

THE HUMAN RIGHT TO FOOD IN MALAWI

THE HUMAN RIGHT TO FOOD IN MALAWI

Report of an International Fact-Finding Mission



Droits et Démocratie
Rights & Democracy

Centre international des droits de la personne et du développement démocratique
International Centre for Human Rights and Democratic Development



Foodfirst Information
& Action Network

Cover photograph:

In some parts of Malawi people are still without potable water for drinking. Here young children play beside the only source of water in their village.

Photo taken in Salima during the fact-finding mission, 2006

Rights & Democracy

1001, de Maisonneuve Blvd. East, Suite 1100

Montreal (Quebec) H2L 4P9 Canada

Tel.: 514-283-6073 / Fax: 514-283-3792 / e-mail: publications@dd-rd.ca

Web site: www.dd-rd.ca

FIAN International e.V.

Willy-Brandt-Platz 5

69115 Heidelberg

Germany

Phone: + 49 6221 65300 30 / Fax: + 49 6221 830 545 / e-mail: fian@fian.org

Web site: www.fian.org

© International Centre for Human Rights and Democratic Development and FIAN International, 2006.

This report may be freely excerpted, provided credit is given to Rights & Democracy and FIAN International.

Also available online at www.dd-rd.ca.

Ce rapport est aussi disponible en français.

Writing: Carole Samdup, Programme Officer, Globalization and Human Rights, Rights & Democracy

Copy Editing: Augie Van Biljouw and Tamara Herman

Production: Anyle Coté, Officer, Special Events and Publications, Rights & Democracy

CONTENTS

PREFACE 7

ACKNOWLEDGEMENTS 11

ACRONYMS 13

INTRODUCTION 17

The Mission 18

THE HUMAN RIGHTS FRAMEWORK 19

METHODOLOGY 23

BACKGROUND 25

Poverty and Hunger in Malawi 25

Malawi's Human Rights Commitments 27

Conflicting Policy Frameworks 27

Malawi's Food and Nutrition Security Policy 29

SITE VISITS 31

Response of villager when asked what remedies were available to her for violations of the right to food 31

Kasungu (Chipeni Village) 33

Mchinji 35

Salima (Injati) 36

INTERVIEWS 39

Government 39

Donors 42

Civil Society 43

FINDINGS 45

Failure to adopt a human rights framework and strategy for hunger eradication 45

Impunity and insufficient access to remedies 47

Discrimination and poor targeting of vulnerable groups 48

Insufficient donor emphasis on human rights 49

Failure to protect citizens from unfair market practices 52

RECOMMENDATIONS 53

Recommendations to Government 53

Recommendations to donors 55

Recommendations to civil society 56

ANNEX 1—Malawi Fact-Finding Mission Delegates 57

ANNEX 2—List of Interviews 59

Government 59

Donors 60

Civil Society Organizations 60

ANNEX 3—In the Press 61

PREFACE

As this report is written, the Government of Malawi is predicting a grain surplus and a significant decrease in hunger over the next year. There is no doubt that much of the credit for this can be attributed to the many positive steps taken by the Government of Malawi.

Despite this welcomed news, freedom from hunger is a goal yet to be achieved in Malawi. This report highlights obstacles to the enjoyment of the human right to food in Malawi as observed by an international fact-finding mission coordinated by Rights & Democracy and FIAN International. It also makes recommendations to government, donors and civil society to help overcome these obstacles.

In human rights parlance, “violations” to the right to food occur when a State fails to ensure the minimum requirements, either through action or omission, for people to be free from hunger. In poor countries, the ability of the State to act is often constrained by pressure from the international community and this is also true in Malawi. Nevertheless, it is the State that bears primary responsibility for respecting, protecting and fulfilling the human rights of its citizens. The use of the word “violation” throughout this report should not be seen as a condemnation of the efforts of the Government of Malawi, but rather as an effort to identify specific areas where action has not been strong enough or where appropriate steps have not yet been taken.

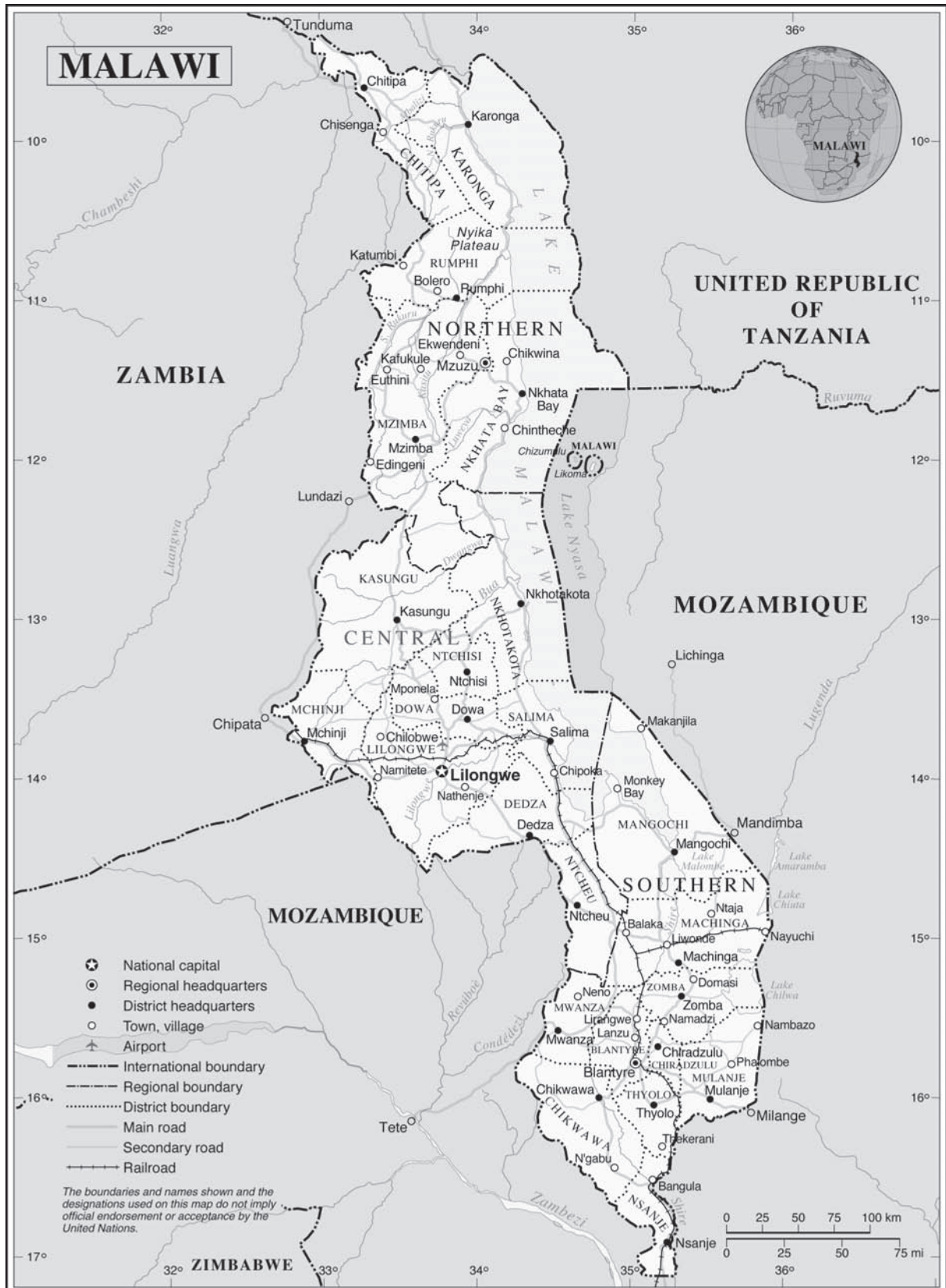
This report does not pretend to have all the answers to the complex issue of food insecurity in Malawi. Our hope is that the observations made will be a useful contribution to the good work already being done by the Government of Malawi and its partners and that our recommendations are accepted in the spirit that they are offered—the spirit of cooperation and friendship—and with the hope that hunger will soon be a part of Malawi’s past.

JEAN-LOUIS ROY,
President, Rights & Democracy

STEIN TERJE VIKAN
President, FIAN International

...there really is no development which doesn't have at its basis, human rights.

MARK MALLOCH BROWN, UNDP, May 2005



ACKNOWLEDGEMENTS

Many people worked long hours to organize the fact-finding mission to Malawi. Others took the time to speak with the mission delegation while it was in Malawi. Still others assisted in the drafting and editing of this report. We are grateful to them all and extend our sincere thanks and appreciation.

In particular we are indebted to Billy Mayaya of Church and Society in Malawi who originally conceived the right to food project on which the mission was based and was its chief advisor. We thank also Mildred Sharra and Edson Musopole, both of Action Aid Malawi, who arranged the site visits and accompanied us there. We would also like to thank Tamara Herman and Robin Campbell at Rights & Democracy and the staff of FIAN International for providing research, technical back-up and moral support. We very much appreciate the goodwill extended by officials of the Government of Malawi, parliamentarians and foreign missions who met with our delegation and shared so much valuable information with us. We especially thank the Technical Secretariat of Malawi's Ministry of Agriculture for the provision of useful background documents.

The fact-finding mission was funded by Rights & Democracy with support from FIAN International, Action Aid, Misereor and the International Food Security Network (a project of the European Union). Their support is sincerely appreciated.

We are indebted to the communities we visited in the Kasungu, Mchinji and Salima districts for their hospitality and readiness to share their observations and concerns with us. Finally, the human rights activists who served with us on the fact-finding mission—Mike Anane, Stanley Khaila, Anne Wanjiku Maina, and Kevin Wilmut are the reason for any success the mission might achieve. Their commitment is an inspiration.

CAROLE SAMDUP
*Program Officer
Rights & Democracy*

KOFI YAKPO
*Africa Desk Coordinator
FIAN International*

ACRONYMS

ADMARC	Agricultural Development and Marketing Corporation
CCAP	Church of Central Africa Presbyterian
DDC	District Development Committee
EU	European Union
FAO	Food and Agriculture Organization
GTZ	German Technical Cooperation Unit
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social & Cultural Rights
ILO	International Labour Organization
IMF	International Monetary Fund
LDC	Least Developed Country
MASAF	Malawi Social Action Fund
MGDS	Malawi Growth and Development Strategy
MPRS	Malawi Poverty Relief Strategy
NASFAM	National Smallholders Farmers Association of Malawi
NFRA	National Food Reserve Agency
OHCHR	Office of the High Commissioner for Human Rights
OPC	Office of the President and Cabinet
SAP	Structural Adjustment Program
SWAP	Sector-wide approach
TA	Traditional Authority
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Program
VDC	Village Development Committee
WB	World Bank
WFP	World Food Program

The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.

UN Committee on Economic, Social and Cultural Rights
(General Comment 12)

INTRODUCTION

The problem of hunger is not limited to Malawi. The United Nations Food and Agriculture Organization (FAO) reports that more than 800 million people around the world suffer from hunger and that the millennium target of reducing that number by half will not be met without stronger commitments and an accelerated pace. In its annual report, *The State of Food Insecurity in the World 2005*, the FAO cites “good governance” as a key factor in countries where food insecurity has been significantly reduced. The FAO pointed to specific elements of democratic governance necessary for the reduction of hunger, including respect for human rights and fundamental freedoms.¹

With regards to human rights, the FAO highlights the recent adoption by its members of *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security*.² The Guidelines provide a practical tool to assist States to both understand and fulfill their obligations. The process to draft and adopt the Guidelines was the first time that any of the economic, social and cultural rights have been negotiated by governments in a multilateral forum outside of the UN’s human rights system. Their adoption in September 2004 illustrates the value that States place on human rights as a basic construct of development.

This report and the fact-finding mission on which it is based represent an effort to apply the FAO Guidelines in a practical experience and in doing so, to illustrate the distinct advantages a human rights framework provides for policy and program development. Rights & Democracy and FIAN International hope that the information gathered in the course of our mission and presented in this report will encourage greater support for the FAO Guidelines and generate new approaches to ending hunger in Malawi as well as in other countries and regions of the world.

¹ *The State of Food Insecurity in the World 2005*, UN FAO, Rome, Italy, 2005, p.11.

² The FAO Guidelines can be downloaded at www.fao.org/righttofood.

The Mission

The international fact-finding mission (April 17-23, 2006) was undertaken as a collaborative initiative of Rights & Democracy and FIAN International. It responded to a request from the National Taskforce on the Human Right to Food, a network of Malawian civil society organizations coordinated by Church and Society, a project of the CCAP Blantyre Synod. The objective of the mission was to take stock of the hunger crisis from a human rights perspective and to provide related recommendations as a contribution towards sustainable food security and food self-sufficiency in Malawi. It was also hoped, that the exposure provided by an international delegation of human rights experts would be an impetus to the civil society campaign for a "Human Right to Food Bill" to be passed in Malawi's parliament.

The mission delegation was comprised of six individuals from Canada, Germany, Ghana, Malawi and Zambia. Their biographical notes are included in Annex 1 of this report.

THE HUMAN RIGHTS FRAMEWORK

When the United Nations Charter was adopted in 1945, it created a common vision for international relations. It called upon member States to pledge “universal respect for and observance of human rights” (Article 55) and it required States to take “joint and separate action” to implement these rights (Article 56). Subsequently, in 1948 the United Nations (UN) adopted the Universal Declaration of Human Rights (UDHR) as an articulation of exactly what those rights would entail.³

The principles put forward in the UDHR were codified in international law by two separate treaties—the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). The ICESCR recognizes the right to an adequate standard of living, including the right to adequate food also referred to as the right to be “free from hunger” (Article 11). Almost all governments in the world have ratified at least one of these two treaties and thereby the concept of rights, including economic, social and cultural rights. One hundred and fifty-three States are currently party to the ICESCR, representing an international consensus on which international cooperation can and should be built.

All rights—be they economic, social, cultural, civil or political rights—share common governing principles: they are universal and must be applied without discrimination; they are indivisible, interdependent and inter-related; and they require mechanisms for effective remedies when violations occur.

Following the World Food Summit in 1996 the UN Committee on Economic, Social and Cultural Rights, the body of experts that monitors State compliance with the treaty, was mandated to further elaborate the normative content

³ All declarations, treaties and general comments referred to here can be accessed on the website of the Office of the High Commissioner for Human Rights, www.ohchr.org.

THE FAO VOLUNTARY GUIDELINES TO SUPPORT THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD IN THE CONTEXT OF NATIONAL FOOD SECURITY

At the World Food Summit: Five Years Later in 2002, Heads of State and Government reaffirmed their commitment to human rights and they invited the FAO to develop a set of Guidelines to support the efforts of Member States to meet their right to food obligations. An intergovernmental working group was established in November 2002 and after two years of negotiations the Guidelines were adopted by the FAO Council in November 2004.

The Guidelines provide practical steps for governments, emphasizing that the human right to food must be implemented based on national strategies which begin with a careful analysis of the causes of hunger and the existing legislative and policy framework. The Guidelines also recognize that implementation begins by identifying vulnerable or marginalized groups and developing processes that will contribute towards the elimination of inequality. In addition, the Guidelines provide suggestions for appropriate development of market systems, institutions, legal frameworks and access to resources.

The Guidelines are significant because they represent the first time that governments set about to interpret an economic, social or cultural right and to recommend actions for its realization. They thereby contributed to the mainstreaming of human rights within the UN system as requested by the UN Secretary General in his package for UN reform.

The Guidelines are available at http://www.fao.org/righttofood/en/highlight_51596en.html

of the human right to adequate food in the form of a “general comment”.⁴ General Comment 12, devoted specifically to the human right to adequate food, was adopted by the UN Commission on Human Rights in 1999. One of its lasting contributions was to provide a tripartite typology for monitoring State compliance with obligations under the ICESCR. The typology—to *respect*, to *protect* and to *fulfill*—is now generally applied to all economic, social and cultural rights.

The obligation to *respect* requires State accountability for its own action or failure to act with regards to human rights; the obligation to *protect* requires States to take all necessary steps to ensure that non-State actors do not violate human rights; the obligation to *fulfill* requires States to provide an institutional framework to ensure that human rights can be effectively enjoyed in practice.

⁴ Although general comments are not legally binding documents, they are considered to be authoritative interpretations of specific rights or principles governing rights.

General Comment 12 also addresses the international dimension of the right to food, requiring States to take “joint and separate action to achieve the full realization of the right to adequate food” and “in international agreements whenever relevant, ensure that the right to adequate food is given due attention”.

It is helpful to read General Comment 12 in relation to other general comments issued by the Committee on Economic, Social and Cultural Rights. General Comment 3, on the nature of State obligations and General Comment 9, on domestic application of the Covenant provide additional guidance with regards to the justiciability of human rights and the scope of national legislation. Together with the two covenants, these interpretive statements provided the basis and references for much of the FAO Guidelines drafting process.

METHODOLOGY

“Fact-finding” indicates a process in which information is gathered related to an alleged human rights violation. While there are many useful and clear guides to conducting human rights missions, including numerous academic papers on the use of indicators, this mission based its procedural approach on the manual for fact-finding missions drafted by FIAN International. Its substantive approach is derived from General Comment 12 on the Human Right to Adequate Food and on the FAO Guidelines. With regards to the General Comment, we looked specifically at the normative principles of the right to food (adequacy, accessibility, availability) in their relation to the different levels of State obligations (respect, protect, fulfill).

For both process and substance we were informed by the excellent manual produced by the Office of the High Commissioner for Human Rights entitled *Training Manual on Human Rights Monitoring*.⁵

In all areas of our work, we attempted to apply crosscutting principles applicable to all rights; universality and non-discrimination, indivisibility and inter-relatedness, justiciability and access to remedies. Despite the methodological challenge this approach naturally entailed, observations did evolve from the interviews although these were qualitative in nature and based primarily on anecdotal information.

Interviews were conducted primarily with smallholder farmers in districts in the central region of Malawi and were supplemented by interviews with individuals working in the city of Lilongwe who are in regular communication with relatives in their home districts throughout the country. In most cases, interviews were organized ahead of time by local partner organizations but in others they were selected randomly.

⁵ *Training Manual on Human Rights Monitoring*, Office of the High Commissioner for Human Rights, 2001, www.ohchr.org.

It is also important to mention that research methods differed according to who we were meeting. Some interviews were conducted in English, while others in Chichewa with interpretation to English. Some groups were divided into women and men, while others were not. Some but not all interviews included the village chiefs. All of the interviews with farmers requested that they describe their situation in their own words and to introduce topics they felt were most relevant to human rights and food insecurity.

As trends evolved during the course of our mission, interview questions focused more closely on those trends. For example, early interviews with farmers focused heavily on problems associated with the fertilizer subsidies. Government meetings focused on the constraints imposed by donors. Interviews with donors emphasized the immature nature of Malawi's democracy and the weakness of its economy.

Some of the facts and figures provided in this report were obtained through on-line research and post-mission inquiries. With limited time and resources, we were not able to verify all points of view with the people who expressed them and therefore we have not attributed comments to any individuals. A list of the people and organizations we met with during the mission is included in Annex 2.

The members of the fact-finding mission regret any errors or misrepresentations that may occur in this report and we accept full responsibility for them.

BACKGROUND

Malawi is situated in southern Africa and shares its borders with Tanzania, Mozambique and Zambia. It currently has a population of approximately 13 million, divided into three administrative regions. The majority of the population in the country is concentrated in the southern zone (about 6.5 million) and the central zone (about 5.7 million) with about 1 million in the north. Infrastructure is poor but telephone connections are generally available and there is access to the Internet in towns and cities.

Malawi is an emerging democracy. After decades of authoritarian government following its independence in 1964, Malawi opted for a multi-party system in 1993 and a new constitution was promulgated in 1994. The constitution specifies the roles of the executive, legislature and judiciary but the capacity of national institutions and structures of governance remains weak. Moreover, the transition from single party to multi-party system has not been accompanied by sufficient development of, or effective political space for civil society.

Poverty and Hunger in Malawi

Malawi is classified as a least-developed country (LDC) and ranks 165 out of 177 countries in the UNDP's 2005 *Human Development Report*, making it one of the world's poorest countries. According to UN estimates, half of all children in Malawi under the age of five suffer from chronic malnutrition, 1.6 million people suffer from hunger every day and life expectancy is a mere 40 years. An estimated 65% of Malawi's population lives below the poverty line and 80% earn their living through farming.⁶

⁶ For this and other useful reports about development in Malawi, see www.undp.org.mw.

Poverty continues to be the most serious, invidious and widespread human rights violation that we must confront. For it is poverty and underdevelopment—both in cause and effect—that exacerbate abuse, neglect and discrimination, denying millions the enjoyment of the civil, cultural, economic, political and social rights, and ultimately their right to development.

LOUISE ARBOUR, UN High Commissioner for Human Rights, in a statement delivered to the inaugural session of the Human Rights Council, June 23, 2006

The agricultural sector is divided into two sub-sectors: large commercial estates and small farm agriculture. While the latter covers some 80% of the food consumed in the country, the commercial production of tobacco, tea, cotton and sugar accounts for the majority of economic activity and growth in the agricultural sector, with tobacco as the major foreign exchange earner. The primary food crop is maize, although cassava and other root crops are increasingly important in some areas.

Smallholder farmers are often unable to grow enough food to feed their families throughout the year. Most farms have low maize yields due to deteriorating soil fertility and a lack of access to fertilizer. Poor infrastructure leaves farmers vulnerable to drought and flooding. The majority of Malawians living in rural areas have faced repeated seasonal food shortages for the past decade, often compelling them to supplement incomes through work for food programs or for cash.⁷ Low agricultural productivity, poorly developed markets, and limited access to credit and productive land are additional factors that contribute to hunger and poverty in rural communities.

The drought that ravaged Malawi in 2002, combined with poor management of the strategic grain reserves, brought about the worst famine in fifty years. At the height of the crisis, three million Malawians required food aid. Although allegations of corruption filled national media at the time, those responsible have still not been brought to justice. In 2005, following a prolonged dry spell which affected crops at the most critical growing stage, Malawi was confronted by yet another hunger crisis. Reports of Malawians eating one meal or less per day as a coping mechanism were widespread. In 2006, the World Food Program (WFP) reported delivering targeted food distribution to 2 million of the total 4.8 million people requiring food aid.⁸

The problem of hunger in Malawi is aggravated by its high rate of HIV infection. Between 14.2% and 17% of the population is estimated to be HIV positive. Efforts to confront this problem are constrained by the “classic problems of drug procurement, inadequate financing, astonishingly limited capacity, and weary, crumbling infrastructure.”⁹ The number of orphans in Malawi has now reached approximately 900,000.

⁷ See “Food Security Options in Malawi: Good Neighbours Make Good Friends?”, *Forum for Food Security in Southern Africa*, at www.odi.org.uk/Food-Security-Forum/Publications.html.

⁸ World Food Program Malawi report: www.wfp.org/country_brief.

⁹ Stephen Lewis, UN Secretary-General’s Special Envoy for HIV/AIDS in Africa from “Notes on trips to Malawi and Tanzania”, January 2005.

Malawi's Human Rights Commitments

Malawi has ratified major international human rights treaties including the ICCPR, the ICESCR, the *Convention on the Elimination of all forms of Discrimination against Women*, the *Convention on the Rights of the Child*, and the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*. In addition, Malawi has ratified key International Labour Organization conventions including those on freedom of association and the right to organize.

At the regional level, Malawi is a signatory to the *Africa Charter on Human and Peoples' Rights*.

At the national level, Malawi has incorporated economic, social and cultural rights including the human right to food and the right to development within its Constitution (Article 30.2). Further, its Constitution affirms the State's duty to eradicate social injustices and inequality and to "justify its policies in accordance with this responsibility" (Article 30.3).¹⁰

In 1995, the government of Malawi approved a "National Plan of Action in the Field of Human Rights" which provided a policy framework for the promotion and protection of human rights and for the adoption of legislation to implement those rights.¹¹ Following approval of the National Plan of Action, Malawi's Human Rights Commission was established as a constitutional body through an Act of Parliament in 1998. It is mandated not only to monitor the human rights situation in the country but also to enhance the capacity of other institutions to monitor human rights. The Commission is currently developing a national strategy for human rights to be completed in 2006.

Conflicting Policy Frameworks

There is no shortage of policies in Malawi. The Department of Agriculture alone has approximately 43 different policies.¹² Such policies compete with each other for political prominence and budgetary resources. Unfortunately, those policies that enjoy the greatest influence fail to prioritize the human rights commitments undertaken by the Malawian State through ratification of international treaties and constitutional provisions.

¹⁰ See Malawi's constitution at www.sdn.org.mw/constitut/intro.html.

¹¹ See Malawi's National Plan of Action in the Field of Human Rights at www.ohchr.org/english/countries/coop/malawi.htm and Malawi's Human Rights Commission at www.malawihumanrightscommission.org.

¹² These policies are currently being compiled into a database by the Ministry of Agriculture's technical secretariat, which itself is a project of the European Union.

Malawi's Vision 2020, adopted in 1998, is the government's overarching policy framework. It defines long-term development goals and strategies and emphasizes the participation of civil society in policy-making.¹³ Theoretically, subsequent policies and programs related to development and poverty eradication should emanate from the Vision 2020, although a systematic approach in the interests of consistency has been a challenge.

The UN Development Assistance Framework Malawi, 2002-2006 (UNDAF) is designed to provide guidance and structure for donor activity in Malawi. It recommends a "human rights development approach" for poverty alleviation, and "...to avoid starvation and undernourishment." It proposes a number of human rights strategies to target vulnerable groups, promote non-discrimination and to ensure equal distribution of resources in the rural sector. The UNDAF was formally endorsed by the FAO, WFP, the International Monetary Fund (IMF) and the World Bank (WB) among others, and remains a useful resource for rights-based development.¹⁴

The Malawi Poverty Relief Strategy (MPRS) paper, also drafted in 2002 under the direction of the IMF and WB, declared itself to be the government's central policy document even though it was primarily donor driven.¹⁵ The MPRS provided the focal point for all donor assistance to Malawi, but did not mention food and nutrition security as a major poverty reduction goal despite the fact that more than 50% of the people were food insecure and the country was in the midst of a hunger emergency when the MPRS was adopted. Nor did the MPRS incorporate the human rights framework for poverty reduction as advocated by the UNDAF and endorsed by both the IMF and WB also in 2002. The only mention of human rights in the MPRS appeared within a section on "good governance" and this was narrowly focused on awareness and institution building.

In 2006, the Malawi Growth and Development Strategy (MGDS) will replace the MPRS. The Government of Malawi has characterized the MGDS as "home based, country owned" in contrast to the MPRS. The MGDS goals are poverty reduction, eradication of hunger and achievement of the Millennium Development Goals. The strategy is formulated on five thematic areas: sustainable economic growth, social protection of the most vulnerable, social development, infrastructure development and improving governance. The document is comprehensive and serves as a roadmap for government programs and budget allocation.

13 See www.sdn.org.mw/~esaias/ettah/vision-2020.

14 See the UNDAF for Malawi at www.undp.org.mw.

15 The full text of the MPRS can be viewed at www.finance.malawi.gov.mw or www.worldbank.org.

THE RIGHT TO FOOD BILL

Since 2002, civil society groups in Malawi coordinated under the National Taskforce on the Human Right to Food have been working towards the adoption of a “Right to Food Bill”. The Bill, drafted following extensive consultations with grassroots communities, is conceived as an implementation mechanism to accompany the government’s Food and Nutrition Security Policy. The Bill will encourage State accountability through the creation of an independent authority to monitor compliance with its human right to food obligations under the ICESCR. The authority will also be mandated to conduct investigations into violations of the human right to food, to accompany recourse efforts on the part of victims and to develop public education materials about the human right to food. The Bill, currently being circulated for comment and revision, will be submitted for the consideration of Parliament by the Parliamentary Committee on Agriculture.

The MGDS however, like the MPRS before it, fails to adequately incorporate human rights in its formulation of economic and social policy. In the draft copy of the document available to us at the time of the mission, the words “human rights” could be found only twice and that was within a list of several issues under a sub-section on rule of law itself under the thematic heading Good Governance. The MGDS does contain many practical recommendations for food security such as provision of agricultural extension services, better targeting of vulnerable groups and strategies to combat corruption, but these are not phrased in terms of human rights and State obligations.

Malawi’s Food and Nutrition Security Policy

Of particular interest to members of the fact-finding mission was the national *Food and Nutrition Security Policy* adopted by the Government of Malawi in July 2005. Malawi’s Ministry of Agriculture is responsible for implementation of the policy, reporting directly to the Cabinet Committee on Food and Nutrition. Drafting of the food security policy was undertaken in collaboration with the international donor community led by Italy (representing the European Union) with the United Kingdom and the United States and reportedly cost USD 1 million to complete—enough to feed 30,000 Malawian households for a year. The Ministry of Agriculture is now required to enact an action plan to implement the strategy.

The adoption of a policy for food security and an accompanying action plan comply with the FAO Guidelines and the ICESCR in both spirit and practice. In fact, viewed together with the additional step of legislation as proposed by civil society, the approach would place Malawi as a leader among State parties to the ICESCR. However, implementation of the policy is facing serious challenges. In its final version, human rights no longer frame the document but appear as one element in a list of concerns. Reference to the ICESCR as a structural base for implementation has been removed. Instead, international trade and food aid priorities trump national strategies for food security. For example, subsidies to small-scale farmers are limited through the addition of a requirement that such measures “do not have negative impacts on the market” (para. 1.2.8). In addition, responsibility for nutrition appears to have shifted from the Ministry of Agriculture to the Office of the President and Cabinet (OPC)—a shift that has thrown a monkey wrench into plans by the Ministry of Agriculture to launch its action plan to implement the Food and Nutrition Security Policy.

Despite these weaknesses, the policy creates a new body, the National Food and Nutrition Security Committee, to be chaired by the Chief Secretary for the Public Service and to report directly to the Cabinet Committee on Food and Nutrition which itself is to be chaired by the President. The Committee will “handle social function issues previously under the responsibility of Agricultural Development and Marketing Corporation (ADMARC)” (Para. 8.1.8) and will include government representatives, civil society, the private sector and academics in its deliberations.

It is useful to understand the Food and Nutrition Security Policy in its relation to Malawi’s National Land Policy of 2002.¹⁶ A new “land law” has been drafted by the Malawi Law Commission at the request of government in order to implement the policy. Once adopted, the land law will increase security of tenure in the rural areas and decentralize land management.

¹⁶ See the policy at www.malawi.gov.mw/publications/landpol.htm.

SITE VISITS

This summary of site visit discussions attempts to reflect, as accurately as possible, the information provided to us by farmers and other individuals we spoke with. During the course of the interviews, the members of the fact-finding mission noted many conflicting statements and a lack of clarity about how government programs were actually intended to function. With regards to the fertilizer subsidies, an issue that was raised in almost every interview we conducted, the boxed information provided on page 34 is an effort to describe the actual intended process and outcome of that particular program.

Kasungu (Mtunthama)

The Kasungu District lies approximately 100 km to the northeast of the capital Lilongwe. Together with the District of Lilongwe, Kasungu is known as the grain basket of Malawi due to its relatively large share in national maize production. Nevertheless the village of Mtunthama has experienced a chronic food shortage since 2001. Villagers explained that drought and the high price of fertilizers were the key contributing factors. Local agriculture in the region consists primarily of growing pumpkin, beans and groundnuts, as well as raising chicken, goats and cows. The land upon which they produce is held under a system of customary ownership.

While acknowledging the efforts of government to address food shortages, villagers described a number of administrative obstacles to accessing the programs. A major concern was the distribution of fertilizer vouchers, which villagers felt were not targeted to those in the greatest need. They were unclear on how allocation of the vouchers was supposed to have been determined but believed that the Malawi Vulnerability Assessment had been designed to play a significant role. In practice, they said, the actual

Nowhere to go—the fear of fear
 Response of villager when
 asked what remedies were
 available to her
 for violations of the right to
 food

distribution of vouchers within the community was decided arbitrarily by village chiefs.

The distribution of food aid was also described as problematic. The Red Cross oversees food aid distribution in Kasungu, but a weak monitoring process led to “leakages”. This means that in some cases false names and false villages had been used to access food aid unfairly, undercutting the possibility of equitable distribution based on need. Kasungu community members told the mission delegates that no remedial action to address corruption has been sought because of the “fear of fear”. Red Cross representatives and the local District Commissioner reportedly are aware of these irregularities and have sent monitors to verify them, but villagers maintained that the situation had not changed.

In the midst of the crisis, many farmers were compelled to supplement their income by working on large estates, normally growing tobacco for export, for 20-50 kwacha (approximately 15-40 cents Canadian) per day.¹⁷ Men are also able to obtain work in a local cement plant where they earn 600 kwacha per month (77 kwacha per day) after food costs are subtracted from their salaries. Plant workers described grueling 12-hour workdays, which consist primarily of breaking rocks and digging. The villagers seemed unclear about the concept of trade unions and were unable to respond to our questions regarding labour rights and unionization.

Cash earned through labour is used to purchase food. However, with maize selling at approximately 50 kwacha per kilo, earnings do not meet needs. For example, each individual requires approximately 1/3 kilo of maize each day and each wage earner often supports three or four people. Other coping mechanisms, such as production of cash crops, have also failed to meet needs. Falling tobacco prices have rendered such efforts inadequate to provide sustainable solutions.

Villagers said that the ADMARC distribution services are functioning, but people are forced to endure long lines in order to receive one bucket (20 kg) of maize for 340 kwacha. Meanwhile, despite the limit of one bucket per person, villagers claimed to have witnessed traders buying 100 bags at a time from some ADMARC outlets at the subsidized price. They claimed that the maize was then re-sold to traders who in turn sell it on the open market for up to 1200 kwacha per bucket. While these activities have been reported to local police, the village chief and the local Member of Parliament, no responses have been received.

¹⁷ One Canadian dollar equals approximately 128 kwacha and one Euro equals approximately 180 kwacha.

Villagers also reported difficulties with the local farmers association, National Smallholder Farmers' Association of Malawi (NASFAM). They complained that NASFAM had withheld tax repayments and had charged multiple fees for services. They produced receipts to back-up their claims. They also showed the delegation samples of sub-standard tobacco sacs they said had been provided to farmers by NASFAM. The sacs were of such poor condition that they could not be used. The anti-corruption bureau located in Lilongwe, where villagers could possibly report illicit activities, is inaccessible because of transportation costs.

When asked about sustainable solutions to persistent hunger in the region, the women interviewed suggested that better tobacco prices would allow families to buy sufficient maize rather than relying only on what they could produce. The men suggested that the government should investigate food distribution and fertilizer voucher irregularities. They also appealed for technical assistance for irrigation and the establishment of credit associations to facilitate low cost loans.

Kasungu (Chipeni Village)

The mission delegates traveled to Chipeni, also in Kasungu District, and met with a group of approximately 25 community women. The women farmed communal land and supplemented their income through participation in a Red Cross food-for-work program. The program required that women work three days a week on the construction of a health clinic, which they have been doing since last year with the promise that they would each receive a total of 50 kg of maize for their labour. According to the women, none of them had yet received any payment. They told mission delegates that without access to adequate food, they had been compelled to sell their livestock in order to purchase maize. With the sale of the livestock, families no longer had any meat or milk in their diets. The women reported that ADMARC was no longer active in their area but they felt that it had previously served a useful purpose even with its problems and they hoped it would return soon.

The Chipeni women also stated that there was an urgent need for a water system as existing bore wells had gone dry. The only water sources available were hand-dug wells. Mission delegates visited the site of these wells and observed that the water was shallow and murky. Women explained that a scarcity of fuel prevented them from boiling this water for drinking and that most children were suffering from chronic diarrhea. Even if they had fuel they said, there was not enough time in the day to boil water for drinking

THE FERTILIZER SUBSIDY

In an effort to address the problem of soil infertility, the Government of Malawi introduced a fertilizer subsidy program in 2005. The initiative was originally designed as a universal-access program for farmers growing maize, Malawi's primary food crop.

The program was eventually modified in two ways. First, a voucher system was introduced to discourage the purchase of large consignments of fertilizer by estates and commercial traders both in Malawi and in bordering countries. Second, the subsidy program was expanded to include fertilizers for tobacco, Malawi's major export crop.

Effectiveness of the program was constrained by a number of implementation issues. Although the Government decided early in March to support the fertilizer subsidy, procurement of the fertilizer and delivery of the program was delayed by a prolonged National Assembly debate regarding its funding and the addition of the subsidy for tobacco fertilizer. Even after the program was adopted, vouchers were distributed before the fertilizer was available in quantities sufficient to meet program commitments, significantly reducing its effectiveness.

The Ministry of Agriculture was given the mandate by government to allocate fertilizer based on the number of maize and tobacco smallholder farmer households in the country's extension planning areas. VDCs were assigned responsibility for distribution of the vouchers and for verification that each recipient was a Malawian smallholder farmer and capable of paying the subsidized price. Each voucher was to be signed by three members of the VDC excluding the village chief, thus limiting his influence on the process. In practice, however, the vouchers were not always distributed via VDCs but instead were delivered to the traditional authorities (TA) who in turn distributed them to their group village headmen. In some cases, the headmen seem to have taken control of the voucher distribution procedure. Subsequently, there were numerous complaints that some villages had not received a sufficient number of vouchers, or any vouchers at all.

While some were denied fair access to the subsidy program, others accessed it even though they were not entitled to. Commercial traders, and their various associates, purchased large amounts of subsidized fertilizer often without vouchers and with the alleged complicity of local officials. As well, a significant number of vouchers appear to have been sold on the black-market, possibly as a result of corruption among the TAs and village headmen who issued fewer vouchers than they had received and sold the rest for personal profit.

Notwithstanding its structural shortcomings and delivery irregularities, there is little doubt that the 2005 fertilizer subsidy program contributed significantly to Malawi's 2006 bumper harvest and reduction of hunger in the country. With improvements in the areas of government accountability and targeting, and with an end to impunity for corruption, the program could become a good example of the Government of Malawi's efforts to realize the human right to food for its people.

and cooking. After working in the fields, women also had responsibility for gathering firewood and carrying water, cooking meals and taking care of children. When asked about their role in family financial decisions, the women said that their men often discuss money issues with them, but that the men make final decisions alone.

When asked if they had a message for their government, the women requested government programs in the area of income-generation for the purchase of food. They indicated that with minimal assistance they could engage in activities for self-sufficiency such as selling prepared food, second-hand clothing and knitting.

Mchinji

Mchinji District begins approximately 50 kilometers to the west of the capital district Lilongwe and borders on Zambia. It is an area that boasts a diverse array of agricultural crops, including soya, nuts, maize, rice, cassava, sweet potato, fruit and tobacco. Despite this agricultural diversity, community members reported that food shortages have been experienced, especially by families with no access to fertilizer. Families in Mchinji who cannot afford fertilizer tend to be either single women households or households with healthcare issues that require costly medical attention.

Fertilizer vouchers are distributed by the village chief according to criteria he has defined independently. The recipients are normally families who are poor, whose homes do not have an iron roof and/or who do not possess a vehicle. The District Commissioner reportedly offers vouchers to whoever can afford to pay the additional 950 kwacha required for the fertilizer, including commercial traders. The refusal to allocate any fertilizer vouchers to farmers too poor to pay the required 950 kwacha means that the option of re-selling vouchers for cash is unavailable to them while private vendors make their profit from the government subsidy. Complaints about this process are sometimes made to the chief, but he himself may be implicated and local police may also be complicit in this sort of activity.

Villagers explained that the poorest households, unable to access the fertilizer program, were compelled to work as farm labourers for approximately 50 kwacha per day, or to access food for work programs or food aid. All these alternatives were characterized by a number of obstacles such as variable criteria and reliability. Moreover they served to entrench poverty rather than lift the recipient out of poverty. Nevertheless, villagers were quick to

point out that such programs did address the immediate need to feed their families.

Villagers suggested that some issues facing Mchinji could be resolved if fertilizer were distributed via NASFAM instead of via the village chiefs. Community members here did not report any of the problems with NASFAM that we heard about in Kasungu and instead valued its programs, including support in marketing and training, immediate payments and ensuring fair weighing of produce through use of legal scales.

When asked whether the government is doing a good job in dealing with the hunger crisis, community members replied positively, insofar as the subsidy program continues and weekly commodity prices are announced on the radio. Radio announcements of prices reduce the villagers' vulnerability to price fixing and to price gouging by traders. The villagers' final message was that fertilizer for the poorest households should come from work programs and not be left to the decisions of chiefs. They also emphasized the urgent need for access to credit.

Salima (Injati)

The last village visited by mission delegates, Injati, is a community of 66 families. The headman, secretary of the village committee, treasurer, Chair of the village committee, vice-chair (a woman) and two members of the local women's committee took part in the interviews. Salima is some 50 kilometers to the east of Lilongwe and stretches along the shore of Lake Malawi. Due to its geography, Salima has in recent years experienced flooding during the rainy season, while also being one of the hardest-hit districts during the dry-season with a great amount of crop failure.

Community members reported that hunger is a serious issue in Salima. A persistent drought and a lack of fertilizer were cited as the two major factors contributing to the crisis. Villagers reported that they have resorted to eating bamboo seeds and tubers found in fields, some of which are poisonous. The community has been attempting to solve its problems of self-sufficiency by planting two crops per year and building a small dam and reservoir with the assistance of the non-governmental organization (NGO), Action Aid.

A primary school feeding program is functional in the area. Each family also receives 15-18 kg (one bucket) of maize each month via the local school but this is insufficient to meet minimum needs. Assistance is administered by the District Commissioner, who determines the amount of the allocation

per village based on undefined criteria. The village visited by our delegation had made a collective decision to divide all food received equally among households, regardless of the families' particular circumstances.

It was reported that 30 families in the village had received fertilizer vouchers, but they could not be redeemed immediately because of the shortage of fertilizer in Malawi at the time.¹⁸ Once available (late in the growing season), the fertilizer was distributed via ADMARC. When asked what happened to families who did not have the 950 kwacha required to purchase fertilizer with vouchers, villagers responded by saying that these families were simply "unlucky".

The perceived role of the WFP, the Red Cross and government in these processes remained unclear even after a number of questions. A Malawi Social Action Fund (MASAF) food-for-work program is operational in Salima, but in the village we visited no one had made use of it. Villagers knew about a new treadle pump program that allocated 400 pumps to each electoral constituency, but claimed that they had not received any such pumps in their area.¹⁹ Villagers did not believe that recourse options were available to them for corruption or violation of their rights, and they did not know how to locate their member of parliament.

¹⁸ The mission heard reports that the fertilizer had been available for import from Saudi Arabia but that some donor countries had objected to sourcing from that country. The reports could not be verified but it was clear that access to fertilizer was delayed in spite of the voucher program.

¹⁹ Treadle pumps use manpower (cycle) to move water for irrigation.

INTERVIEWS

The following summary of interviews is grouped into three categories: government, donor and civil society. These summaries attempt to reflect common themes as they emerged during our discussions. However, not all those interviewed necessarily shared common views and therefore it is not possible to attribute all comments reflected here to specific individuals we interviewed. Nor have we been able to fully reflect the broad range of valuable information and insights shared with our mission members.

Government

The mission met with various representatives of the Government of Malawi, including the Permanent Secretary to the Minister of Agriculture, the Deputy Director of Extension Services and a representative of the OPC. We were also grateful for the opportunity to meet with several members of the Parliamentary Committee on Agriculture and its Chair for a lively and frank discussion about the human right to food. We also met with representatives of government-supported institutions such as the Malawi Human Rights Commission, the Malawi Law Commission and Bunda College of Agriculture.

There is little doubt that the problem of hunger in Malawi is a primary concern for its government. In the discussions about budgetary allocation, governance and democracy, HIV/AIDS, market systems, humanitarian assistance, development or meeting the Millennium Development Goals, the eradication of hunger stands out as the overarching challenge facing politicians and their officers in Malawi.

According to the government representatives we interviewed, the causes of hunger in Malawi are wide-ranging and include governance-related issues such as dismantling of extension services, market failures, price volatility and corruption as well as external influences such as erratic rainfall, HIV/AIDS, changing donor priorities, imposition of a free market economy, a culture of aid dependency, and an entrenched dietary obsession with maize.

A great deal of criticism was levied at the WB and IMF for their role in forcing the end to domestic support programs for farmers such as input subsidies and extension services as well as requiring ADMARC to decrease its stocks on the eve of the 2001-2 hunger crisis.²⁰ The MPRS emphasized health and education but had failed to give adequate attention to food security. Malawi's fledgling market was insufficiently developed to step in and fill the gap left by cancelled government programs and as a result the rural sector was devastated. Relief money from donor countries and agencies was insufficient and inefficient and could not deal with the impact of these imposed policies.

The Government of Malawi is trying to reclaim ownership over agricultural development in its relation to food security and in order to comply with its human rights obligations. This year, it introduced a program of fertilizer subsidies funded outside of its operational budget and reported that 97% of the vouchers it gave to farmers were redeemed. The government is currently engaged in an evaluation of the fertilizer program at the request of the President and sponsored by the European Union (EU). It hopes to re-introduce the program within next year's budget, with other new initiatives such as cash-for-work initiatives linked to agricultural development projects. The government is also re-structuring ADMARC with a view towards more transparency and accountability.

In addition, the government is supporting research at Bunda College of Agriculture into alternative systems of agriculture such as organic or less-input dependent crops, as well as agro-forestry for soil reclamation, rain management programs and training of extension workers.

The Ministry of Agriculture administers an impressive program to harmonize and coordinate its various policies and programs. Its technical secretariat has created a monitoring system complete with a range of indicators, a database of 43 food security policies and hundreds of associated projects operational in the country, all soon to be integrated via a logical framework. The technical secretariat also monitors agricultural commodity prices and ensures effective sharing of the information on a timely basis via radio and public postings. It is hoped that such coordination efforts will also encourage donor coordination in the form of a sector-wide approach (SWAP) to assistance in the area of agriculture.

Many government representatives expressed hope that the Food and Nutrition Security Policy will result in positive steps being taken by the Government of Malawi. The Policy was viewed as the basis for a new action plan

²⁰ Although corruption by local officials played a significant role in the failure of ADMARC to fulfill its responsibility during the famine, the depletion of stocks came about first as a condition imposed by the WB/IMF. See box on page 50.

that would encompass all programming for the eradication of hunger and long-term food security. However, significant concern was expressed that although the Ministry of Agriculture was to have presented its implementation plan on April 20, 2006 (during our mission), its release was delayed by an apparent conflict with a proposed initiative of the OPC. The OPC, which is developing its own Nutrition and HIV/AIDS Policy, objected to the apparent duplication between some sections of the two policies.

We have land and we have water. Why then, are our people hungry?

DOROTHY NYASULU,
Chairperson, Malawi Human Rights Commission

Members of the mission also found that there was little, if any, awareness or enthusiasm about the proposed Right to Food Bill among government representatives. Some expressed discomfort with civil society driven initiatives in general, because they view NGOs as the promoters of donor agendas. Others felt that submission of the Bill by parliamentarians was inappropriate given the lack of resources available to MPs for research and advocacy. Commissioners of the Malawi Law Commission suggested that rather than submitting the Bill by the Parliamentary Committee on Agriculture, a better strategy would be submitting it through the Ministry of Agriculture. Nevertheless, parliamentarians we met in Lilongwe were keenly interested in championing the legislation and they viewed it as the best means for implementing Malawi's Food & Nutrition Security Policy.

In response to questions about accountability and access to remedies for those citizens whose right to food had been violated by ineffective policies or by corruption during the food crisis, government representatives conceded that there are few opportunities to access justice, especially for the poor. There are only 500 lawyers in Malawi and recommendations to re-build the system through training of paralegals have met with opposition. While there is a system of legal aid in the country, it is unable to meet demand and is hopelessly under-resourced. In addition, the courts themselves are over-taxed with cases and judges have little training in the adjudication of economic, social and cultural rights.

Finally, most government representatives we met claimed to know about the FAO Guidelines but had not familiarized themselves with its contents or with the concept of a human rights framework for food security. Human rights were most often described as the responsibility of the Malawi Human Rights Commission, which is also under-funded and under-staffed. Moreover, although the President had recently made public statements promising better reporting to the UN human rights treaty monitoring system, the Department of Justice did not appear to have taken up this directive. Malawi has never submitted a periodic report to the Committee on Economic, Social and Cultural Rights.

Donors

Our mission was able to meet with representatives of the German Technical Cooperation Unit (GTZ), Canadian International Development Agency, EU, WFP, FAO and WB. Although there were other donors we would like to have met, we were unable to do so because of a lack of time and schedule conflicts.

Generally speaking, donors separated their activities between development programming and humanitarian assistance. There appeared to be little coordination between these two different streams of intervention. With regards to development programming, there is a certain level of frustration resulting from the myriad of approaches and priorities and the unreliable application of programs by the Government of Malawi itself. Donors, including the representative of the FAO, knew nothing about the FAO Guidelines (or they had only a passing recollection that they existed) and expressed little or no interest in the value-added that a human rights framework might provide. The only exception was the representative of the World Food Program.

Most donors expressed the standard critique of economic, social and cultural rights and emphasized the need for Malawi to embrace economic growth and export orientation, smaller government and efforts to combat corruption. The World Bank's Country Assistance Strategy (CAS) for 2004–06 epitomizes this approach.²¹ Of the total base lending of 215 million USD, the focus is either on the promotion of export crops, chiefly tobacco, or lending is geared towards the realization of a “willing-buyer, willing-seller” land reform program in selected areas of the country. The strategy includes emphasis development of rural infrastructure such as expansion of the power grid and access to irrigation.

Donor representatives confessed to a certain level of frustration resulting from their own inability to make strategic decisions based on local conditions. This is because development assistance priorities are set in capitals with insufficient flexibility for country missions. An example was provided by the FAO. The Malawi country office has developed a proposal for a strategic food security policy framework that intends to streamline donor policy in this area. However, the plan was conceived at the FAO headquarters in Rome and has received little attention in Malawi since in the evaluation of the FAO country office itself, other donors and agencies perceive the initiative to be intrusive. Moreover, the framework contains but a nominal reference to the human right to food in its introduction.

²¹ The CAS is available at www.worldbank.org.

Despite these challenges, donors presented a number of positive approaches currently underway. The SWAP initiative pools funds for development programs in specific sectors. SWAPs are currently operational in the areas of HIV/AIDS, health, education and another on agriculture may soon be created. SWAPs offer the opportunity for donors to coordinate strategies and activities with each other and with representatives of government and civil society. They also have the potential to streamline multiple reporting requirements for the Government of Malawi, thereby easing the burden on its limited resources.

With regards to humanitarian assistance, both foreign governments and UN agencies were working together to conduct a joint evaluation of their response to the food crisis. That evaluation is under way as this report is being written.

The GTZ was engaged in efforts to promote alternative agricultural practices based on traditional methods and crops. The small research station visited by the mission had successfully produced a diverse assortment of food crops without experiencing crop failure during the entire dry spell.

Civil Society

While the mission delegation met individually with selected members of civil society including Action Aid, Dan Church Aid and the Centre for Human Rights & Rehabilitation, the primary space for interaction with civil society was during a public seminar organized as part of the mission. Approximately 35 representatives of civil society attended the one-day event, which presented preliminary observations of the fact-finding mission and discussed strategies for follow-up. Participants included representatives from the human rights, development, and faith communities.

NGOs described themselves as service providers—the organizations that fill in where donors and government are absent either because of poor targeting or policy gaps. They considered human rights to be such an area, mostly ignored by both donors and government and therefore providing an opportunity for civil society despite their lack of experience in using a human rights framework. NGOs also expressed concerns about work overload and the challenges of managing diverse portfolios such as the current constitutional review.

Civil society organizations decried the lack of human rights awareness in Malawi and the lack of capacity among communities to actually claim these

rights when violations occur. Moreover, in terms of the potential for stronger human rights advocacy on specific issues such as hunger, most civil society representatives said that they function on project funding and as such may not be given the mandate by their organizations to participate in advocacy campaigns. Donors, they said, do not support advocacy projects. They also said that they had experienced some resistance at the grassroots level with regards to the concept of “claiming rights” and the activities of human rights organizations.

Some civil society groups had accompanied individual court cases that were based on human rights principles. These initiatives were unsuccessful, however, because victims could not withstand the very long periods of time that cases lingered in the legal system, nor the associated expenses such as travel to and from urban centres.

Key areas identified by seminar participants for follow-up included revision of the current draft Right to Food Bill and the accompanying campaign to have it adopted by Parliament, building stronger links with the Malawi Human Rights Commission and developing human rights awareness programs for the grassroots and parliamentarians.

FINDINGS

Since 1995, the people of Malawi have been caught in a continuous cycle of hunger emergencies. Persistent food insecurity has resulted in entrenched dependency on food aid at both the national and household levels and the dependency itself can be viewed as one of the driving forces behind the problem of hunger in Malawi. Although the Government of Malawi has ratified the relevant international treaties and enjoys certain constitutional advantages with regards to economic, social and cultural rights, additional steps are necessary to implement these commitments. The ability of the government to take these steps is often constrained by pressure and conflicting policy priorities imposed by the international community and therefore donors too must accept responsibility for promoting and protecting the human right to food in Malawi.

The mission findings are grouped into five areas:

Failure to adopt a human rights framework and strategy for hunger eradication

In order to fulfill its human rights obligations, a State party to the ICESCR must develop and implement policies and programs aimed specifically at the progressive realization of the rights contained therein, including the right to adequate food. Accordingly, policies and programs must be clearly articulated within a human rights framework and include benchmarks, monitoring procedures and timeframes. The Government of Malawi has failed to meet this obligation largely because it does not view hunger in human rights terms.

The FAO Guidelines (Guideline 3) clearly emphasize the importance of adopting a national human rights strategy for realization of the right to food, including legislation and administrative measures, identification of constraints and available resources, monitoring procedures and inter-departmental coordination. General Comment 12 describes an effective strategy as

one based on “a systematic identification of policy measures and activities relevant to the situation and context, as derived from the normative content of the right to adequate food and spelled out in relation to the levels and nature of State parties’ obligations...” (Para.. 22).

While the Government of Malawi has in fact undertaken many activities that would be included in a human rights strategy, for example the excellent policy coordination work being done by the Technical Secretariat of the Ministry of Agriculture, it has not placed them within the context of an overarching human rights framework. Such a framework would provide specific advantages such as the affirmation of national ownership as well as an enhanced relationship between State and citizen. It would also encourage interaction and coherence between policies against hunger and policies governing economic development, such as the MGDS.

The General Comment 12 also encourages States to incorporate the human right to food into their domestic legal order (para. 33). As such, efforts by Malawian civil society to introduce and pass right to food legislation in Parliament are well-conceived and important. Mission members, however, were discouraged that neither Government nor donors appeared to place much stock in the proposed legislation.

The failure to adopt an overarching human rights framework for the eradication of hunger and full achievement of the human right to food has contributed towards inter-departmental duplication of efforts that threaten to derail positive approaches. For example, the OPC has assumed independent responsibility for nutrition as part of its campaign against HIV/AIDS and is currently preparing legislation in the form of a government bill on HIV/AIDS and nutrition. Unfortunately, the OPC appears to view the new Food and Nutrition Security Policy as a duplication of the OPC initiative. The OPC has therefore allegedly blocked release of an implementation plan for the Food and Nutrition Security Policy and indications are that it will also object to the Right to Food Bill proposed by civil society and championed by the Parliamentary Committee on Agriculture.

The Government of Malawi is now faced with an opportune moment. It can encourage the consolidation of efforts and improve inter-departmental coordination, or it can discard valuable opportunities such as those resulting from the adoption of the Food and Nutrition Security Policy.

Impunity and insufficient access to remedies

General Comment 12 advises that any person or group who is victim of a violation to the right to adequate food "...should have access to effective judicial or other appropriate remedies at both national and international levels" and further that all victims of such violations "...are entitled to adequate reparation, which may take the form of restitution, compensation, satisfaction or guarantees of non-repetition" (para.. 32).

The mission encountered a number of obstacles with regards to access to remedies. First, there was insufficient awareness about human rights amongst those most affected. Many, at both the village level and within government, were unclear about the concept of "duty bearer" and "rights holder" as a construct of modern democracy and as a consequence they had not even considered claiming their rights from government. Disillusionment with the system was also endemic, in large part because the individuals most closely associated with the ADMARC scandal and the deaths it resulted in, had not been held accountable and continued to enjoy impunity five years after the alleged offences had taken place.

Further, access to remedies requires effective and consistent monitoring in order to identify violations. Such procedures were not in effect or were not articulated in human rights terms. Those organizations, primarily civil society but including some UN agencies, that were operational on the ground and therefore had first-hand knowledge when human rights violations occurred, were not mandated, did not understand or did not have the political will to pursue individual cases through any sort of recourse mechanism.

Mission members were told that there is virtually no access to justice in Malawi. While part of this problem might be related to political influence on the courts, there are also structural issues to confront, such as the insufficient number of lawyers practicing in Malawi, long backlogs, constant postponements, insurmountable transport costs for victims, and little or no access to legal aid. Such obstacles mean that victims of violations will often take no action to obtain justice, believing that it would be a useless exercise.

The Malawi Human Rights Commission has indicated interest in addressing the issues of impunity and insufficient access to remedies for human rights violations. The Commission is able to serve as a "friend of the court" and has an interest in building a body of case law on economic, social and cultural rights. The Commission has also entered into a memorandum of understanding with the Malawi Law Society in this regard. Additionally, there is a proposal to create Community Complaint Centres which would

serve rural communities in an effort to identify human rights violations and their victims and to accompany the process to obtain recourse. The members of the fact-finding mission found this proposal to be relevant and deserving of further support.

Discrimination and poor targeting of vulnerable groups

In Malawi, a country with a significant population of orphans and single, usually female headed households, efficient targeting is an absolute priority in programs designed to alleviate poverty and hunger. Unfortunately, the mission found that targeting procedures were insufficient and inefficient. Admittedly, precise targeting down to the individual level poses a significant challenge in a country with few sources of income, a virtually non-existent system of personal taxation, and a weak system of statistical data collection. However, the mission did not observe any efforts on the part of government or donors to overcome those obstacles.

The FAO Guidelines (Guideline 13) devote considerable attention to the targeting of vulnerable groups, reminding States to identify communities and households especially susceptible to food insecurity. The Guidelines recommend that in the process of assessing vulnerability, States should develop mechanisms to ensure that assistance is accompanied by accountability measures to avoid leakages due to corruption or administration inefficiency. In a country dealing with multiple policy frameworks and budget constraints, targeting can be difficult. The Ministry of Agriculture characterized the subsidy program as universal but then produced vouchers as targeting mechanisms.²² There appeared to have been no monitoring of the voucher program and distribution was left to local authorities or village chiefs. The mission heard many, many reports of corruption in the distribution of these vouchers. The result was that those most in need often had no hope of receiving benefits from the program.

Another program provided 400 treadle pumps to each electoral constituency in Malawi. It lacked any apparent targeting, even to the rural sector in general. Constituencies with significant urban populations received the same number of pumps as did rural constituencies. This failure to target those most in need of irrigation wasted public resources.

²² *Rapid Evaluation Study of the 2005 Fertilizer Subsidy Program*; Malawi Civil Society Network and Malawi Economic Justice Network, 2005.

General Comment 12 (para. 26) describes the elimination of discrimination through targeting as a crosscutting concern affecting [particularly for women] access to economic resources, the right to inheritance, land and property ownership, credit, technology and respect for a living wage. The mission heard many different complaints about discrimination in the application of various programs designed to combat hunger—even those programs that included some level of targeting in their conception. These complaints ranged from corruption in food aid distribution processes, problems with the fertilizer voucher program and political motivation for the treadle pump allocation. In many cases, failure to adopt procedures for targeting of the most vulnerable allowed human rights violations to take place.

Of the interviews we conducted, the WFP appeared to be the most advanced in the use of targeting for its programs. The WFP employs a progressive system beginning with identification of key geographic areas in which hunger is prevalent at any given time, followed by consultations with village development committees (VDC). A monitoring process is managed by NGOs. The monitoring process allows for ongoing re-targeting, in other words identification of vulnerable groups adjusts from time to time in accordance with changing situations. While some donors have complained that the WFP distribution system is too expensive and therefore inefficient, mission members feel that there are significant lessons to be learned from the WFP approach. These should not be discarded but rather evaluated as a best practice for replication more broadly by the Government of Malawi.

Insufficient donor emphasis on human rights

Donors provide 83% of Malawi's development budget. The Government of Malawi must therefore comply with the priorities and conditions set by foreign governments in order to operate. The mission did not observe any malintent on the part of any particular donor country or agency; the observation is simply that even though Malawi has a democratically elected government, that government enjoys only limited autonomy and control over the nature of its policies and programs. As a consequence, the people of Malawi face obstacles at the national level with regards to participation in the decisions that affect their lives and the enjoyment of their human rights. As a State party to the ICESCR, Malawi has accepted legal and binding obligations to respect, protect and fulfill the human right to food and these obligations must be considered and integrated in the design of development assistance programming.

AGRICULTURAL DEVELOPMENT AND MARKETING CORPORATION (ADMARC)

While the causes of the hunger crisis in 2001-02 were complex, the sale of Malawi's strategic grain reserves exacerbated the problem. The impetus to sell the reserves can be traced to the late 1990s, when the IMF and other key donors insisted that the Malawi government privatize the agencies that provided support for farmers and food security, namely the ADMARC and its spin-off, the newly-formed National Food Reserve Agency (NFRA). Yet operating the agencies as commercial entities entailed capitalising the NFRA through borrowed funds, which incurred debt. In order to service the debt and with pressure from the IMF, WB, and other donors, the Government of Malawi agreed to sell part of its strategic grain reserves in 2001, shortly before the country was hit by the food crisis.

Without any appropriate safety nets to replace the ADMARC services, the people of Malawi went hungry. As the hunger emergency unravelled, Malawi's Anti-Corruption Bureau accused several Malawian politicians of "unduly" benefiting from the sale of the grain reserves. It was alleged that they had actually bought the NFRA maize at the government price and re-sold it on the open market at a higher price when people were desperate for something to eat. Finance Minister Friday Jumbe, who was the General Manager of ADMARC at the time of the grain sales, allegedly used the money to fund construction of a hotel. His case has still not been resolved in court.

A Presidential Commission of Inquiry was established to investigate the scandal surrounding sale of the reserves. Among its findings, the Commission recommended stronger anti-corruption measures and maintained that "the Government of Malawi erred in succumbing to the conditionality of the WB and IMF...It is this conditionality which subsequently harmed the very people whose livelihood the government should have protected".²³ In response to the controversy, the WB issued a Poverty and Social Impact Analysis, which examined possibilities for reforming ADMARC.²⁴

No one has yet been held accountable for the deaths that resulted from bad policies and corruption as famine ravaged Malawi in 2002.

The FAO Guidelines emphasize in their concluding Section III that all States should, in accordance with the UN Charter, refrain from activities that hinder the realization of the human right to food and that they should, through international cooperation, support its realization. Nevertheless, representatives of developed country missions we met with during the course of our mission explained that program priorities are established in capitals often with little or no input from country missions and that these policies change

²³ The Government of Malawi *Report of the Presidential Commission of Inquiry on Strategic Grain Reserves under the Chairmanship of Khuze Kapeta*, CF. Submitted to His Excellency the President of the Republic of Malawi, August 24, 2004.

²⁴ Document of the World Bank, *Reforming the Malawi Agriculture Development and Marketing Corporation (ADMARC): Synthesis Report of the Poverty and Social Impact Analysis*. December 1, 2003. (Confidential Report No. 27512).

with rotation of Ministers and whenever elections result in new governments. Country missions must fit their local programming into policy frameworks developed far away from on-the-ground realities in Malawi. The result is a myriad of strategies, frameworks, policies and projects that do not work together and do not necessarily reflect the human rights concerns in the country, including those related to the human right to food.

When the MPRS underwent its first review in 2003, conclusions highlighted that national policies and programs had failed in part because of the actions of the international community. For example, the review noted donor targeting of assistance to non-agricultural priorities and the failure of donors to meet support commitments that had already been incorporated into Malawi's operating budget. Donor pressure also appeared to be a key factor in delaying fertilizer subsidy programs and cutting back on agricultural extension services, both of which were repeatedly brought to the mission's attention as priority concerns for farmers. The result was a failure to achieve key poverty reduction benchmarks and in fact, statistics in 2003 revealed increased numbers of people living below the poverty line and decreased life expectancy.

Failure to adopt a human rights framework for development assistance in Malawi is exacerbated by lack of coordination between donors. The SWAP initiative to pool donor resources and coordinate programming by sector is a positive step, but at the time of our mission there was no active SWAP for agriculture and certainly none for the promotion of human rights in Malawi. Potential difficulties in setting up an agricultural SWAP might include the refusal of one or more major donors to participate or to support subsidy programs and renewal of the extension program.

The members of the fact-finding mission found representatives of donor countries and agencies to be genuinely concerned about the situation of hunger in Malawi and the mission welcomes the coordinated evaluation of responses to the hunger crisis that is currently underway. At the same time, however, donors were not sufficiently sensitive to the human right to food or to their own responsibilities in ensuring that the Government of Malawi meets its human rights commitments. In fact, a sense of skepticism permeated our discussions with donors about the value-added of human rights as an approach for hunger eradication.

Failure to protect citizens from unfair market practices

The General Comment 12 describes State obligations for the human right to food as having three levels (respect, protect, fulfill). In exercising its obligation to protect, the Government of Malawi must ensure “that enterprises or individuals do not deprive individuals of their access to adequate food” (para. 15).

Mission members encountered a number of complaints about price instability for production inputs for food security crops as well as for cash crops, like tobacco, that are sold in order to buy food. In other words, markets compelled poor farmers to buy high and sell low, resulting in decreased ability to access adequate food.

In the cases of subsidized fertilizer and maize, traders reportedly enjoyed access to large quantities at the subsidized prices while individuals and families endured long line-ups for limited quantities insufficient in comparison to need. Traders then capitalized on the subsidized prices, re-selling at significant mark-up on the open market. For example, we were told that the subsidized price of maize was 340 kwacha for 20 kg, but that on the open market the price for the same amount was 1200 kwacha, almost four times as much. The 1200 kwacha price was clearly out of reach for Malawi’s poor, who therefore went hungry and many died.

With regards to earning cash income from tobacco in order to buy food, a practice common to all those interviewed during site visits, price fixing by tobacco companies was repeatedly identified as a problem. Farmers complained that despite recent minimum prices set by the government (USD 1.10 kg for tobacco) they normally received the equivalent of only 60 cents. Claims of a cartel by the three dominant tobacco companies exporting from Malawi could not be verified by the mission, but they appeared to be at least worthy of investigation. Even though it may be advisable to decrease tobacco production for a variety of reasons, as long as it remains a key livelihood crop for farmers the government is obligated to protect its citizens from illegal market activities such as price-fixing.

RECOMMENDATIONS

The pre-condition for the implementation [of the FAO Guidelines] is the cooperation between the International Organizations, the Government Organizations and the Non-governmental Organizations.

HARTWIG DE HAEN, Assistant Director-General, FAO²⁵

Recommendations to Government

Adopt a human rights framework for the eradication of hunger

- Create a national right to food strategy, using the FAO Guidelines as a roadmap, encompassing all levels of State obligations and integrating approaches across government departments and agencies;
- Adopt the Human Right to Food Bill as proposed by the National Right to Food Taskforce;
- Encourage the indivisibility of rights by conceptualizing the human right to food in its relation to other rights such as the right to health, the right to education, the right to life, labour rights etc.;
- Develop human rights curriculum for schools.

Create effective recourse mechanisms for human rights violations and bring perpetrators to justice

- Create a “right to food authority” as recommended in the Right to Food Bill;
- Increase resources to the Malawi Human Rights Commission, specifically for the creation of community complaint centres;

²⁵ As quoted in FIAN International document g 47 e / 2006.

- Provide training for judges and lawyers in the application of economic, social and cultural rights;
- Strengthen the system of legal aid in Malawi to ensure wider access for the poor;
- Ensure that cases related to violations of the right to food and currently lingering in the court system are heard within a reasonable amount of time and that the guilty are quickly brought to justice.

Improve democratic governance with a particular focus on meeting human rights treaty obligations

- Create an inter-departmental process specifically mandated to harmonize and coordinate government policies and programs to end hunger, including health, nutrition, agriculture and land policy, private sector development, safety nets, food aid;
- Respect human rights obligations when determining budget priorities, including the maximum resources possible for sustainable solutions to hunger such as agricultural extension, production support, water management and credit programs;
- Submit a periodic report to the UN Committee on Economic, Social and Cultural Rights.

Enforce policies designed to create transparency and accountability especially with regards to pricing of inputs, food security crops and cash crops

- Increase programs that publicize commodity prices, such as radio announcements and weekly postings by VDCs and NGOs;
- Investigate allegations of price fixing by the tobacco industry and apply appropriate remedies;
- Investigate price gouging by traders and prosecute offenders;
- Enforce the minimum wage for farm labourers.

Encourage crop diversification through increased support to agricultural development

- Provide sufficient resources to allow the re-building of Malawi's agricultural extension services;

- Encourage crop diversification with a view to achieving food and nutrition security, emphasizing food crops that require less water and fewer inputs;
- Give attention to the added value of organic agriculture as an approach that emphasizes indigenous knowledge and sustainable practices.

Recommendations to donors

Reinforce and encourage the efforts of the Government of Malawi to meet its human rights obligations

- Refrain from imposition of de-regulation and privatization as a condition of development assistance, especially when those conditions constrain the Government of Malawi from meeting its human rights obligations;
- Support budget allocations designed to end hunger and strengthen self-sufficiency through agricultural development, expansion of extension services, and provision of subsidies to smallholder farmers and the introduction of a basic income grant or cash transfer program;
- Provide additional resources to the Malawi Human Rights Commission.

Support legislation and programs that will assist the people of Malawi to better claim their human rights

- Encourage adoption of the Right to Food Bill;
- Support training programs in human rights monitoring and the compilation of relevant statistics;
- Support legal training in the application of economic, social and cultural rights obligations of the State;
- Encourage expansion of a comprehensive legal aid system.

Strengthen efforts to avoid conflicting policies and encourage common approaches for food security and sustainable livelihoods

- Establish an agriculture SWAP as currently exists in the areas of health, education and HIV/AIDS;

- Refrain from encouraging economic measures not required of least-developed countries in World Trade Organization rules, for example the reduction of tariffs, cuts to domestic support, limits to grain reserves and pressure against collective marketing mechanisms.

Recommendations to civil society

Strengthen the legislative campaign to adopt the Right to Food Bill in Parliament:

- Link the campaign to the constitutional review;
- More clearly align the proposed Right to Food Bill to the Food & Nutrition Security Policy;
- Prioritize the political rather than bureaucratic level in lobbying efforts;
- Develop a strategic alliance with the OPC to avoid conflict with its HIV/AIDS and Nutrition Policy and to build upon the President's recent public focus on food security;
- Establish closer collaboration with the Malawi Human Rights Commission.

Build civil society capacity in the area of human rights

- Expand and consolidate the National Right to Food Taskforce;
- Organize a series of workshops and training seminars on specific human rights issues such as human rights targeting, impact assessments, and judiciability and extra-territorial obligations;
- Use clear human rights language for advocacy, relying on the FAO Guidelines, the General Comment 12 and the Constitution of Malawi;
- Consolidate linkages with international civil society and social movements working on the human right to food in the region.

Develop a grassroots awareness & mobilization initiative

- Use existing networks and ongoing surveys to introduce the National Taskforce on the Right to Food at the grassroots level;
- Develop popular education materials in Chichewa to encourage human rights awareness at the grassroots level;
- Make more use of radio for outreach activities.

ANNEX I

MALAWI FACT-FINDING MISSION DELEGATES

MIKE ANANE, *Ghana*

Journalist, African Network of Environmental Journalists

Mike Anane is an independent environmental journalist, president of the league of Environmental Journalists in Ghana and vice president of the African Network of Environmental Journalists, which has its secretariat in Nairobi, Kenya. Mike is the Coordinator of FIAN-GHANA and a laureate of the UN Environment Programme Global 500 Roll of Honour for outstanding practical achievements in the protection and improvement of the environment.

DR. STANLEY KHAILA, *Malawi*

Agricultural Policy Research Unit

Dr. Stanley Khaila has served as Executive Director for the Natural Resources College, Director of the Centre for Social Research at Chancellor College and lecturer at the Bunda College of Agriculture. He is Chairman of the Special Law Commission for the Review of Land Related Laws in Malawi. His extensive consultancy work has included impact assessments of the Special Program for Food Security for the FAO.

ANNE WANJIKU MAINA, *Zambia*

Campaign, Advocacy and Lobbying Officer, PELUM Regional Desk

Anne Wanjiku Maina is Campaign, Advocacy and Lobbying Officer, PELUM Regional Desk based in Lusaka, Zambia. She coordinates a regional program for sustainable agriculture and rural development and oversees initiatives related to fair trade, food security environmental management and the

human rights of farmers. In the past, she has worked with Transparency International, World Vision and the Centre for Governance and Development.

CAROLE SAMDUP, *Canada*

Program Officer, Rights & Democracy

Carole Samdup is a Program Officer at Rights & Democracy, where she has worked since 1994 on issues related to “Globalization and Human Rights”. In that capacity, her areas of focus have been regional integration in Asia; human rights in China; agriculture and the human right to food; and economic, social and cultural rights in multilateral processes. Before coming to Rights & Democracy, Carole worked in the private sector.

KEVIN WILMUT, *Canada*

Lecturer and Consultant

Kevin Wilmut lived and worked in Africa for six years, including four years in Malawi, where he was Coordinator of the Canada Fund—Malawi. His responsibilities included providing small-grant assistance to community organizations and conducting project assessments, monitoring and evaluations. In meeting these responsibilities, Mr. Wilmut worked with grassroots organizations and communities throughout Malawi.

KOFI YAKPO, *Germany*

Africa Desk Coordinator, FIAN International

Kofi Yakpo is the Coordinator of the Africa Desk in the international secretariat of FIAN International in Heidelberg, Germany. In this function, he has been in charge of research, documentation, advocacy and intervention in cases of right to food violations in various African countries. Kofi also works on language and minority rights and is involved in linguistic research on African languages.

ANNEX 2

LIST OF INTERVIEWS

Government

PATRICK KABAMBE, *Permanent Secretary*
Ministry of Agriculture

GRACE MALINDI, *Deputy Director—Agricultural Extension Services*
Ministry of Agriculture

HON. DZOOLE MWALE, *Chairperson (with 18 members of the committee)*
Parliamentary Committee on Agriculture

JUSTICE ELTON SINGINI, *Law Commissioner*
Malawi Law Commission

DR. MARY SHARRA, *Permanent Secretary*
Department of Nutrition and HIV/AIDS
Office of the President and Cabinet

DOROTHY NYASULU, *Chairperson and Ollen Mwalubunju, Commissioner*
Malawi Human Rights Commission

DR. DOROTHY CHILIMA, *Dean, Faculty of Agriculture*

DR. KENNETH WIYO AND MATTHEWS MADOLA, *Centre for Agriculture*
Research
Bunda College of Agriculture

Donors

*LOLA CASTRO, Deputy Country Director / Head of Program
UN World Food Program*

*PETER KILLICK, Aid Liaison Officer and VALERIE YOUNG, Counsellor (Development)
Canadian International Development Agency*

*STACIA AND KRISTOFF NORDIN
German GTZ*

*ANDREA POZZA, Food Security Technical Advisor
European Union*

*HARDWICK TCHALE, Agricultural Economist
World Bank*

*M. MAZLAN JUSOH, Representative
UN Food and Agriculture Organization*

Civil Society Organizations

Action Aid Malawi

Association of Progressive Women

Catholic Commission for Justice and Peace

Centre for Advice, Research and Education on Rights

Centre for Human Rights and Rehabilitation

Church and Society, CCAP Blantyre Synod

Civil Liberties Committee

Dan Church Aid

Federation of Disability Organizations in Malawi

Human Rights Consultative Committee

Malawi Economic Justice Network

Malawi Farmers Union

Malawi Watch

National Women's Lobby and Rights Group

ANNEX 3

IN THE PRESS

The Daily Times, National news, Wednesday, April 12, 2006

FOREIGN EXPERTS TO ASSESS MALAWI HUNGER

By Daniel Nyirenda

An international fact-finding mission arrives in the country Friday to assess the current food crisis in order to help address the problem, the Church and Society Programme of [Blantyre] Synod disclosed yesterday.

The delegation, which comprises seven African and Western human rights experts, will conduct a week-long enquiry between April 17 and 23, according to Billy Mayaya, Programme Manager for the Church and Society.

He said the fact-finding mission is part of [a] broad coalition of Malawian civil society organisations that is working to ensure that both donor countries and [the] government of Malawi respect commitments laid out in the International Covenant on Economic, Social and Cultural Rights, including those related to the human right to food.

"The fact-finding mission will provide a basis to find out the status of [the] food security situation in Malawi. They will make site visits to rural areas that have been hit hard by hunger and they will also make

a site visit to a stable area," Mayaya said.

According to Mayaya, in their National Right to Food advocacy they are targeting the Parliamentary Committee on Agriculture, Ministry of Agriculture and other parliamentary committees for support so that the bill could be tabled and passed into legislation. Upon the completion of the visits, the experts from Ghana, Kenya, Canada and Germany, will present their findings to government and then the public through a press briefing to be held in Lilongwe on April 21, according to Mayaya.

He said they would also make recommendations in a final report on the hunger that hit at least five million Malawians.

Besides, they will hold discussions with stakeholders namely the civil society, government and international donor organizations.

The mission has been co-organised by international human rights NGOs Rights & Democracy and FIAN International of Germany.

Rights & Democracy is a leading Canadian NGO that

provides financial and technical support to Church and Society (Blantyre Synod).

Heidelberg-based FIAN International focuses on advocacy for the right to food so that it can be recognised as a human right and also conducts research.

Malawi, which should have been self-sustained in terms of food [,] faced critical hunger since last year and she is still reeling from the crisis.

Government spent K13.5 billion to buy both commercial and relief food.

The Chronicle, Vol. 13, No. 602, 24 April – 1 May 2006, National

GOVT ACCUSED OF NON COMPLIANCE ON FOOD RIGHTS

By Gregory Gondwe

An international fact finding mission that was in the country to assess the food situation has said that despite the government's positive steps to respond to the hunger crisis, there are a number of shortcomings with regards to human rights obligations compliance.

Carole Samdup of the [sic] Rights and Democracy said during a press conference recently in Lilongwe that the response to the hunger emergency was characterised by a lack of accountability, a systemic discrimination of the most vulnerable groups, and failure to take appropriate steps to lift the country out of food dependency.

"The alleged sale of subsidised maize to traders through government outlets at the height of the hunger emergency represents a breach of the [sic] Malawi's obligation to respect the right to food," she said.

She said the breach is compounded by a lack of accountability, such as the absence of effective complaint and monitoring procedures through which individuals and communities could have reported such misappropriations and obtained recourse.

Kevin Wilmot who was once Malawi Coordinator for the Canadian Fund said Village Development Committees were not involved in the process and in so doing a lot of vulnerable people were left out.

"When we spoke to the people they said they were afraid to report injustices because they did not know who they would have asked questions; for example, they were even afraid to approach the police or district assembly officials because they were not sure

whether or not they were involved in committing the injustices," said Wilmot.

The mission also faulted the distribution of fertiliser coupons to farmers which they said revealed a systemic discrimination against those who needed assistance most.

"It was observed that the poorest segments of the rural population often did not obtain fertiliser coupons because of poor targeting or could not redeem coupons due to the lack of financial means," said Samdup.

"The poorest failed to get the subsidised fertiliser, many people showed us coupons which they failed to use and this is what we call systemic discrimination," Wilmot added.

She said lack of sufficient programs and resources dedicated to agricultural development and extension services has perpetuated over-dependence on maize and imported inputs as chemical fertilisers and delayed progress towards national food security.

The Mission which comprised of seven experts from Ghana, Zambia, Germany and Canada submitted what it called preliminary recommendations that Government draft and adopt legislation that entrenches the primacy of human rights in the design of food security and nutrition related policies among others.

It also recommended that Government should implement effective monitoring mechanism and complaints procedures at all levels but particularly at the district and village levels.

“Government and donors should adopt and support long term programming aimed specifically at the implementation of policies for national self-sufficiency in food production,” said Samdup.

“There is a need for a long term consistent program in fulfilment of the right to food by producing an enabling environment to eradicate hunger,” she said.

Anne Wanjiku Maina of Zambia’s Participatory Ecological Land Use Management (PELUM) said when the mission met with Agriculture and Food Security Minister Uladi Mussa he told them that the government has realised that his ministry which has a number of policies is trying to integrate all the policies to come up with one single policy.

She said the [sic] Mussa also said the Agriculture sector is about to emulate the sector wide approach as worked out by ministry of health [sic].

The mission composed of representatives of civil society organisations from Canada, Ghana, Germany, Malawi and Zambia today concluded with a set of observations and recommendations to the Malawi Government.

It was conducted with the assistance of the Canadian human rights organisation Rights and Democracy and Food Information and Action Network (FIAN), an international human rights organisation that advocates for the human right to food.

The Mission was invited to evaluate the state of the right to food in the country by the National Right to Food Taskforce a Malawian initiative of the Blantyre Synod of the CCAP.

Mission Members [sic] visited and met with the rural communities in the districts of Kasungu, Salima, and Mchinji, besides meeting representatives of the central and local government officials, donor agencies and civil society in Lilongwe.

Kofi Yapko a German based Desk Co [o]rdinator [at] FIAN International said the choice of Salima was through the recommendation of the Blantyre Synod while Kasungu was picked because of its interrelationship between tobacco and maize farming in the district.