



Human Rights Council
Working Group on the Universal Periodic Review
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Compilation on Malawi

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies^{1, 2}

2. In 2017, the Committee on the Rights of the Child stated that Malawi should consider ratifying the Convention on the Reduction of Statelessness,³ and the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.⁴

3. The Committee on the Rights of the Child recommended that Malawi consider withdrawing its reservations to the Convention relating to the Status of Refugees.⁵ The Office of the United Nations High Commissioner for Refugees (UNHCR) also encouraged Malawi to withdraw those reservations.⁶

4. The Committee on the Rights of the Child recommended that Malawi ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.⁷ It also recommended that Malawi ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.⁸

5. The same Committee recommended that Malawi strengthen its cooperation with the International Committee of the Red Cross and with the Special Representative of the



Secretary-General for Children and Armed Conflict, and that the State explore increased cooperation with the United Nations Children's Fund (UNICEF) and other United Nations entities in the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.⁹

6. In follow-up to its concluding observations, in 2017, the Human Rights Committee considered that the recommendations selected for follow-up had not been fully implemented.¹⁰

7. The United Nations country team stated that Malawi had yet to submit its initial report, due in 1996, to the Committee on Economic Social and Cultural Rights.¹¹

III. National human rights framework¹²

8. Noting that the Constitution had been amended in 2017 to define a child as a person under the age of 18 years, the United Nations country team stated that the process of harmonizing all legislation with the amendment was still under way.¹³

9. The Human Rights Committee expressed regret that Malawi had not provided any information regarding the steps taken to criminalize the sexual abuse of children in follow-up to the Committee's earlier recommendation to that effect.¹⁴

10. The Committee on the Rights of the Child recommended that Malawi expressly define and criminalize all forms of sale of children and child pornography, and adopt a strategy for the prevention of online child sexual exploitation and abuse.¹⁵

11. The same Committee recommended that Malawi explicitly criminalize the sale of children through illegal adoption, the transfer of organs of the child for profit and the engagement of the child in forced labour.¹⁶

12. Noting that the Law Commission had finalized the review of the Adoption Act, the Committee also expressed concern that no progress had been made in the adoption of the revised Act. It recommended that Malawi pass into law the revised Adoption Act, finalize the guidelines for all stakeholders in matters of adoption, raise awareness about the adoption procedures and regulations and promote and encourage formal domestic adoption.¹⁷

13. In 2015, the Committee on the Elimination of Discrimination against Women recommended that Malawi carry out a gender impact analysis of its legislation and amend all laws and regulations that discriminated against women, in particular the Witchcraft Act, the Citizenship Act, the Penal Code and Police Service Standing Order 31.¹⁸

14. The same Committee recommended that Malawi enact legislation to regulate the relationship between formal and customary justice mechanisms and strengthen measures to ensure that customary judicial mechanisms complied with the Convention on the Elimination of All Forms of Discrimination against Women.¹⁹

15. The Committee on the Rights of the Child recommended that Malawi ensure that adequate human, financial and technical resources were provided to the Ministry of Gender, Children, Disability and Social Welfare to enable the Ministry to carry out its coordination mandate effectively through its national technical working groups and network meetings.²⁰

16. Noting that, under the Defence Force Act, children under 18 years of age were not eligible to join the army, the same Committee urged Malawi to ensure the compulsory, consistent and systematic verification of the age of individuals being recruited to effectively prevent the recruitment of children into the armed forces. In addition, it recommended that Malawi include an explicit provision in the Penal Code to criminalize the recruitment of children into armed forces or non-State armed groups.²¹

17. The Committee on the Rights of the Child expressed concern that the current Firearms Act of 1967 did not expressly prohibit the acquisition and use of firearms by children, and noted that the Malawi Law Commission had made recommendations for the adoption of a new firearms act. The Committee recommended that Malawi adopt as a matter of urgency a new firearms act, expressly prohibit the acquisition, possession and use of firearms by

children, confiscate illegal firearms that were in circulation and regulate the use of home-made firearms.²²

18. The same Committee recommended that Malawi take all measures necessary to ensure that its national legislation enabled it to establish and exercise extraterritorial jurisdiction and to include in its extradition treaties the offences under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.²³

19. UNHCR recommended that Malawi accelerate the adoption of the migration policy and the enactment of the draft refugee law.²⁴

20. Noting that Malawi had ratified the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), UNHCR stated that there was no policy or legislation to fully implement the Convention.²⁵

21. The Committee on the Elimination of Discrimination against Women expressed concern that the Malawi Human Rights Commission did not function independently and lacked sufficient resources. It called on Malawi to ensure that the Commission enjoyed full independence, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and was provided with adequate resources.²⁶ The United Nations country team also noted that the Commission lacked sufficient funding and capacity and had been without commissioners since May 2019.²⁷

22. The Committee on the Rights of the Child recommended that Malawi ensure that the Malawi Human Rights Commission was provided with adequate human, technical and financial resources to carry out its mandate effectively, including by making the Commission accessible for all children.²⁸

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination²⁹

23. The Committee on the Elimination of Discrimination against Women recommended that Malawi strengthen its efforts to promote understanding of the concept of the substantive equality of women and men by conducting awareness-raising campaigns for members of the legal professions, law enforcement agencies and the general public.³⁰

24. Noting the criminalization of same-sex relations, the United Nations country team stated that lesbian, gay, bisexual, transgender, queer and intersex persons experienced violence and discrimination. In addition, the challenges that such persons faced had been further exacerbated by the lack of clarity and divergent opinions regarding the legality of a moratorium on arrests and prosecutions for consensual homosexual acts, issued by the Ministry of Justice and Constitutional Affairs in 2012.³¹

2. Development, the environment, and business and human rights³²

25. The Committee on the Rights of the Child recommended that Malawi take immediate measures to combat corruption and strengthen institutional capacities to effectively detect and investigate cases of corruption and prosecute the alleged perpetrators.³³

26. The same Committee recommended that Malawi ensure that companies effectively implement international and national environment and health standards. It also recommended that Malawi ensure the effective monitoring and implementation of those standards, and impose appropriate sanctions and provide remedies if violations occurred.³⁴

27. The Committee recommended that Malawi increase children's awareness of and preparedness for climate change and natural disasters through the school curriculum and teacher training programmes.³⁵

B. Civil and political rights

1. Right to life, liberty and security of person³⁶

28. The United Nations country team stated that Malawi had maintained a de facto moratorium on executions since 1994, with death sentences commuted to life imprisonment, and that the Government had made multiple commitments to continue the moratorium with a view to abolishing the death penalty. However, courts had continued to hand down sentences of capital punishment.³⁷

29. The Committee on the Rights of the Child expressed concern about the significant number of cases of abduction, ritual killings and exhumation of remains of children with albinism and the inadequate enforcement of the laws and policies aimed at protecting the rights of children with albinism.³⁸ It urged Malawi to, inter alia, prevent killings, mutilations, infanticide and kidnapping of, and other attacks against, children with albinism.³⁹

30. The Independent Expert on the enjoyment of human rights by persons with albinism expressed alarm at the widespread attacks on persons with albinism. The root causes of such attacks included the prevalence of witchcraft belief and practice, the context of poverty, media reports on alleged prices of body parts of persons with albinism, widespread myths and long-standing discrimination against persons with albinism.⁴⁰ The Independent Expert recommended that Malawi continue to provide an urgent response to attacks against persons with albinism and provide training to public officials on the rights of persons with albinism and the obligations of the State in that regard, ensure enhanced oversight of traditional medicine practitioners and use the review of the Witchcraft Act to reflect on witchcraft practices, ensure that all alleged offences against persons with albinism were promptly and thoroughly investigated and provide psychosocial, medical and legal assistance to persons with albinism who were victims of attacks and to their families.⁴¹

31. The Committee on the Elimination of Discrimination against Women urged Malawi to reinforce its measures to protect women and girls with albinism from all forms of violence and address the discrimination, stigmatization and social exclusion faced by them.⁴²

32. The same Committee expressed concern at the high prevalence of harmful practices, such as child and/or forced marriage, female genital mutilation in certain communities, polygamy, "widow cleansing", initiation rites, ceremonies for girls which led to abuse, and the practice of prescribing sex with girls or women with albinism as a cure for HIV. It urged Malawi to effectively implement the existing legal provisions prohibiting harmful practices and ensure that all harmful practices were investigated and that victims had access to effective remedies and adequate protection mechanisms.⁴³

33. The same Committee urged Malawi to amend its Witchcraft Act to bring it into line with international human rights standards, strengthen its measures to protect women accused of witchcraft from violence, carry out awareness-raising, in particular in rural areas, on the criminal nature of such attacks, and effectively punish the perpetrators.⁴⁴

34. The United Nations country team stated that the Prevention of Domestic Violence Act protected children who were in a domestic relationship with the perpetrator and made provision for special orders beyond those contained in other legislation. However, challenges remained in enforcement of those orders.⁴⁵

35. The United Nations country team stated that a 2019 report by the Inspectorate of Prisons had revealed prison overpopulation of up to 260 per cent of the official capacity, a failure to provide adequate food and medical care, poor conditions of the physical structures and serious breaches in the criminal justice processes that affected the rights of detained persons to bail and to access to the courts.⁴⁶

2. Administration of justice, including impunity, and the rule of law⁴⁷

36. The United Nations country team stated that children in conflict with the law were neglected by the judicial system and associated mechanisms. The three State-run reformatory centres for those children, including children awaiting trial, were underfunded, which compromised the safety, health and well-being of the children in the centres. Some children were detained in adult prisons.⁴⁸

37. The Committee on the Rights of the Child recommended that Malawi raise the age of criminal responsibility to an internationally accepted standard and give the child the benefit of the doubt in the context of punishment when his or her age was in dispute, ensure that juveniles who were deprived of their liberty were detained separately from adults and males separately from females, ensure that children who were awaiting trial, if detained, were not held together with convicted prisoners, operationalize the child justice courts and ensure that conditions in reformatory centres and other facilities used to detain children met children's health, educational and other needs, use the diversion mechanisms and the alternatives to punishment provided by the Childcare Protection and Justice Act and ensure that judges, police officers, prosecutors, court staff, social workers and other relevant officials were duly trained in such processes, and improve the conditions of detention in juvenile justice facilities.⁴⁹

38. The same Committee recommended that Malawi ensure that all cases of sale of children, child prostitution and child pornography were investigated effectively and that perpetrators were prosecuted and, if convicted, punished with appropriate sanctions commensurate with the gravity of their crimes.⁵⁰

39. The United Nations country team stated that access to justice was constrained by minimal awareness among communities and limited accessibility to justice services. There were few legal aid advocates in the country and reports of corruption among police and court officials had discouraged victims from seeking legal redress.⁵¹

40. The United Nations country team stated that the informal justice sector, which provided mechanisms for accessing justice through village mediations, camp courts and paralegal services, required greater adherence to human rights principles and improved coordination with the formal justice system.⁵²

41. The Committee on the Elimination of Discrimination against Women expressed concern that women continued to face multiple barriers in obtaining access to justice. It recommended that Malawi ensure that women had effective access to justice, by establishing courts, including mobile courts, and by enhancing women's legal literacy, raising awareness of their rights, providing legal aid and ensuring that fees were reduced for women with low incomes and waived for women living in poverty.⁵³ The Committee also recommended that Malawi provide adequate resources to the Legal Aid Bureau.⁵⁴

3. Fundamental freedoms and the right to participate in public and political life⁵⁵

42. The United Nations country team stated that although permission to demonstrate was not required, organizers of demonstrations must give 48 hours' notice in accordance with the Police Act. The police were under an obligation to provide security during the demonstrations. The Minister of Homeland Security had recently announced new regulations to control demonstrations under the Preservation of Public Security Act. The United Nations country team expressed concern that those regulations would limit freedom of assembly.⁵⁶

43. The Committee on the Elimination of Discrimination against Women called on Malawi to strengthen its efforts to increase the representation of women in political and public life. It recommended that Malawi, inter alia, expedite the process of amending the relevant electoral laws to introduce minimum quotas for female candidates on political parties' electoral lists and for the executive structures of political parties.⁵⁷

4. Prohibition of all forms of slavery⁵⁸

44. The United Nations country team stated that there were challenges in providing services, assistance and protection for victims of trafficking.⁵⁹ The Committee on the Elimination of Discrimination against Women recommended that Malawi, inter alia,

effectively implement the Trafficking in Persons Act, address the root causes of trafficking of women and girls and the exploitation of prostitution, and establish appropriate mechanisms aimed at early identification, referral and support for victims of trafficking, including through the provision of access to shelters and adequate legal, medical and psychological assistance.⁶⁰

45. The Committee on the Rights of the Child recommended that Malawi harmonize the punishment for the offence of child trafficking under the Trafficking in Persons Act and Childcare Protection and Justice Act, establish mechanisms for ensuring that child victims of trafficking were compensated, and provide adequate resources for social and rehabilitation services for victims.⁶¹

46. The same Committee expressed concern about reports of cases of child sex tourism at the holiday resorts along Lake Malawi, and urged the State to conduct advocacy within the tourism industry on the harmful effects of child sex tourism, to disseminate widely the World Tourism Organization Global Code of Ethics for Tourism among travel agents and tourism agencies, and to encourage those enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.⁶²

47. The Committee expressed concern that the Social Rehabilitation Centre in Lilongwe for trafficking victims was underfunded, lacked long-term support and was unsuitable for child victims, and recommended that Malawi ensure the provision of appropriate human, financial and technical resources to the Centre and any similar institutions.⁶³

5. Right to privacy and family life⁶⁴

48. The Committee on the Rights of the Child emphasized that financial and material poverty – or conditions directly and uniquely attributable to such poverty – should never be the sole justification for removing a child from parental care, for placing a child in alternative care or for preventing a child’s social reintegration.⁶⁵ It recommended that Malawi, inter alia, facilitate family-based care for children wherever possible and establish a system of foster care for children who could not stay with their families, with a view to reducing the institutionalization of children.⁶⁶

49. The Committee on the Elimination of Discrimination against Women stated that Malawi should discourage and prohibit polygamy and ensure that the rights of women in existing polygamous unions were protected.⁶⁷

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work

50. The United Nations country team stated that Malawi had ratified the key international conventions concerning child labour, but that limited capacity in the Ministry of Labour had delayed the finalization of relevant policies.⁶⁸

51. The Committee on the Rights of the Child recommended that Malawi finalize the child labour policy and child protection policy to protect children from the worst forms of child labour, and that it allocate sufficient human, technical and financial resources to labour inspection in order to fully, regularly and effectively implement the laws and policies on child labour.⁶⁹

52. The Committee on the Elimination of Discrimination against Women expressed concern at the persistent discrimination against women in the labour market. It recommended that Malawi, inter alia, adopt effective measures to achieve de facto equal opportunities for women and men in the labour market and eliminate occupational segregation, and that it adopt measures to effectively implement the principle of equal pay for work of equal value and to narrow the gender wage gap.⁷⁰

2. Right to social security

53. The Independent Expert on albinism recommended that Malawi review the criteria for benefiting from social welfare programmes, taking into account the vulnerability to skin cancer and vision impairment faced by persons with albinism and, in particular, ensure that

social welfare programmes were not conditional on performing acts that were harmful to persons with albinism, such as performing manual work in the sun.⁷¹

3. Right to an adequate standard of living⁷²

54. The United Nations country team stated that Malawi had become prone to climate-related disasters, including drought and floods, resulting in food insecurity.⁷³

55. The Committee on the Elimination of Discrimination against Women recommended that Malawi, *inter alia*, ensure that its poverty reduction and social protection programmes produced sustainable results.⁷⁴ The Independent Expert on albinism recommended that Malawi continue to adopt measures to address poverty in the light of the 2030 Agenda for Sustainable Development to ensure that Malawians with albinism were not left behind, and that they were included in all poverty-reduction programmes.⁷⁵

4. Right to health⁷⁶

56. Noting the high maternal mortality rate, the United Nations country team stated that the major causes of maternal death were haemorrhage, hypertension, sepsis and unsafe abortion. Access to emergency obstetric care services was limited.⁷⁷ The Committee on the Elimination of Discrimination against Women expressed concern about the high maternal mortality ratio. It recommended that Malawi reduce maternal mortality by ensuring the provision of adequate sexual and reproductive health services, in particular access to antenatal, delivery and postnatal services.⁷⁸

57. The United Nations country team stated that abortion legislation (provisions in the Penal Code) was restrictive and permitted abortion only when the pregnancy posed a risk to the woman's life, resulting in many abortions being performed under clandestine and unsafe conditions.⁷⁹

58. The United Nations country team stated that the prevalence of stunting in children under the age of 5 years remained one of the highest in Africa. It was concerned by the low quality of complementary foods for children aged between 6 and 23 months.⁸⁰

59. Noting target 3.2 of the Sustainable Development Goals, the Committee on the Rights of the Child recommended that Malawi scale up immunization, address chronic malnutrition and stunting and reduce child mortality due to malaria, neonatal conditions and preventable diseases, such as pneumonia and diarrhoea, and develop a national health plan for 2017 aimed at reducing child and maternal mortality; improve drug and health-system management; enact the HIV/AIDS bill into law, implement the National Strategic Plan on HIV (2015–2020) and achieve universal coverage for antiretroviral treatment; take urgent measures aimed at preventing sexually transmitted diseases, in particular HIV/AIDS among girls; strengthen efforts to improve access to basic health-care services with trained health workers for children and pregnant women, especially in rural areas; and implement the Office of the United Nations High Commissioner for Human Rights technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age.⁸¹

60. The United Nations country team stated that women and girls were placed at a greater risk of HIV infection because of deeply embedded gender inequalities and harmful gender norms. Funding for the HIV response was largely dependent on external sources, with domestic funding estimated at 14 per cent. The promulgation of the HIV and AIDS (Prevention and Management) Act of 2018 was a positive step, but the national HIV/AIDS policy was still under review.⁸²

61. The Committee on the Rights of the Child recommended that Malawi improve adolescent girls' access to reproductive health-care services and increase support for reproductive health and family planning services and access to affordable contraceptives and contraceptive methods.⁸³

62. The same Committee recommended that Malawi decriminalize abortion in all circumstances and remove barriers to abortion, ensure girls' access to safe abortion and post-abortion care services, and ensure that the views of the child were always heard and given due consideration in abortion decisions.⁸⁴

63. The Independent Expert on albinism stated that persons with albinism were particularly vulnerable to skin cancer and that skin cancer was a life-threatening condition for persons with albinism as there were few facilities for adequate medical interventions. She recommended that Malawi ensure that sun protection lotion was included on the list of essential medicines, available free of charge and distributed regularly, along with sun protective clothing, ensure that training and information on albinism and related health issues were provided to mothers of children with albinism immediately after the birth of their child, and provide free dermatological and ophthalmological assessments to persons with albinism along with glasses, adaptive devices and other visual aids.⁸⁵

5. Right to education⁸⁶

64. The Committee on the Elimination of Discrimination against Women recommended that Malawi strengthen its efforts to improve the quality of education, including by providing adequate school infrastructure and by increasing the number of qualified teachers, with particular attention to qualified female teachers.⁸⁷

65. The United Nations Educational, Scientific and Cultural Organization (UNESCO) stated that in 2019 it was reported that the fees in all public secondary schools would be abolished. It noted that there were concerns that the initiative would lead to a large influx of students for which the education system was unprepared. UNESCO encouraged Malawi to ensure that the roll-out of free secondary education received sufficient funding.⁸⁸

66. The Committee on the Rights of the Child recommended that Malawi eliminate the hidden cost of education, such as “development fees”; recruit newly qualified teachers to reduce the ratio of pupils to teachers; address the high number of dropouts, particularly among girls; address the sexual abuse of children, especially girls, by teachers and peers; decentralize and simplify the readmission process for adolescent girls returning to school after pregnancy and ensure they were given the appropriate support; make schools accessible to children with disabilities and provide them with infrastructure, teaching and learning materials that were disability-friendly; improve efficiency in the spending of resources allocated to the education sector; and reinforce and develop programmes to encourage the training of female teachers.⁸⁹

67. UNESCO stated that there was gender disparity in the completion of lower secondary education at the expense of girls among poor and rural populations and at the expense of boys among rich and urban populations.⁹⁰

68. The Committee on the Elimination of Discrimination against Women expressed concern about the persistence of structural and other barriers to girls’ access to quality education, in particular at the secondary level, owing, inter alia, to the lack of school infrastructure, including adequate sanitary facilities; and the persistence of sexual abuse and harassment of girls by peers and teachers. It recommended that Malawi, inter alia, further promote the retention of girls in school, including by reinforcing its policy on the readmission to school of pregnant girls and young mothers, and address the sexual abuse and harassment faced by girls at and on the way to and from school.⁹¹

69. The Independent Expert on albinism recommended that Malawi ensure the full implementation of the Inclusive Education Advocacy Programme, including by providing the necessary resources for special needs educators to regularly access all schools where there are children with albinism, and ensure the availability of low-vision and adaptive devices, as well as large-print materials, in all schools as a measure of reasonable accommodation.⁹²

70. The United Nations country team stated that teachers were not trained to teach “comprehensive sexuality education”, with teachers often leaving out the more delicate elements of the curricula and focusing instead on abstinence and HIV prevention.⁹³

D. Rights of specific persons or groups

1. Women⁹⁴

71. The Committee on the Elimination of Discrimination against Women stated that Malawi should increase its efforts to improve women's access to credit, financial services and technical assistance and encourage and support women's entrepreneurship by providing capacity-building programmes, including in the mining sector.⁹⁵

72. The same Committee recommended that Malawi expedite the adoption of the customary land bill to ensure the protection of women's customary land rights, access to land, including for food crops and income-generating opportunities, and control over productive resources, and promote their participation in decision-making regarding land allocation.⁹⁶

73. The Committee expressed concern that violence against women, including domestic violence, remained widespread. It was particularly concerned about the non-criminalization of marital rape, the "corroboration rule" practised by courts, according to which the testimony of a witness was required for convictions in cases of sexual offences, and the insufficient protection, support and rehabilitation services available to women who were victims of violence. The Committee urged Malawi to specifically criminalize marital rape and ensure that the evidentiary requirements in cases relating to sexual offences did not lead to impunity for the perpetrators; provide capacity-building programmes for judges, prosecutors, police officers and other law enforcement officials on the strict application of criminal law provisions on violence against women; and ensure that all cases of violence against women were thoroughly and effectively investigated.⁹⁷

2. Children⁹⁸

74. The Committee on the Rights of the Child recommended that Malawi strengthen its efforts to ensure that the right of the child to have his or her best interests taken as a primary consideration was appropriately integrated and consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions and in all policies, programmes and projects that were relevant to or had an impact on children.⁹⁹

75. Welcoming the legislative and policy framework through which the views of the child could be expressed, the same Committee encouraged Malawi to strengthen the Youth Parliament and strengthen structures for the participation of children, especially at the community level, in the family, at school and in judicial and administrative procedures concerning them.¹⁰⁰

76. The United Nations country team stated that Malawi had finalized the National Plan of Action for Vulnerable Children (2015–2019) and had developed child protection district implementation plans for its implementation at subnational levels, resulting in the partial implementation of a relevant supported recommendation from the previous universal periodic review.¹⁰¹

77. The Committee on the Rights of the Child stated that Malawi intensify its efforts to eliminate discrimination against groups of children in the most vulnerable situations, such as girls, children with disabilities, children with albinism, children living with HIV/AIDS and children in rural areas.¹⁰²

78. The same Committee expressed concern about the high levels of violence against children.¹⁰³ It urged Malawi to scale up and implement programmes aimed at preventing violence against children; ensure that more services were available by strengthening the technical and operational capacities of the police and community victim support centres, as well as child protection workers; strengthen mechanisms for the early detection and prevention of child abuse at the community level and raise awareness of their existence and procedures; take the measures necessary to ensure that child victims of violence received psychological and recovery support and encourage them to report cases of abuse, violence and neglect; and address police violence against children by providing police with special training on child-friendly techniques for dealing with children.¹⁰⁴

79. The Committee also urged Malawi to prioritize and ensure the provision of adequate resources for the full implementation of the Childcare Protection and Justice Act and other relevant legislation, and to ensure the development of programmes and policies for the prevention of sexual violence against and abuse of children.¹⁰⁵

80. The Committee urged Malawi to include an express prohibition of corporal punishment in the Constitution and legislation, and strengthen awareness-raising programmes to promote positive, non-violent and participatory forms of child-rearing and discipline.¹⁰⁶

81. Noting that the Marriage, Divorce and Family Relations Act had raised the minimum age of marriage to 18 years, UNESCO stated that about 46 per cent of girls were married before the age of 18 years and 9 per cent before the age of 15 years.¹⁰⁷

82. The Committee on the Rights of the Child urged Malawi to take all measures to eliminate child marriage, and to develop comprehensive awareness-raising campaigns and programmes on the provisions criminalizing harmful practices and on their negative consequences on children, as well as campaigns on the harmful effects of child marriage on the physical and mental health and well-being of girls.¹⁰⁸

83. The United Nations country team stated that several key policies and strategies to end child marriage and to mobilize traditional leaders for that purpose had been developed, including the national gender policy, the national action plan to end gender-based violence and the national strategy to end child marriage. However, no budget had been allocated for the implementation of the national strategy to end child marriage.¹⁰⁹

84. The United Nations country team stated that boys and girls living in street situations or begging on the street were vulnerable to economic and sexual exploitation.¹¹⁰ The Committee on the Rights of the Child recommended that Malawi ensure that children in street situations were provided with adequate food, clothing, housing, health care and educational opportunities.¹¹¹ The Committee further recommended that Malawi intensify its efforts to develop and implement a comprehensive, coordinated and effective system of data collection, analysis, monitoring and impact assessment on all areas covered by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; and increase its preventive measures to cover all areas of that Optional Protocol, and in particular that it provide sufficient resources to the community and police victim support units, expedite the establishment and operationalization of the National Coordinating Committee against Trafficking in Persons and the safety homes and places of safety for care and protection of children, and eliminate harmful practices, such as *kupimbira* and *kutomera*.¹¹²

3. Persons with disabilities¹¹³

85. The Committee on the Rights of the Child urged Malawi to, inter alia, adopt a human rights-based approach to disability, set up a comprehensive strategy for the inclusion of children with disabilities, implement the Disability Act 2012 and the corresponding national action plan, establish the Disability Trust Fund, and adopt measures towards fully inclusive education.¹¹⁴

86. The United Nations country team expressed concern that despite legislative progress, the Government had yet to practise real and meaningful inclusion of persons with disabilities. It recommended that Malawi increase funding to the disability sector to effectively implement the Disability Act and the national action plan for persons with albinism.¹¹⁵

4. Migrants, refugees and asylum seekers¹¹⁶

87. The United Nations country team stated that in 2018, Malawi decided to roll out the comprehensive refugee response framework, pursuant to the New York Declaration for Refugees and Migrants.¹¹⁷

88. The Committee on the Rights of the Child expressed concern at the lack of effective mechanisms to identify, at an early stage, refugees, asylum-seeking and migrant children who enter Malawi and who might have been recruited or used in hostilities abroad, and recommended putting in place such mechanisms.¹¹⁸

89. The same Committee recommended that Malawi scale up the support and facilities for children in refugee camps, particularly by addressing the shortage of sanitation, education facilities, leisure activities and medical services and by providing children with the opportunity to continue higher education and have access to employment.¹¹⁹

5. Stateless persons¹²⁰

90. The Committee on the Elimination of Discrimination against Women urged Malawi to revise the Citizenship Act to ensure that women and men enjoyed equal rights to acquire, change, transfer and retain nationality and to introduce safeguards to ensure that children born in its territory who would otherwise be stateless were granted nationality.¹²¹

91. The Committee on the Rights of the Child urged Malawi to effectively implement the National Registration Act making birth registration compulsory and universal and to consider developing mobile registration structures and creating mechanisms for registration at the traditional authority level, to ensure that the registration service was accessible to all.¹²²

Notes

- ¹ Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Malawi will be available at www.ohchr.org/EN/HRBodies/UPR/Pages/MWindex.aspx.
- ² For relevant recommendations see A/HRC/30/5, paras. 110.1–110.10, 110.12, 110.49–110.56, 112.1–112.3, 112.7, 112.9–112.11, 113.1–113.5, 113.7 and 113.10.
- ³ CRC/C/MWI/CO/3-5, para. 18 (e). See also CEDAW/C/MWI/CO/7, para. 29 and Office of the United Nations High Commissioner for Refugees (UNHCR) submission for the universal periodic review of Malawi, pp. 1 and 3.
- ⁴ CRC/C/MWI/CO/3-5, para. 30 (b).
- ⁵ *Ibid.*, para. 39 (e).
- ⁶ UNHCR submission, pp. 1–2.
- ⁷ CRC/C/MWI/CO/3-5, para. 45.
- ⁸ CRC/C/OPAC/MWI/CO/1, para. 27.
- ⁹ *Ibid.*, para. 26.
- ¹⁰ Letter dated 20 November 2017 from the Human Rights Committee addressed to the Permanent Representative of Malawi to the United Nations Office and other international organizations in Geneva, referring to CCPR/C/MWI/CO/1/Add.1.
- ¹¹ United Nations country team submission for the universal periodic review of Malawi, para. 7.
- ¹² For relevant recommendations, see A/HRC/30/5, paras. 110.11, 110.19–110.21, 110.26–110.28, 110.30–110.36, 110.39, 110.45–110.47, 110.58–110.64, 111.4–111.6, 111.8, 112.4–112.5, 113.11, 113.17–113.18, 113.21 and 113.27.
- ¹³ United Nations country team submission, para. 3.
- ¹⁴ Letter dated 20 November 2017 from the Human Rights Committee addressed to the Permanent Representative of Malawi to the United Nations Office and other international organizations in Geneva, referring to CCPR/C/MWI/CO/1/Add.1.
- ¹⁵ CRC/C/OPSC/MWI/CO/1, paras. 8 and 26.
- ¹⁶ *Ibid.*, para. 28.
- ¹⁷ *Ibid.*, paras. 21–22.
- ¹⁸ CEDAW/C/MWI/CO/7, para. 11 (a); see also para. 47.
- ¹⁹ *Ibid.*, para. 13 (b).
- ²⁰ CRC/C/MWI/CO/3-5, para. 7.
- ²¹ CRC/C/OPAC/MWI/CO/1, paras. 14–15 and 19.
- ²² *Ibid.*, paras. 20–21.
- ²³ *Ibid.*, para. 23.
- ²⁴ UNHCR submission, p. 2.
- ²⁵ *Ibid.*, p. 3.
- ²⁶ CEDAW/C/MWI/CO/7, paras. 16–17.
- ²⁷ United Nations country team submission, para. 4.
- ²⁸ CRC/C/MWI/CO/3-5, para. 10 (a).
- ²⁹ For relevant recommendations, see A/HRC/30/5, paras. 113.13–113.14, 113.19, 113.22 and 113.28.
- ³⁰ CEDAW/C/MWI/CO/7, para. 11 (e).
- ³¹ United Nations country team submission, para. 16.
- ³² For relevant recommendations, see A/HRC/30/5, paras. 110.37, 110.117 and 110.132.
- ³³ CRC/C/MWI/CO/3-5, para. 8 (c).
- ³⁴ *Ibid.*, para. 12 (b).
- ³⁵ *Ibid.*, para. 36 (d).
- ³⁶ For relevant recommendations see A/HRC/30/5, paras. 113.15–113.16, 113.20 and 113.23–113.26.
- ³⁷ United Nations country team submission, para. 28.
- ³⁸ CRC/C/MWI/CO/3-5, para. 26 (a)–(b).
- ³⁹ *Ibid.*, para. 27 (c).
- ⁴⁰ A/HRC/34/59/Add.1, para. 78. See also United Nations country team submission, para. 19.
- ⁴¹ A/HRC/34/59/Add.1, paras. 81 (a), 83 (a), 84 (a)–(b), 85 (a) and 86.
- ⁴² CEDAW/C/MWI/CO/7, para. 45.
- ⁴³ *Ibid.*, paras. 20–21.
- ⁴⁴ *Ibid.*, para. 47.
- ⁴⁵ United Nations country team submission, para. 23.
- ⁴⁶ *Ibid.*, para. 35.
- ⁴⁷ For relevant recommendations, see A/HRC/30/5, paras. 110.78, 110.102–110.103, 110.105–110.106, 110.109, 110.112 and 111.12.
- ⁴⁸ United Nations country team submission, para. 37.

- 49 CRC/C/MWI/CO/3-5, para. 43 (a)–(f).
50 CRC/C/OPSC/MWI/CO/1, para. 32.
51 United Nations country team submission, para. 32.
52 *Ibid.*, para. 33.
53 CEDAW/C/MWI/CO/7, paras. 12 and 13 (a).
54 *Ibid.*, para. 13 (c).
55 For relevant recommendations, see A/HRC/30/5, paras. 110.67, 110.110, 110.114 and 112.8.
56 United Nations country team submission, para. 49.
57 CEDAW/C/MWI/CO/7, para. 27.
58 For relevant recommendations see A/HRC/30/5, paras. 110.99–110.101, 110.107, 111.2 and 111.10.
59 United Nations country team submission, para. 30.
60 CEDAW/C/MWI/CO/7, para. 25.
61 CRC/C/MWI/CO/3-5, para. 42 (a) and (c).
62 CRC/C/OPSC/MWI/CO/1, paras. 23–24.
63 *Ibid.*, para. 40.
64 For relevant recommendations see A/HRC/30/5, paras. 110.22 –110.23.
65 CRC/C/MWI/CO/3-5, para. 29.
66 *Ibid.*, para. 29 (d).
67 CEDAW/C/MWI/CO/7, para. 51.
68 United Nations country team submission, para. 69.
69 CRC/C/MWI/CO/3-5, para. 40 (a) and (d).
70 CEDAW/C/MWI/CO/7, paras. 32 and 33 (a)–(b). See also United Nations country team submission, para. 71.
71 A/HRC/34/59/Add.1, para. 88 (b).
72 For relevant recommendations see A/HRC/30/5, paras. 110.38, 110.115–110.116 and 110.118–110.120.
73 United Nations country team submission, para. 61.
74 CEDAW/C/MWI/CO/7, para. 39.
75 A/HRC/34/59/Add.1, para. 88 (a).
76 For relevant recommendations, see A/HRC/30/5, paras. 110.121–110.126, 112.6 and 112.12–112.13.
77 United Nations country team submission, paras. 57–58.
78 CEDAW/C/MWI/CO/7, paras. 34 (a) and 35 (a).
79 United Nations country team submission, para. 59.
80 *Ibid.*, para. 61.
81 CRC/C/MWI/CO/3-5, para. 33.
82 United Nations country team submission, para. 55.
83 CRC/C/MWI/CO/3-5, para. 35 (b). See also CEDAW/C/MWI/CO/7, para. 35 (d).
84 CRC/C/MWI/CO/3-5, para. 35 (c). See also CEDAW/C/MWI/CO/7, para. 35 (c).
85 A/HRC/34/59/Add.1, paras. 70 and 91 (a)–(c).
86 For relevant recommendations, see A/HRC/30/5, paras. 110.127–110.130, 111.13 and 113.39.
87 CEDAW/C/MWI/CO/7, para. 31 (a).
88 UNESCO submission for the universal periodic review of Malawi, pp. 4–5.
89 CRC/C/MWI/CO/3-5, para. 37.
90 UNESCO submission, p. 4.
91 CEDAW/C/MWI/CO/7, paras. 30 (a) and (d) and 31 (c)–(d).
92 A/HRC/34/59/Add.1, para. 92 (a)–(b).
93 United Nations country team submission, para. 65.
94 For relevant recommendations, see A/HRC/30/5, paras. 110.17–110.18, 110.44, 110.65, 110.68, 110.83–110.85, 110.92, 110.94, 110.108, 113.12, 113.38 and 113.40–113.41.
95 CEDAW/C/MWI/CO/7, para. 39.
96 *Ibid.*, para. 43.
97 *Ibid.*, paras. 22 and 23 (b)–(d).
98 For relevant recommendations, see A/HRC/30/5, paras. 110.13–110.16, 110.29, 110.40–110.43, 110.66, 110.72, 110.86–110.91, 110.95–110.98, 110.113, 111.1, 111.7, 111.9 and 111.13.
99 CRC/C/MWI/CO/3-5, para. 15.
100 *Ibid.*, para. 16 (a)–(b).
101 United Nations country team submission, para. 5, referring to A/HRC/30/5, para. 110.72 (Namibia).
102 CRC/C/MWI/CO/3-5, para. 14 (a).
103 *Ibid.*, para. 20 (a).
104 *Ibid.*, para. 21 (a)–(d) and (g).
105 *Ibid.*, para. 23 (a).
106 *Ibid.*, para. 19 (a)–(c).
107 UNESCO submission, p. 4, in particular footnote 13 referring to UNICEF, “Child marriage in Malawi” (2018), p. 1.

- ¹⁰⁸ CRC/C/MWI/CO/3-5, para. 25 (a) and (c).
¹⁰⁹ United Nations country team submission, paras. 9 and 43.
¹¹⁰ *Ibid.*, para. 45.
¹¹¹ CRC/C/MWI/CO/3-5, para. 41 (a).
¹¹² CRC/C/OPSC/MWI/CO/1, paras. 6 and 20.
¹¹³ For relevant recommendations, see A/HRC/30/5, paras. 110.48, 110.73–110.74, 110.131 and 111.11.
¹¹⁴ CRC/C/MWI/CO/3-5, para. 32.
¹¹⁵ United Nations country team submission, paras. 18 and 20.
¹¹⁶ For the relevant recommendation, see A/HRC/30/5, para. 113.10.
¹¹⁷ United Nations country team submission, para. 74.
¹¹⁸ CRC/C/OPAC/MWI/CO/1, paras. 24 and 25 (a).
¹¹⁹ CRC/C/MWI/CO/3-5, para. 39 (b).
¹²⁰ For relevant recommendations, see A/HRC/30/5, paras. 110.57 and 110.69–110.71.
¹²¹ CEDAW/C/MWI/CO/7, para. 29.
¹²² CRC/C/MWI/CO/3-5, para. 18 (a)–(b).
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