequate food that is required for a child's wellbeing.¹⁴⁰

A survey conducted in southern Mozambique provides examples with details regarding food consumption by the poor families in Maputo. As mentioned by the study, many interviews were conducted with different families to understand the food consumption of the poor and the reasons why people cannot access food in enough quantities and quality to eat.¹⁴¹ It was found that the consumption rate of the poor families living in southern Mozambique, such as in the Maputo poverty belt, is 'less than 0.60 USD/person/day'; while 'other families have reported no income at all' to access their own food.¹⁴²

¹³⁵ LE Bain *Malnutrition in sub-Saharan Africa: Burden causes and prospects* (2013) 1-12.

¹³⁶ Bain (n 135 above) 1-12.

¹³⁷ SETSAN 'Food and nutrition security strategy 2007-2015' (2007) 5.

¹³⁸ GAIN *3 things you should know about malnutrition in Mozambique*, available at <https://www.gainhealth.org/knowledge-centre/3-things-learned-time-mozambique/> (accessed 30 October 2018).

¹³⁹ GAIN (n 138 above) 25.

¹⁴⁰ GAIN (n 138 above) 25.

¹⁴¹ Raimundo *et al* (n 32 above) 12.

¹⁴² Raimundo *et al* (n 32 above) 12.

2.4.5 Gender inequality problems

Women play a significant role in food security, they are the ones who are actively involved in farming practices, such as field production in most cases.¹⁴³ Nevertheless, they often find themselves discriminated against compared to men when it comes to access and ownership of land, investment opportunities, access to information and access to other resources for production.¹⁴⁴ Sometimes women are left in remote and rural places where they have limited or no access to resources at all.¹⁴⁵ Yet they are the ones to determine what the families eat and in particular the children.¹⁴⁶ They are responsible for the upbringing of the children yet have no access to adequate information to educate them about issues concerning children's rights and nurturing.¹⁴⁷ As advocated by Gawaya, women should be given access to land and to other production resources to enable them to produce to ensure food security in the country.¹⁴⁸

2.5 Conclusion

This chapter has contextualised the right to food for children in Mozambique. It has analysed the *status quo* of access to food by children and shown the factors that contribute to the hindrance to the fulfilment of the right to food by children. It has explained the role played by poverty, the issue of corruption, a lack of education, climate change, the challenge in the distribution of food and a lack of employment towards the fulfilment of the right to food for children. The next chapter will analyse the legal framework that protects the children's rights to food at international, regional and national levels.

¹⁴³ Gawaya (n 51 above) 151.

¹⁴⁴ Gawaya (n 51 above) 153.

¹⁴⁵ Gawaya (n 51 above) 153.

¹⁴⁶ Gawaya (n 51 above) 153.

¹⁴⁷ Gawaya (n 51 above) 154.

¹⁴⁸ Gawaya (n 51 above) 154.

CHAPTER THREE: HOW DOES MOZAMBIQUE PROTECT, PROMOTE AND FULFIL THE RIGHT TO FOOD FOR CHILDREN?

3.1 Introduction

Every child is entitled to enjoy the right to adequate food for his/her survival.¹⁴⁹ It is prominent for the children to have access to adequate food in order to protect them from diseases and chronic malnutrition.¹⁵⁰ Lack of adequate food makes it difficult for the child to develop their mental, intellectual and physical capacities as much as they could. It makes it almost impossible as stated in the previous chapter, for them to enjoy their right to life¹⁵¹, the right to enjoy good health¹⁵² and ‘the right to development’,¹⁵³ which includes the right to education and others.¹⁵⁴ All of which are enshrined in the international and regional human rights instruments.¹⁵⁵ The main objective of this chapter is to explain how Mozambique protects, promotes, and fulfil the children's rights to food.

3.2 Why Mozambique should recognise, protect, and fulfil the right to food for children?

In Mozambique, more than half of its total population of 28.8 million are children, meaning that most of the population are in the vulnerable group.¹⁵⁶ For this reason alone, there is a great need for the protection, promotion, and fulfilment of the children's rights to food for the Mozambican children.¹⁵⁷ Importantly, the right to food

¹⁴⁹ Wabwile (n 39 above) 15.

¹⁵⁰ <http://www.humanium.org> (accessed 08 September 2018).

¹⁵¹ Article 5(1) of the African Children's Charter of 1999.

¹⁵² Article 14(1) of the African Children's Charter of 1999.

¹⁵³ Article 5(2) of the African Children's Charter of 1999.

¹⁵⁴ Article 11(1) of the African Children's Charter of 1999.

¹⁵⁵ See the Convention on the Rights of the Child of 1989.

¹⁵⁶ A/HRC/WG.6/24/MOZ/1 (n 1 above) page 17, para 90.

¹⁵⁷ UN/General Assembly/A/HRC/WG.6/24/MOZ/1 (n 156 above) page 17, para 90.

should be recognised, protected and fulfilled because it is a fundamental human right, which is interrelated with many other children's rights.¹⁵⁸

The protection of basic human rights includes those rights, which are inherent in people by their nature of being human thus, for, without them, people would not be able to live as human beings.¹⁵⁹ All children are considered to be human beings and so, just like all other human beings, they are entitled to adequate food and nutrition, and it is a right they can demand and enforce against their governments simply for the reason of their being human separate from their parents.¹⁶⁰ For the children, the right to food is the engine of their wellbeing and development so this right must be protected because it enables them to develop their abilities as mentioned in the CRC.¹⁶¹

Many children in Mozambique do not have access to good nutrition because they live in underprivileged situations, such as poverty, subject to extreme levels of corruption, unequal distribution of food resources, low-income and lack of employment, which affects small children as well as explained in chapter 2 above.¹⁶² Additionally, the lack of nutritional food faced by pregnant women also contributes to too many deaths of children during the neonatal period and in the first months of their lives. This, on its own, constitutes a derogation of the right to food for children.¹⁶³ For this reason, the protection and promotion of the rights to food for children as well as fulfilment are imperative in Mozambique.

3.3 The Protection of the right to food for children at an International Level

The right to have adequate food and nutrition has been recognised under the international instruments of human rights such as the Child Declaration of 1924¹⁶⁴, the

¹⁵⁸ <http://www.ohchr.org> (accessed 8 September 2018).

¹⁵⁹ United Nations Human Rights: Questions and Answers (1987) 4.

¹⁶⁰ United Nations Human Rights: Questions and Answers (n 159 above) 4.

¹⁶¹ Article 19 of the CRC of 1989.

¹⁶² UN/CRC/C/GC/15 on the Right of the Child to the enjoyment of the highest attainable standard of health Article 24, (2013) page 4, para1.

¹⁶³ UN/ CRC/C/GC/15 (n 163 above) para D.

¹⁶⁴ Article 2 of the Child Declaration of 1924.

Universal Declaration of Human Rights of 1948¹⁶⁵, the Convention on the Rights of the Child of 1989¹⁶⁶. In terms of the international law instruments that Mozambique has ratified, she is compelled to protect, promote, fulfil, respect and not to discriminate against the right to food for children.

3.3.1 The children's right to food in the 1924 Declaration

The Child Declaration¹⁶⁷ was drafted by, Save the Children Fund established by Eglantyne Jebb.¹⁶⁸ The Declaration was submitted to the League of Nations and adopted by the General Assembly of the UN in 1924.¹⁶⁹ The Declaration recognises that 'mankind owes to the child the best that it has to give.'¹⁷⁰

The Declaration was the first instrument of children's rights within the international arena to give recognition to the children's right to food.¹⁷¹ The Declaration posits that:¹⁷²

'The Child that is hungry must be fed [...]'.¹⁷³

The children's basic rights were addressed in five crucial provisions, as follows:¹⁷³ the children's right to wellbeing¹⁷⁴; the children's rights to have food for their normal development¹⁷⁵; for all children the right to relief in case of need¹⁷⁶; the children's right to protection;¹⁷⁷ and the children's right to be assisted by their families and the government.

¹⁶⁵ Article 25 of the UDHR of 1948.

¹⁶⁶ Article 27 of the CRC of 1989.

¹⁶⁷ The Declaration of the Rights of the Child, League of Nations (LON) Records of the Fifth Assembly adopted 26 September 1924, Geneva, O.J spec support. 21 (1924) League of Nations.

¹⁶⁸ <https://www.humanium.org> (accessed 9 September 2018).

¹⁶⁹ The Child Declaration of 1924 (n 167 above).

¹⁷⁰ The Child Declaration of 1924 (n 167 above).

¹⁷¹ Article 2 of the Child Declaration of 1924.

¹⁷² Article 2 of the Child Declaration of 1924.

¹⁷³ <http://www.hrlibrary.umn.edu> (accessed 9 September 2018).

¹⁷⁴ Article 1 of the Declaration of the Child of 1924.

¹⁷⁵ Article 2 of the Declaration of the Child of 1924.

¹⁷⁶ Article 3 of the Declaration of the Child of 1924.

¹⁷⁷ Article 4 of the Declaration of the Child of 1924.

3.3.2 The right to adequate food in UDHR

The UDHR is the primary instrument of human rights giving recognition to this right under the right to an adequate standard of living.¹⁷⁸ The right to an adequate standard of living is defined as ‘the minimum that every child should have to enjoy the necessary subsistence rights’, such as adequate diet, meaning food that contains nutrition with enough energy and calories.¹⁷⁹ This right is applicable to all children without discrimination; it does not exclude poor children or those that are not well located such as children living in rural areas.¹⁸⁰

The right of everyone to have adequate and nutritious food has been recognised by the UDHR¹⁸¹ as well.¹⁸² The Declaration posits that ‘[e]veryone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing, medical care and necessary social services [...]’.¹⁸³

‘Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.’¹⁸⁴

3.3.3 The rights to food for children in CRC

Articles 24 and 27 of the CRC protect children’s rights to adequate food and nutrition, under the state parties who are called to ensure the protection and fulfilment of the rights as follows:¹⁸⁵

Article 24

¹⁷⁸ UN The International Bill of Human Rights: A Universal Declaration of Human Rights No.13, 71 at

76 UN Doc. A/810 of 1948.

¹⁷⁹ Icelandic Human Rights Centre the Concept of the Rights to an Adequate Standard of Living available at <http://www.humanrights.is/en/human-rights-education-project> (18 September 2018).

¹⁸⁰ Kunnemann (n 59 above) 82.

¹⁸¹ UN UDHR of 1948.

¹⁸² Article 25(1) of UDHR 1948.

¹⁸³ Article 25(1) of UDHR 1948.

¹⁸⁴ Article 25(2) of UDHR 1948.

¹⁸⁵ Articles 24 &27 of the CRC of 1989.

Provides the following:

1. '[...] recognise the right of a child to enjoy the highest attainable standard health' [...].
- 2(c) 'States Parties shall take appropriate measure to 'combat disease and malnutrition' [...] through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods' [...].
- 2(e) 'States Parties shall take all appropriate actions to ensure that all segments of the society, in particular parents and children, are informed, [...] and are supported in the use of basic knowledge of child health and nutrition, and the advantages of breastfeeding [...].
4. 'States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries'.

Article 27

Provides the following:

2. '[...] recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development'.
3. The families of other people who are responsible to take care of the children have the first responsibility to ensure according to their ability and financial situation the conditions, which are necessary for the development of the child. States parties, in accordance with national conditions and within their means, shall take appropriate means to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes particularly with regard to nutrition, clothing, and housing.
4. States parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the state party and from abroad. In particular, where the person having economic responsibility for their child lives in a state different from that of the child, states parties shall promote the accession of the international agreements or the conclusion of such agreements, as well as the making of other, appropriate arrangements.

3.3.3.1 Obligations under the CRC

In this context, the CRC obliges every state party to, to enact the law or incorporate into domestic law, the specific provisions that show its commitment under the international human rights instruments towards the realisation of the children's right to food as covered by the above articles.¹⁸⁶

Furthermore, this provision compels governments to assist families and other people responsible for the upbringing of the child, such as guardians, who cannot afford to provide good nutrition for the children. As stated above, Mozambique as the state party to the CRC is obliged to satisfy its commitments under the Convention.¹⁸⁷ These obligations comprise of, 'to respect, protect, promote and fulfil the right to food and good nutrition' for the children.¹⁸⁸ Below are discussed Mozambique's obligations in relation to the children's right to have adequate food and nutrition.

3.3.3.2 Mozambique's obligations to respect the right to food for children under the CRC are as follows:¹⁸⁹

- The state must not interfere with the enjoyment of the basic needs of the child, such as access to nutritious food;
- The state must give attention to all children including those vulnerable on grounds of poverty, their geographical location (rural children) and those living in unemployed households;
- The state must assist the parents of children so that vulnerable children cannot be denied their basic right to food and nutrition;
- The state is obliged to assist families and other parents to produce their own food in order to secure the nutrition of their children; and

¹⁸⁶ UN/CRC/C/GC/7/Rev 1. para 1, para 1.

¹⁸⁷ See Information available at <http://www.fao.org/docrep/005/Y4430> (accessed 30 September 2018).

¹⁸⁸ As above.

¹⁸⁹ UN/OHCHR Factsheet No.27 Special Rapporteur on the Rights to Food (2001) available at <http://www.ohchr.org> (accessed 30 September 2018).

See also Wabwile (n 39 above) 31-35.

- The state must make available its resources and take appropriate steps and measures to ensure the realisation of the right to food by children.

3.3.3.3 The state's obligations to protect the right to food for children are stated below:

- The state is obliged to protect the right to food by enacting laws and policies within their national territory that ensures the protection of the right to food for children; and
- The state must prevent the violation of international human rights standards by providing specific legislation provisions that foster the eradication of hunger and chronic undernutrition for young children.

3.3.3.4 The obligation to fulfil the right to food for children is as follows:

Every state has a certain group of people who are disadvantaged either by their geographical location or by their social condition. Mozambique is one country where this problem is notable. The obligation to fulfil the right to food requires from the state party to the CRC to take positive measures possible, either administrative, legal, or judicial to ensure access to food by children and guarantee the means of production to eliminate chronic undernutrition for children.¹⁹⁰ This includes children affected by natural disasters, especially for those families who have lost their crops and are suffering from hunger because of floods or other natural disasters.¹⁹¹ The fulfilment of the right to food for children also means making the countries resources available that can help ensure the realisation of the right, such as in cases where it is necessary 'to adopt domestic policies, legislation, strategy, and other programmes' that foster the implementation of the right to food for the children in the country.¹⁹²

¹⁹⁰ Article 27(3) of the CRC of 1989.

¹⁹¹ UN/OHCHR Factsheet No.27 Special Rapporteur on the Rights to Food (n 189 above) available at: <https://www.ohchr.org> (accessed 30 September 2018).

¹⁹² Wabwile (n 39 above) 35.

Importantly, fulfilment of the right to food for children requires action from the state party, to allocate some funds from 'the state national budget', which will specifically be used to promote the right to food for children in the country.¹⁹³

3.3.3.5 The obligation of state party not to discriminate

The CRC prohibits discrimination and provides that no child should be discriminated against based on the grounds of [...] social origin [...] or any other status.¹⁹⁴ The children's rights deal with the wellbeing of all¹⁹⁵, vulnerable or not, urban/rural, rich/poor children.¹⁹⁶ The all have the same right not be discriminated against and to enjoy the right to adequate food equally.¹⁹⁷ The principle of non-discrimination is one of the most important principles because, very often, poor children living in rural/urban are denied the most basic rights such as their right to adequate food and nutrition.¹⁹⁸ In other words, poor children living in rural and urban areas are discriminated against and, therefore, their right to food and nutrition is usually violated simply because they stay in remote areas.¹⁹⁹

This instrument is central to the current study, therefore, a more detailed critique of the Convention will be conducted under chapter 4 below.

A discussion on regional commitments towards the children's right to food is given below.

¹⁹³ Article 27(3) of the CRC of 1989.

¹⁹⁴ Article 2(1) & (2) of the Convention on the Rights of the Child 1989.

¹⁹⁵ Article 3(2) on the Convention on the rights of the Child of 1989.

¹⁹⁶ United Nations the Right to Adequate Food/ Factsheet No 34 (2010) 9-12.

¹⁹⁷ United Nations the Right to Adequate Food/ Factsheet (n 197 above)

¹⁹⁸ Ministry of Justice Legal Reform for the Protection of Children in Mozambique (2014) 16.

¹⁹⁹ UN/A/HRC/AC/6/CRP.1, page 8, para 28.

3.4 The Protection of the Right to Food for children at Regional Level

The Republic of Mozambique is a member of the AU, and one of the mandates of the AU is the protection and promotion of human rights in Africa.²⁰⁰ At a regional level, Mozambique has legally binding obligations under the ACHPR (African Charter on Human and Peoples' Rights), ACRWC (African Children's Charter) as well as the Women's Protocol (Maputo Protocol) towards the fulfilment of the right to food and nutrition for children including the mother, as will be discussed below.

3.4.1 The right to food in ACHPR

The African Charter on Human and Peoples' Rights (ACHPR)²⁰¹, was ratified by Mozambique on 15 July 1989 through Resolution 28/2005.²⁰² The Charter represents the main instrument of the protection and promotion of human rights for African people.²⁰³ The children's right of non-discrimination²⁰⁴ and the right to equality are enshrined in this instrument.²⁰⁵ Furthermore, the Charter guarantees the following rights: socio-economic and cultural rights; the right to development; civil and political rights; the rights of women; the children's rights; the rights of people with disabilities; individual duties; the state parties' duties; and individual and group rights.²⁰⁶

The ACHPR however, does not have a clear provision that guarantees the protection of the right to food.²⁰⁷ The right can be established only from the context of the ACHPR

²⁰⁰ The Constitutive Act of the African Union of 2001 available in *Compendium of Key Human Rights Documents of the African Union* (2016) 6.

²⁰¹ CH Heyns & Killander *Compendium of key Human Rights Documents of the African Union, African Charter on Human and Peoples' Rights* (2016) 29 available in the law library, University of Pretoria.

²⁰² H Adjolohoun *et al the Impact of the African Charter and Women's Protocol in Selected African States* (2012) 105.

²⁰³ <http://www.ihrda.org> (accessed on 9 September 2018).

²⁰⁴ Article 2 of ACHPR of 1981.

²⁰⁵ Article 3(1) of the ACHPR of 1981.

²⁰⁶ The Banjul Charter and Universal Human Rights: A Comparative Analysis No. 55/75 available at: <http://www.jurisafrica.org> (accessed 9 September 2018).

²⁰⁷ Heyns & Killander (n 201 above) 29.

through the implied human rights interpretation ‘mechanism’,²⁰⁸ as was applied in the case of *SERAC and Another v Nigeria*.²⁰⁹

In this case, the ACHPR dealt with the violation of many articles listed in the Banjul Charter²¹⁰, comprising of the right to have good health, ‘the right to a clean environment’, and the right to development as protected by the Banjul Charter.²¹¹ The complaint was about the after effects of environmental degradation in the Ogoni land caused by the Shell Corporation working along with the government of Nigeria. In the decision, the Commission decided that other human rights, which are not explicit in the African Charter but implied, such as the right to food and housing were also violated by the actions of the Shell Corporation, who were authorised by the government. The Commission found that the right to food and shelter is a fundamental human right, necessary for the existence of a human being.²¹² According to the Commission, the right to have adequate food is important for the life of people²¹³, the right to health²¹⁴, the right to development²¹⁵, and the right to education²¹⁶ as listed in the Charter.

Furthermore, the Commission recommended that the government of Nigeria ensure food availability for their nationals and take all action necessary to protect the violation of rights owing to the arbitrary interference by private companies in the enjoyment of basic human rights.²¹⁷ They further emphasised that the right to food is not entrenched in the Banjul Charter, but the state must consider that the right to food is an ‘individual

²⁰⁸ Article 4 of the ACHPR of 1981 available in *Compendium of key Human Rights Documents of the African Union* (2016) 30.

²⁰⁹ *SERAC and Another v Nigeria* (2001) AHRLR 60 (ACHPR 2001) 320.

²¹⁰ Articles 2; 4; 14; 16; 18(1); 21; & 24 of the ACHPR of 1981 (n 14 above) 30-33.

²¹¹ *The SERAC case* (n 209 above) 325, para 50.

²¹² *The SERAC case* (n 209 above) 228, para 65.

²¹³ Article 04 of the ACHPR/ <https://www.achpr.org> (accessed 24 September 2018).

²¹⁴ Article 16 of ACHPR available in <https://www.achpr.org> (accessed on 24 September 2018).

²¹⁵ Article 22 of ACHPR of 1981.

²¹⁶ Article 17 of ACHPR of 1981.

²¹⁷ *The SERAC case* (n 209 above) 328, para 65.

right and indivisibly right' attached to the right to the human dignity.²¹⁸ This must, therefore, be respected, protected, promoted and realised in the state parties.

3.4.1.1 The obligations under the ACHPR

Under the Banjul Charter, the state is obliged to respect, protect, promote and fulfil the right to food for all people living within their territory²¹⁹ without discrimination of any kind.²²⁰ This obligation also comprises ensuring that all people are enjoying the right to basic food and nutrition through making available the resources of the government.²²¹

3.4.2 The right to food in the African Charter on the Rights and Welfare of the Child

Mozambique became a state party to the African Children's Charter on 15 July 1998 through Resolution 20/98.²²² The African Children's Charter establishes that all families must provide for their children including food and nutrition and it places the responsibility on the families to ensure that children are protected within their financial means.²²³

The instrument recognises that children owing to their vulnerability, require special attention to the growth and development of their human capacities but also to secure their physical, mental, moral being and dignity.²²⁴ Its preamble also recognises that the promotion, protection, and wellbeing of the child implies the efforts of everyone such as civil society, family and the state party to the Charter.²²⁵

²¹⁸ *The SERAC case* (n 209 above) 328, para 65.

²¹⁹ *The SERAC case* (n 209 above) 328, para 65.

²²⁰ Article 2 of ACHPR of 1981.

²²¹ Article 2 of ACHPR of 1981.

²²² <http://www.achpr.org> (accessed 24 September 2018).

²²³ Article 20.1(b) The African Children's Charter of 1990/1999 www.achpr.org (accessed 9 September 2018).

²²⁴ The Preamble of the African Children's Charter of 1999. *Compendium of Key Human Rights Documents of African Union* (2016) 80.

²²⁵ The African Children's Charter of 1999.

Though this instrument places the primary obligation to provide food for the children on the families, it also obliges the states to provide where the families do not have the means. The Charter also sets out that Mozambique should take all necessary action to protect issues that influence child development and welfare.²²⁶

3.4.3 The right to food in Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa also known as the Women's Protocol was enacted by the AU to protect the rights of all women in Africa.²²⁷ Mozambique ratified the Women's Protocol on 13 December 2005 through Resolution 28/2005.²²⁸

The Maputo Protocol provides that every woman have the right to have adequate food and nutrition.²²⁹ In this regard, Mozambique should take all action to:

'Ensure that women [...] have access to land and means of production to produce nutritious food, which will ensure food security necessary for the realisation of the children's right to food.'²³⁰

'Establish adequate systems of supply and storage to ensure food security within the state party'.²³¹

The women should enjoy this right without any discrimination of any kind. To fulfil the right to food for women means to provide for her access to land to produce her own

²²⁶ Article 20.2(b) of the African Children's Charter of 1999.

²²⁷ Protocol on the Rights of Women of 2005 available at <http://www.achpr.org> (accessed 5 October 2018).

²²⁸ <http://www.achpr.org> (accessed 9 October 2018).

²²⁹ Article 15 of the Maputo Protocol available in *Compendium of Key Human Rights Document of the African Union* (2016) 72.

²³⁰ Article 15(a) available in *Compendium of Key Human Rights Documents of the African Union* (2016) 72.

²³¹ Article 15(b) available in *Compendium of Key Human Rights Documents of the African Union* (2016) 72.

food, and, in cases of incapacities, it means the state party must provide for those who are not able by any reason to provide for themselves.

3.5 How the International and Regional Normative Framework on the right to food for Children can assist to solve the situation in Mozambique?

International and regional interventions are of importance to protection and fulfilment of the right to food for children.²³² First, they are of essence because they help to combine the efforts towards ensuring the enjoyment of the right to food for children. Their efforts to work together with the national government and/or different departments of the government dealing with the wellbeing of children helps to find better solutions to the problems of chronic malnutrition prevalent in the country.²³³ The international and regional standards if ratified by the states automatically becomes part of the law of the land, therefore they provide a very strong legal basis upon which the children can rely in order to enforce their rights against governments.²³⁴ These instruments grant the children a form of remedy, they can enforce their rights regionally and globally if the local systems are flawed or have failed.²³⁵ Further, due to international human rights principles such as the principle of solidarity, the international community is mandated to act positively towards assisting economies that are in need. All these have the capacity to help children find appropriate attention with a view of ensuring that they are protected from hunger and chronic malnutrition.²³⁶

The standard normative framework will be helpful in ensuring an equitable mobilisation of resources.²³⁷ Because of their legal binding effect, they compel the government to reallocate state resources equitably within the country and this is essential for the

²³² <https://www.unicef.org> (accessed 9 November 2018).

²³³ https://www.unicef.org/files/Global_Framework_for_Action (accessed 9 November 2018)

²³⁴ Article 2 of the Child Declaration of 1924.

Articles 24 & 27 of the CRC of 1989.

Article 20 of the African Children's Charter of 1990.

²³⁵ Wabwile (n 39 above) 45.

²³⁶ Wabwile (n 39 above) 45.

²³⁷ See https://www.unicef.org/about/execboard/files/Global_Framework_for_Action1.0--Dec2006.pdf (accessed 9 November 2018).

fulfilment of children rights to food.²³⁸ These will help include vulnerable children in remote areas who are far away from all the resources available, who in most cases are often denied the basic needs for survival.²³⁹ The monitoring and enforcement mechanisms from international and regional levels will help ensure the government complies with its obligations as per its ratifications of international and regional children rights instruments.²⁴⁰

In practice, the standard normative framework for children can be applicable to protect and promote the right to food by disseminating messages that demonstrate the importance of accessing nutritious food, the child's right to breastfeeding and the progressive realisation of the rights in the country.²⁴¹

3.6 The right to food for children at national level

3.6.1 Sections of the Constitution of Mozambique

The state's obligations to protect, promote, respect and fulfil the rights to food for children at the domestic level is empowered by the provisions of international and regional instruments of human rights, which have been ratified by the state as shown above and normally domesticated into national law, such as the Constitutions, Children's Act and other piece of legislation.²⁴² As one writer said:

'The purpose of international law is to recognize and accept human rights and to reflect these rights in their national Constitutions and law, to respect and ensure their enjoyment through national institutions and to incorporate them into national ways of life.'²⁴³

²³⁸ UNICEF (n 237 above).

²³⁹ UNICEF (n 237 above).

²⁴⁰ UNICEF (n 237 above).

²⁴¹ UNICEF (n 237 above).

²⁴² JC Mubangaizi 'the protection of Human Rights in South Africa: A Legal and Practical Guide' (2005) 32.

²⁴³ Henkin & T Meron 'Human Rights in International Law: Legal and Policy Issues 1984 quoted by JC Mubangizi the Protection on Human Rights in South Africa: A Legal and practical guide', (2005) 32.

In the Republic of Mozambique, the Constitution is the highest law of the land, and it recognises the protection of all citizens' socio-economic and political rights.²⁴⁴ Regarding the protection of the children's rights to food, the Constitution does not have a clear provision for the right.²⁴⁵ The only provisions in the Constitution that can be impliedly interpreted to protect the right to food for children would be Article 47(1), (2), (3), Article 97, Article 121(1) as will be analysed below;

Article 47

Provides the following:²⁴⁶

1. 'Children shall have the right to protection and care requirements for their wellbeing'.
2. 'Children may express their own opinion freely on the issues that related to them, according to their age and maturity'.
3. 'All acts carried out by public entities or private institutions in respect of children shall consider, primarily, the paramount interest of the child'.

This section, as it provides for the wellbeing of the children, can be construed through the implied human rights approach interpretation to include the right to food because the food is imperative for a child's wellbeing. As explained by the Collins Online Dictionary, the wellbeing of a person refers to his/her health and happiness, and, therefore, it is through food in this context that the children are able to attain their happiness and good health.²⁴⁷

Section 2 of the Article makes it possible for the children to voice their needs, and again the right to food is implied in this context because it is food that empowers the children to participate and voice out their concerns to the government and society. Without food, which promotes their wellbeing and health, they cannot be in a sound position to enable them to be actively be involved in matters that affect them. They

²⁴⁴ Article 4 & 3 of the Mozambican Constitution of 2004.

²⁴⁵ See Article 47 of the Mozambican Constitution of 2004.

²⁴⁶ Article 47(1); (2) & (3) of the Mozambican Constitution of 2004.

²⁴⁷ Collins English Dictionary '*Definition of Wellbeing from Collins English Dictionary*' available at collinsdictionary.com/dictionary/English/Wellbeing (accessed 10 October 2018).

need energy even to speak, and adequate and nutritious food will give energy and intellectual capacity to the children.

Furthermore, Section 3 of the Article obligates the public entities and private institutions to act in the best interest of children; in this context, they are obliged to act in ways that will protect, promote and ensure the fulfilment of children's right to food. Simply because it is in the best interest of every child to have access to nutritious food for its wellbeing and development as stated above.

Additionally, **Article 121(1)** of the Constitution provides that:²⁴⁸

'the children have the right to protection from the family, society and from the state, having in mind their full development.'

This Article promotes the right to the development of children, so it thus prohibits any actions by the family, state and society that may have the effect of tampering with the development of a child. In the context of the right to food, the above group is barred from acting in any manner that encroaches upon the right of a child to food, which is essential to the development of each child.

Finally, **Article 97** states that:²⁴⁹

The economic and social order of Mozambique shall aim to satisfy the basic needs of the people and promote their social well-being. It shall be based on the following fundamental principles: the value of labour; market forces and initiatives of social economic operators; the co-existence of the public sector, the private sector and the social operative sector; public ownership of natural resources and means of production in accordance with the collective interests; protection of the cooperative and social sector; and on the action of the state as a regulator of socio-economic and social growth and development.²⁵⁰

This Article, on the other hand, compels Mozambique to promote, protect and fulfil the basic needs and social welfare of all Mozambican people which includes children. It

²⁴⁸ Article 121(1) of the Mozambican Constitution of 2004.

²⁴⁹ Article 97 of the Mozambican Constitution of 2004.

²⁵⁰ Article 97(a); (b); (c); (d); (e); (f) & (g) of the Mozambican Constitution of 2004.

bestows a much greater obligation on the state and highlights the role of the state in item (g) of the Article that guarantees that the state is the regulator and promoter of economic and social growth and development of people.

Upon further interpretation of the above provision in terms of the children's rights discourse, children are now included under the definition of "people or human beings". They exist separately from their parents and have their own fundamental human rights and liberties just as their parents do which they can enforce at any time. The provision above which refers to 'people' refers also to children of Mozambique. In this context, the basic need due to them from the state is food, which they are entitled to enjoy in terms of the laws of the country. Below is a discussion of the provisions of the Children's Act, which guarantees the right of food for children.

3.6.2 Section 7 and 14 of the Children's Act of 2008

The Children's Act of 2008 was passed to protect and promote children's rights in the country.²⁵¹ This Act was enacted based on principles entrenched in the CRC²⁵² as well as the ACRWC.²⁵³ The Act is applicable to all children and protects them against any discrimination owing to their social origin and socio-economic condition.²⁵⁴ Furthermore, the children's rights to be protected by state parties, families and civil society are listed within the Act, which emphasises that children's rights to food security should be protected by the state.²⁵⁵ The same law, in section 14, also offers protection to pregnant women and calls on the government to provide assistance on issues concerning food.²⁵⁶

²⁵¹ Act 7 of 2008 on Protection and Promotion of Children's Rights.

²⁵² The Convention on the Rights of the Child of 1989.

²⁵³ Article 1 of Act 7 of 2008.

²⁵⁴ Article 4(2) of Act 7 of 2008.

²⁵⁵ Article 7 of Act 7 of 2008.

²⁵⁶ Article 14(1) of Act 7 of 2008.

3.6.2.1 The domestic obligation

Mozambique's Children Act compels the country to protect all children from violations of the right to food. The Act also ensures that women have access to food and nutrition in order to protect the right to life of the children.²⁵⁷

3.7 Conclusion

This chapter has discussed the legal regimes seeking to protect and promote the right to adequate food and nutrition for children in Mozambique on international, regional and domestic levels. This chapter concludes that Mozambique does not have clear provisions regarding protection, promotion and fulfilment of the right to food for children at the national level as prescribed by the international and regional human rights standards. However, the country is still obliged to comply with its obligations towards protection and fulfilment of the right to food for children as it is a state party to these instruments.

Besides the treaty and statutory obligations applicable to Mozambique to ensure the right to food for children, Mozambique being an African country is also governed by African customary laws especially in rural areas. According to African customary law, it is the duty of the parents to maintain and look after a child either his or her own child, or any child. This is also provided in Article 29 of the African Charter which guarantees the duty of the individual in this case including the parent towards the child and the latter towards the former. The following chapter will conceptually critique the applicability of the CRC with regard to the fulfilment of the right to food for children in Mozambique

²⁵⁷ Article 14(1) of Act 7 of 2008.

CHAPTER FOUR: A CONCEPTUAL CRITIQUE OF THE APPLICABILITY OF THE CRC TOWARDS THE FULFILMENT OF THE RIGHT TO FOOD FOR CHILDREN IN MOZAMBIQUE

4.1 Introduction

It has already been discussed, in chapter 3, how Mozambique protects, promotes and fulfils the rights to food for children under the law; this chapter seeks to critique the practical applicability of the CRC towards of fulfilment of the right to food for children in the country conceptually.

4.2 The applicability of the CRC in Mozambique with regard to the right to food for children

The CRC is a multilateral treaty of the UN General Assembly and it sets out the socio-economic, cultural, civil and political rights of the child.²⁵⁸ The CRC is recognised as the first legally binding international instrument dealing with children’s basic needs and rights.²⁵⁹

Implementation of the CRC is empowered by the following principles enshrined in the CRC:

- the principle of non-discrimination;²⁶⁰
- the principle of ‘the best interest of the child;’²⁶¹
- the provision that provides the right to adequate food and nutrition for the child;²⁶² and

²⁵⁸ UN General Assembly, Convention on the Rights of the Child of 1981.

²⁵⁹ <http://www.unicef.org> (accessed 14 September 2018).

²⁶⁰ Article 02 of the CRC of 1989.

²⁶¹ Article 3(1) of the CRC of 1989.

²⁶² Article 27 of the CRC of 1989.

- the duties of state parties to ensure that children enjoy their right to have adequate food and nutrition.²⁶³

These are the main tools, which assures protection, and fulfilment of the rights of children as explained in chapter 2 of the study.

The Republic of Mozambique became a state party to the CRC²⁶⁴ on 26 April 1994.²⁶⁵ The country follows a monist system with regard to the relationship between international law instruments and domestic law.²⁶⁶ According to Article 18(1) of the Mozambican Constitution ratified international law instruments form part of domestic legal norms upon being officially published.²⁶⁷ In terms of Article 18(2), within the Mozambican legal order, ratified international law norms are positioned directly under the Constitution, but they have the same legal force even as the Constitution. This implies that both international law and domestic law can be applied concurrently within the legal system.²⁶⁸

However, a problem arises when the two are in conflict; because the Constitution does not further provide guidance on whether international law instruments take precedence over the domestic norms.²⁶⁹

In practice, it cannot be denied that Mozambique has been taking steps to implement the provisions of these instruments gradually and progressively.²⁷⁰ As seen under chapter 3 above, domestically, the government has enshrined some provisions of the CRC in local law under the Constitution and other legislation, such as the Children's Act and the Mozambican National Plan for Children II.²⁷¹ The only shortfall with this is that the provisions are not explicit nor comprehensive enough to ensure protection,

²⁶³ Article 18 of the CRC of 1989.

²⁶⁴ United Nations General Assembly, Convention on the Rights of the Child of 1989.

²⁶⁵ <http://tbinternet.ohchr> (accessed 14 September 2018).

²⁶⁶ See Adjolohoun *et al* (n 202 above) 105.

²⁶⁷ Article 18(1) of the Mozambican Constitution of 2004.

²⁶⁸ Article 18(2) of the Mozambican Constitution of 2004.

²⁶⁹ See Adjolohoun *et al* (n 202 above) 105

²⁷⁰ *My own emphasis.*

²⁷¹ See the Children's Act of 2008 & The Mozambican Plan for Children II of 2013.

promotion, and fulfilment of the right to food for children in the country.²⁷² Further, there are many gaps in the existing law covering this area, which hinders the proper implementation of the provisions of the CRC at the national level and often leaves the children without adequate remedies.²⁷³ Nevertheless, the country has been gradually taking steps by putting in place several initiatives that promote, protect and fulfil the right to food for children in Mozambique despite the challenges.²⁷⁴

4.2.1 General Comment No. 7 of 2005

The General Comment No. 7 of 2005 which focuses on the implementation of rights of small children, clearly recognises that little children are entitled to enjoy all the rights listed in the CRC.²⁷⁵

Paragraph one of the General Comment No. 7 calls on the state parties to ensure their international obligations towards little children.²⁷⁶ And, particularly regarding vulnerable children on the grounds of poverty, children who are discriminated [...] and other factors that affects their welfare.²⁷⁷

Paragraph ten of the General Comment No 7 of 2005 expands upon the applicable provisions that protects the right to life, the right to survival and the right to development of children.²⁷⁸ In this regard, the state party to the CRC is obliged to ensure that the right to the development of children is protected and taking into account that children need welfare.²⁷⁹

However, the Committee placed that the right to survival and development of the child can only be fulfilled in 'a holistic manner through the enforcement of all other

²⁷² *My own emphasis.*

²⁷³ J Gallinetti 'Harmonization of laws relating to children in Mozambique', African Child Policy Forum, Addis Ababa, Ethiopia, available at <http://www.africanchildforum.org> (accessed 18 September 2018).

²⁷⁴ *My own emphasis.*

²⁷⁵ See UN/CRC/C/GC/7. Rev.7, page 1, para 1.

²⁷⁶ See UN/CRC/C/GC/7. Rev.7, page 1, para 2(b).

²⁷⁷ See UN/CRC/C/GC/7 Rev.7, page 2, para 2(f).

²⁷⁸ See UN/CRC/C/GC/7. Rev.7, page 4, para 10.

²⁷⁹ See UN/CRC/C/GC/7. Rev.7, page 4, para 10.

provisions' of the CRC.²⁸⁰ This means that other rights interrelated to the above mentioned rights such as the right to have good nutrition, adequate lives, education, health and the right of child play must concurrently be fulfilled.²⁸¹ Further, the same General Comment provides the following information, small children themselves should be part of activities that fully guarantees their right to good nutrition.²⁸²

4.3 The applicability of the African Children's Charter in Mozambique with regard to the right to food for children

The African Children's Charter (ACRWC) is the main instrument protecting and promoting the rights of children in Africa.²⁸³ Same as the CRC internationally, the ACRWC is an instrument that protects socio-economic and cultural rights and civil and political rights of children, regionally.²⁸⁴ The ACRWC offers a higher level of protection than that offered by the CRC.²⁸⁵ It is an instrument designed to reflect the spirit of traditional cultural values of African children.²⁸⁶

As a state party to the Charter, Mozambique is legally bound by the instrument and is obliged to take all action necessary to ensure that the right to food for children listed in the instrument is fulfilled.²⁸⁷ The state has an obligation to take 'steps in accordance with their available means and national resources to support the families in need in order to ensure fulfilment of the right to food and nutrition'.²⁸⁸

²⁸⁰ See UN/CRC/C/GC/7. Rev.7, page 4, para 10.

²⁸¹ See UN/CRC/C/GC/7. Rev.7, page 4, para 10.

²⁸² See UN/CRC/C/GC/7. Rev.7, page 4, para 10.

²⁸³ https://resourcecentre.savethechildren.net/library/african_charter_rights_child (accessed 5 December 2018).

²⁸⁴ https://resourcecentre.savethechildren.net/library/african_charter_rights_child (accessed 5 December 2018).

²⁸⁵ https://resourcecentre.savethechildren.net/library/african_charter_rights_child (accessed 6 December 2018).

²⁸⁶ https://resourcecentre.savethechildren.net/library/african_charter_rights_child (accessed 6 December 2018).

²⁸⁷ See Article 1 of the African Children's Charter of 1999, available at <http://www.achpr.org/files/> (accessed 30 November 2018).

²⁸⁸ Article 1 of the African Children's Charter of 1999.

Regarding the applicability of the Charter in Mozambique towards fulfilment of the rights to food and nutrition, it is important to understand how Mozambique is giving effect to the provisions of the Charter domestically.

Despite the challenge of lack of implementation, the country tried to give effect to the provisions of the Charter through their National Action Plan for Children II²⁸⁹ and the Children's Act.²⁹⁰ The main problem regarding the full implementation of the Charter is that many African countries such as Mozambique are poor and corrupt, due to this problem, the government cannot implement all the specific rights of children at the same time.²⁹¹ Lack of resources can limit government in promoting and fulfilling of the fundamental rights of children, while the children are entitled to enjoy all the rights entrenched in the Charter.²⁹²

Below is a discussion on the local initiatives formulated to further the implementation of the right to food for children in Mozambique. The chapter seeks to analyse their successes and shortfalls towards fulfilling the right to adequate food for children in the country as prescribed by the CRC critically.

4.4 The Mozambican National Plan for Children II

The government of Mozambique created the National Plan for Children II in 2012.²⁹³ The Plan considers that children must always be a priority at the domestic level.²⁹⁴ The PNAC II was established respecting principles stated in the CRC above and other international human rights laws²⁹⁵ taking into account that Mozambican children need welfare and protection.²⁹⁶

²⁸⁹ National Action Plan for children II (PNAC) 2013-2019 (2013) 10-16.

²⁹⁰ See Children's Act of 2008, Article 7.

²⁹¹ Republic of Mozambique 'Implementation of the African Charter on the Rights and Welfare of the Child: Initial report combined with first, second and third reports' (2013) 2-3.

²⁹² https://resourcecentre.savethechildren.net/library/african_charter_rights_child (accessed 7 December 2018).

²⁹³ See PNAC II (n 289 above) page 5, para 1.

²⁹⁴ See PNAC II (n 289 above) page 5, para 1.

²⁹⁵ See PNAC II (n 289 above) page 5, para 2.

²⁹⁶ See PNAC II (n 289 above) page 5, para 2.

In relation to the applicability of the CRC towards the fulfilment of children's rights to food in this Plan, the document clearly mentions the right for all children to have adequate food.²⁹⁷ In this regard, the PNAC II posits this as follows: 'Ensure that children have access to adequate food so that they have a healthy life'.²⁹⁸

It is crucial to point out that the Plan was established following the main provisions listed within the CRC.²⁹⁹ This comprises the right of all children to survive, the right to the development of the child, and the right to protection as well as their right to participate.³⁰⁰

This plan is, however, not a binding document for the government and, though it sets out worthy initiatives on paper that are in line with the CRC, if these are not implemented its significance will not be known with regard to the protection of children's rights. There is a need for a monitoring and overseeing mechanism that seeks to ensure compliance. To date, the situation of children living with severe malnutrition persists.

4.5 The Mozambican agenda for the reduction of chronic undernutrition

The UN established this Agenda in 2015. Its main purpose is to provide a clear and concise summary of the approach taken by the UN agencies in the country to support strategies, policies, action plans, and other programmes alleviating malnutrition for children in the country.³⁰¹

In relation to issues of children, such as chronic malnutrition, the UN Agenda posits that the main factors that contribute to a high level of children affected by the problem are as follows, poverty, lack of food, the poor diet of their families and food insecurity affecting the country.³⁰²

²⁹⁷ See PNAC II (n 289 above) page 10, para 2

²⁹⁸ See PNAC II (n 289 above) page 10, para 2.

²⁹⁹ See PNAC II (n 289 above) page 5.

³⁰⁰ See PNAC II (n 289 above) page 11.

³⁰¹ UN Agenda (n 28 above) 7.

³⁰² UN Agenda (n 28 above) 8.

The Agenda was implemented with the support of two important policies on Food, namely the Mozambican Strategy for Food Security and Nutrition (ESAN I) of 2007 and the PAMRDC³⁰³ discussed in the following paragraphs of this study.

4.5.1 The Mozambican Strategies on Food Security and Nutrition (ESAN I & ESAN II)

The Mozambican strategy on Food Security and Nutrition (ESAN I) was adopted by the SETSAN in 1998 through Resolution No.16/98 and revised in 2007 as ESAN II through Resolution No. 56/2007 of 16 October.³⁰⁴ Both strategies were created to address problems regarding Food Security and Nutrition at a domestic level.³⁰⁵

It is important to mention that ESAN I was reviewed to incorporate the human right to adequate food which addresses the protection, promotion and progressive realisation of the rights of all Mozambicans.³⁰⁶ The strategy recognises that the right to Food Security and Nutrition food is a fundamental human right, which no one should be denied.³⁰⁷ Furthermore, the strategy addresses the matter that the right to have adequate food at all times when people are in need should be taken into account and that this food must be accessed in enough quantity.³⁰⁸ All Mozambican children need food to live a life with dignity and to attain the 'best attainable health' as stated in the standards instruments of human rights.³⁰⁹

The objectives of the ESAN II are as follows:³¹⁰

- To ensure that all Mozambicans enjoy the right to adequate lives for their physical and normal development;

³⁰³ UN Agenda (n 28 above) 8.

³⁰⁴ National Food Security and Nutrition Secretariat (SETSAN) Strategy on Food Security and Nutrition ESAN I & ESAN II (2007-2015) 2.

³⁰⁵ SETSAN (n 304 above) 12.

³⁰⁶ SETSAN (n 304 above) 12.

³⁰⁷ SETSAN (n 304 above) 12.

³⁰⁸ SETSAN (n 304 above) 12.

³⁰⁹ SETSAN (n 304 above) 12.

³¹⁰ SETSAN (n 304 above) 13.

- To reduce the number of cases of chronic undernutrition affecting young children;
- To reduce the number of families and their dependents affected by chronic famine; and
- To improve the means to access adequate diets for young children.

In this light, the ESAN II incorporated the standard elements that characterise the right to have adequate food. These comprise the elements stated below:³¹¹

- **Adequate food**

Adequate food in the context of the strategy means nutritious food and the right to have enough food to satisfy people in the household. Adequacy means the right to have food that is safe from toxic substances and food that is culturally acceptable for the children and their families.³¹²

- **Availability of food at the domestic level**

The availability of food means the existence of enough food for families and their dependents to eat for their everyday life.³¹³ The Strategy provides that the issue of availability of food in the country must be guaranteed through agricultural production, food import, and export, which includes food supply.³¹⁴

- **Access to food at the national level**

In this regard, access to food relates to the capacity of Mozambican families in terms of utilising their means to buy or produce adequate food to secure nutrition for their children. For the right to food to be fulfilled, the resources must be well

³¹¹ SETSAN (n 304 above) 14.

³¹² SETSAN (n 304 above) 14.

³¹³ SETSAN (n 304 above) 14.

³¹⁴ SETSAN (n 304 above) 14.

distributed at a domestic level including the food markets to ensure that even the most vulnerable have access to adequate food.³¹⁵

- **Utilisation of food**

According to the document, the utilisation of food respects two essential elements: first, there is the utilisation of food by the families and their dependents; and second there is the utilisation of food that respects the right of people to consume and transform such food into energy and calories to be used in their everyday lives.³¹⁶ This means that children and their families must have access to the quality and quantity of food that is able to sustain them and keep them stronger.

- **Stability in the context of children's right to food**

In this light, stability means that the food must be available for children and their families at all times when they need nutritious food to eat.³¹⁷ The stability of food is guaranteed at the individual, social and family level. In other words, stability sets out an obligation of a government to provide food and nutrition specialists for vulnerable children and their families.³¹⁸

With regard to the applicability of the CRC, the Mozambican strategy on Food Security and Nutrition (ESAN II) was implemented considering the international obligation towards the fulfilment of the right to adequate food.³¹⁹ As seen in the discussion of strategy, it is very comprehensive and really aims actively to ensure the fulfilment of the right to food for the children. Below is the other leg of the UN Agenda.

4.5.2 The Mozambican Multi-Sectoral Plan for the Reduction of Chronic Undernutrition (PAMRDC)

The PAMRDC was created in 2011 by the Mozambican government to look specifically at issues concerning nutrition and food security in the country. It also seeks to put in

³¹⁵ SETSAN (n 304 above) 14.

³¹⁶ SETSAN (n 304 above) 15.

³¹⁷ SETSAN (n 304 above) 15.

³¹⁸ SETSAN (n 304 above) 15.

³¹⁹ Article 27 of the CRC of 1989.

place approaches to protect the right to life of the child.³²⁰ The PAMRDC is a key policy recognising the right to food as a basic human right. It seeks to facilitate the fulfilment of the right to nutritious food and for children.³²¹ The children's right to good health, which is interrelated with the right to food, as it is stated in the CRC³²², is also mentioned in the Plan.³²³ The Plan respects the principles of the children's Convention concerning the right to food and nutrition with a view to protecting the right to the survival and the development of children.³²⁴ This plan does not only refer to issues regarding lack of food, but it also considers the impediments that contribute to the lack of implementation of the Children's Plan and Policy in the country.³²⁵

The Plan also takes into consideration other factors, such as how the family deals with the problem of nutrition, the lack of acceptable food, the lack of resources to access nutritional food, and, importantly, how Mozambique addresses the problem of chronic undernutrition. Furthermore, the plan looks into how the government allocates its resources towards the fulfilment of the right to food for poor children, pregnant women, and women in a reproductive age without means or a source of food supply, as well as food storage at the national level.³²⁶

One of the shortfalls of this plan, however, is the insufficiency of human resources. There is a special need to employ qualified people dealing with human rights and children's rights to nutrition to create a specific policy, strategy, and programme on the right to adequate food and nutrition, but such expertise is rare in the country.³²⁷ The lack of qualified experts in the abovementioned areas constitutes a strong barrier for Mozambique to adopt relevant policies that will effectively guide the whole process.³²⁸

³²⁰ Sequeira *et al* (n 30 above) 35.

³²¹ UNSCN Country Policy Analysis: Nutrition Impact of Agriculture and Food System, Mozambique (2013) 57.

³²² Article 24 of the CRC of 1989.

³²³ Sequeira *et al* (n 30 above) 35.

³²⁴ Sequeira *et al* (n 30 above) 35.

³²⁵ Sequeira *et al* (n 30 above) 38.

³²⁶ Sequeira *et al* (n 30 above) 58.

³²⁷ Sequeira *et al* (n 30 above) 32.

³²⁸ Sequeira *et al* (n 30 above) 32.

4.6 Agricultural policy and the right to have nutritional food (PEDSA AND PNISA)

Agriculture is the primary source of food in Mozambique, and, therefore, it should be promoted as a way to accelerate the fulfilment of the right to food for children.³²⁹ The Mozambican Policy on agriculture was launched in 2011 to improve the agricultural sector at a domestic level. This was named the PEDSA and PNISA.³³⁰ In relation to these policies, it is crucial to emphasise that both focused on the production of food.³³¹ The main gap found in the policies is that they do not mention the right to have nutritional food for children.³³² In the document, there is no provision that states the need for supporting families with regard to the improvement of processing and storage of food to maintain its nutritional value.³³³ The absence of this element makes the national agricultural policy ineffective in terms of the protection and promotion of the right to nutritious food in the country. In other words, the inclusion of the right to nutritious food as expressed in the CRC³³⁴ is crucial to eradicating the chronic undernutrition of children in the country because most Mozambicans rely on local agriculture for food.

4.7 Conclusion

This chapter has analysed the implementation of the CRC in Mozambique with regard to the fulfilment of the children's right to food. By the analysis made, this study finds that, though there are challenges, there are some policies and strategies in place recognising the protection and fulfilment of the right to food for children in Mozambique. However, since these are strategies only and not binding laws, this constitutes a barrier for the fulfilment of the right to food and nutrition for children in Mozambique. The study concludes by saying that more work needs to be done in

³²⁹ Article 103(1) & (2) of the Mozambican Constitution of 2004.

³³⁰ Strategic Plan for the Development of the Agrarian Sector (PDESA) 2011-2012 (2011) 1-15.

³³¹ UN Food and Agriculture Organization (FAO) Country Fact Sheet on Food and Agriculture Policy Trends (2016) 3.

³³² UN Food and Agriculture Organization (n 332 above) 3.

³³³ UN Food and Agriculture Organization (n 332 above) 3.

³³⁴ Article 27(1) of the CRC of 1989.

order to fulfil the obligations of the state towards the realisation of the right to food for children in Mozambique.

CHAPTER FIVE: CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

This study demonstrated how Mozambique applied the Convention on the Rights of the Child (CRC) towards the fulfilment of right to food for children.

The second chapter has contextualised the right to food for children in Mozambique. It has analysed the status quo of access to food by children and shown the factors that hinder the fulfilment of the right to food for children.

It has mentioned the impact of poverty, the issue of corruption, lack of education, climate change, the challenge in the distribution of food and lack of employment towards fulfilment of the right to food for children. This chapter highlighted that malnutrition and lack of food are some of the main issues and challenges for the Government of Mozambique. Despite the country's rich natural resources and experienced significant improvements on sustained economic growth, many Mozambicans children continue to be affected by hunger. The issue of malnutrition severely affects the vulnerable children living in Northern provinces of the country where resources and access to adequate food for them are limited. Under chapter two this study concludes that alleviating the above-mentioned factors holistically, can facilitate fulfilment of the right to food for children in Mozambique. Importantly, the Mozambican government must take steps to eradicate the persisting challenges of poverty and corruption which remains the main causes of malnutrition for children in the country. The chapter concludes further that Mozambique will not develop as long as it has nearly 50 percent of the children starving. For the future development of Mozambique, children need to be protected from hunger, lack of education and poor health care.

The chapter discussed the legal frameworks seeking to protect and promote the right to adequate food and nutrition for children in Mozambique. The chapter highlighted that Mozambique does not yet have clear provisions regarding protection, promotion and fulfilment of the right to food for children at the national level. Yet, international and regional human rights standards prescribes every state party to domesticate their provisions nationally. The Mozambican Constitution which is the supreme law in the country, does not provide clear provisions on protection of the right to food for children

however, there is the Children's Act. The chapter concludes that the gaps in the law significantly contributes to the lack of fulfilment of the right to food for children in the country.

In concluding this study, it should be noted that the Government of Mozambique has made some efforts in addressing the right to food through the adoption of the country's Plan of Action on the reduction of chronic malnutrition. Some of these efforts have been analysed in chapters two and three of this study. Nevertheless, Mozambique has not yet fully applied the provisions of the CRC towards the fulfilment of the right to food for children in the country.

5.2 Recommendations

5.2.1 The National Policies of Government of Mozambique

It is crucial that the Government of Mozambique continue to take all actions to overcome poverty, corruption, lack of education and lack of employment opportunities in the country. The government must work towards poverty alleviation, fight corruption, improved level of education, increased employments opportunities and gender equality as factors necessary for the full enjoyment of the human right for children including the right to food. The Government of Mozambique by overcoming this issues will be able to solve the issue or reduce the higher levels of malnutrition on her children.

In addition, with the understanding that the human rights are interrelated, especially the right to food which is the main enabler of many rights of children. It is important for the government to note that it cannot be easy or possible to make the right to food for children a reality without pursuing equal resolve towards the fulfilment of other children's rights with which the right to food is inseparably connected. Amongst them is the rights to freedom of assembly and expression, the right to information, the right to education and the right to highest attainable standard of health. The interdependence of these rights calls for the adoption of a holistic approach because one right cannot be effectively fulfilled unless the others are fulfilled. Further the issue of land as the source of agricultural produce, Mozambican government make land available for the families including women to enable them to produce their own food for their families.

Further, the state must consider children's rights in its national budget plans, to ensure that some funding be allocated for children to facilitate the fulfilment of their rights, such as the most important the right to food and nutrition. The state also must employ qualified people in matters concerning food and nutrition for children, which will help children to enjoy their rights with regard to a better wellbeing and upbringing. Human resource facilities be made available to deal with the issues of children in different departments of the government.

The study recommends that the Mozambican government should formulate clear and adequate policies, institutional frameworks and laws relating to the right to food for children as prescribed by international human rights law. The Mozambican government should adopt an inclusive approach in formulating such policies, where other affected stakeholders from agricultural sector, health, social services, and the civil society are actively involved in the negotiations. The above parties must work hand in hand with the government to better the situation of food insecurity in the country.

The final recommendation is regarding the challenges around implementation, which Mozambique needs to work on in order to improve the situation of the children in the country. Implementation of the available policies is key, and the monitoring bodies should put pressure on the government to ensure that it complies with international standards

5.2.2 At regional level

The Banjul Charter (ACHPR) currently does not have a clear provision that guarantees the protection of the right to food. The right can be established only from the context of the ACHPR through the implied human rights interpretation 'mechanism', as was applied in the case of *SERAC and Another v Nigeria* as was discussed under chapter three above. Therefore, regarding this, this study recommends that the Banjul Charter which is the instrument that offers protection of human and people's rights in general, must incorporate principles that protect the right to adequate food and nutrition. This recognition in the Charter is necessary because the instrument is legally binding on the state parties. Therefore, it assures the nationals of the state parties a greater protection of their rights, and, at the same time, places an obligation on the state parties to conform to their obligations to protect, promote and fulfil the rights of their

citizens, which include children as per their ratifications. In the end, it leaves the citizens with adequate remedies in cases of encroachment of their rights including the children.

5.2.3 Civil society organisations advocacy campaigns

Civil society and the community should actively engage in campaigns to promote the right to food for children. There is a need for more advocacy for children as a minority and vulnerable group in order to help them realise their rights. Civil society must work with the community to compel Mozambique to comply with the international and regional human rights standards. The families must also be educated about the rights of a child and the ways they can go about enforcing them against the government.

In addition, the study recommends that families should be educated on issues related to proper nutrition and nutrition for children. These campaigns should cover all provinces affected by the issue of malnutrition in order to improve the quality of dietary food for children. This should include, for example, campaigns on how to diversify and prepare nutritious foods for children.

Finally, it is recommended that civil society organisations and the community collaborate actively with the Government of Mozambique to protect and promote the right to food for children.

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