



**REPUBLIC OF MALAWI**

**COMBINED FIRST, SECOND, THIRD, FOURTH, FIFTH AND  
SIXTH PERIODIC REPORT UNDER THE AFRICAN  
CHARTER ON THE RIGHTS AND WELFARE OF THE  
CHILD**

**(2018-2021)**

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## **LIST OF ABBREVIATIONS AND ACRONYMS**

ACB	Anti-Corruption Bureau
ACERWC	African Committee of Experts on the Rights and Welfare of a Child
AGCOM	Agricultural Commercialization
AGYW	adolescent girls and young women
ART	anti-retroviral treatment
CDC	Centre for Disease and Control and Prevention
CDSS	Community day secondary school
CHAM	Christian Health Association of Malawi
CMAM	Community-based Management of Acute Malnutrition
CRC	Convention on the Rights of the Child
GBV	gender-based violence
GDP	Gross Domestic Product
HSAs	Health Surveillance Assistants
ISFM	Integrated Soil Fertility Management
MAM	Moderate Acute Malnutrition
MBS	Malawi Bureau of Standards
MDAs	Ministries, departments and agencies
MGDS	Malawi Growth and Development Strategy
MHRC	Malawi Human Rights Commission
MoGCDSW	Ministry of Gender, Community Development and Social Welfare
MoJ	Ministry of Justice
NACS	National Anti-Corruption Strategy

NAP	National Action Plan
NCJF	National Coalition for Justice Forum
NESP	National Education Sector Investment Plan
NGO CCR	NGO Coalition for Child Rights
NGOs	Non-Governmental Organisations
NICE	National Institute for Civic Education
NMNP	National Multi-Sector Nutrition Policy
NRB	National Registration Bureau
NSO	National Statistical Office
ORT	Other Recurrent Transfers
OTP	out-patient therapeutics
PMTCT	prevention of mother-to-child transmission
RUTF	ready-to-use therapeutic food
SADC	Southern African Development Community
SAM	Severe Acute Malnutrition
SCTP	Social Cash Transfer Programme
SFP	Supplementary Feeding Programme
SRH	sexual reproductive health
TLMs	Teaching and learning materials
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations International Children's Emergency Fund
WFP	World Food Programme
WOLREC	Women's Legal Resource Centre
YONECO	Youth Net and Counselling

## **I. GENERAL INFORMATION ABOUT THE STATE PARTY**

### **INTRODUCTION**

1. The Republic of Malawi signed the African Charter on the Rights and Welfare of the Child (hereinafter referred to as the “Charter”) in 1999. In accordance with article 43(1)(b) of the Charter, the Government of Malawi is pleased to present its combined first, second, third, fourth, fifth and sixth periodic report to the African Committee of Experts on the Rights and Welfare of the Child (hereinafter referred to as the “Committee”) covering the period 2018 to 2021.
2. Malawi endeavours to work towards implementing provisions of the Charter through the domestication of its aspirations under the Constitution and other legislation such as the Child Care Protection and Justice Act and various policies such as the National Child Protection Policy and the National Strategy for Ending Child Marriages (2018-2023). Malawi also continues to implement the Sustainable Development Goals and “Agenda 2040: Fostering an Africa fit for Children” by integrating them into policies and Government development plans.
3. Malawi submitted its initial report in 2016 and continued to implement the recommendations from the ACERWC. The initial report was considered by the ACERWC during its 31<sup>st</sup> ordinary session. The present report addresses the concluding observations made by the ACERWC following the initial report.
4. This report was prepared in close consultation with the National Task Force on the Charter which is chaired by the Ministry of Justice (hereinafter referred to as “MoJ”). The National Task Force comprises Government Ministries, Departments and Agencies (MDAs), governance institutions and Civil Society Organisations (CSOs). The full list of the members of the Task force is attached hereto as Annex 1.
5. A drafting team comprised of officers from the MoJ, Ministry of Gender, Community Development and Social Welfare (hereinafter referred to as “MoGCDSW), Malawi Human Rights Commission (hereinafter referred to as “MHRC”) and a Civil Society Organisation, the Non-Governmental Organisation Coalition on Child Rights (hereinafter referred to as “NGO CCR”) collated information received from the

taskforce members then generated the draft which was further perfected in consultation with the Taskforce. When the Taskforce endorsed the draft report, consultative meetings were held in the four regions of Malawi. To finalize the process, a national validation workshop was conducted in the capital of Malawi, Lilongwe.

6. Malawi looks forward to further engagement with the Committee during the review of this report.

## **II. GENERAL MEASURES OF IMPLEMENTATION (ART. 1(1))**

**The Committee recommends to the state party to fast-track the review of the Adoption of Children Act to make it in line with the Charter and other relevant international standards.**

7. The Adoption of Children Act (Cap 26:01 of the Laws of Malawi) was enacted in 1949. To modernize the law, the Malawi Law Commission was tasked to review the law to conform with the Constitution, other recent child-related legislation and international standards. The report of the Law Commission which is accompanied by a proposed Bill will be tabled before Cabinet soon.
8. The proposed Bill emphasizes the constitutional principle of the best interests of the child and incorporates provisions under the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption relating to the process of intercountry adoption, though Malawi is not a party to the Convention.

**The Committee recommends that the state party specifically identifies the total percentage of the national budget allocated for the protection and the promotion of the rights of the child and thereby ensure the allocation of adequate financial and human resources for the full implementation of child-related laws and policies.**

9. Malawi still does not have a consolidated total percentage of the national budget allocated towards the protection and promotion of the rights of children because its national budget is programming-based. This entails that various Ministries,

Departments and Agencies are allocated sums towards programmes benefitting children, in accordance with their policy mandates.

10. Nonetheless, Malawi has data on the total budget allocations targeting children in the key areas of education, health and welfare in general terms.

### **Education**

11. In the area of education, in the 2018/2019 financial year, MK224.5 billion was allocated to the Ministry of Education. Out of the MK224.5 billion allocated, MK144.1 billion was allocated to the payment of salaries for both primary and secondary school teachers, representing 64% of the total recurrent resources. On the other hand, non-salary allocations included MK3.16 billion for the purchase of Teaching and Learning Materials (TLMs) for both primary and secondary schools; MK6.4 billion for operations of all secondary schools under the six education divisions; and MK9.5 billion for the running of all primary schools in the country.
12. In the 2019/2020 financial year, MK 276.7 billion was allocated to the Ministry of Education. Out of the MK276.7 billion allocated, MK181.8 billion was allocated towards the payment of salaries for both primary and secondary school teachers representing 66% of the total recurrent resources. 34 per cent was utilized for non-salary allocations including resources for the purchase of TLMs amounting to MK2.3 billion for both primary and secondary schools; MK7.2 billion for the running of all secondary schools under the six education divisions; and MK8.9 billion for the running of all primary schools in the country.
13. In further comparison, in the 2020/2021 financial year, the overall revised budget for the education sector was MK395.9 billion of which MK341.3 billion was for recurrent expenditure and MK54.6 billion was for development projects.
14. The above statistics show an overall steady increase in the allocation of funding towards the education sector, during the reporting period.
15. The Government of Malawi's continued commitment towards ensuring the right to education is realised can also be demonstrated by an allocation of 5 per cent of the

country's gross domestic product (GDP) to the education sector in the 2020/21 financial year which is slightly higher than the allocation of 4.66 per cent of the country's GDP allocated to the sector in 2019/20 financial year. Table 1 below shows the budget allocations to the education sector in proportion to the GDP.

Year	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Education sector allocation (excluding Dev budget) (MK' Billions)	79	102	119	163	179	228	224	276	395
GDP (MK' Billions)	1,717	2,242	2,848	3,521	4,219	5,333	5,633	6,275	6,918
Percentage of GDP spent on Education	4.6	4.5	4.2	4.6	4.2	4.3	4.5	4.66	5.00

**Table 1: Trends on GDP Spent on Education (Source: Ministry of Finance)**

16. Table 2 below shows the trend in the recurrent allocation of the total Government recurrent budget towards the education sector.

Financial Year	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Total Recurrent Education	49,890	73,430	93,400	112,790	157,869	174,690	207,589	224,545	276,785	395,160
Total Voted Recurrent Allocation (excludes Statutory Expenditures)	194,790	321,460	386,220	495,750	582,522	666,255	788,999	840,966	1,054,959	1,302,679
% of the recurrent allocation (excluding statutory expenditures) spent on education	26	23	24	23	27	26	26	27	26	26

**Table 2: Trends in Recurrent Allocation Total Government Recurrent Budget to Education in (MK ''000,000,000'') (Source: Ministry of Finance)**

17. We will now share the budget allocations to the two education levels, namely primary and secondary education.

### Primary Education

18. In the 2018/2019 financial year, the Basic Education Programme (primary schools) was allocated the largest share of 60% of the education sector's recurrent budget. This budget included the salaries of teachers, TLMs and other expenses.
19. Out of the revised budget of MK140.3 billion allocated for primary education, MK119.9 billion was for salaries for the primary school teachers, implying that 85% of the resources under basic education were for salaries and only 15% was for other recurrent transactions such as the purchase of TLMs and school grants for all the public primary schools countrywide.
20. In the 2019/2020 financial year, the Basic Education Programme (primary schools) got the largest share of 63% of the education sector recurrent budget which was the same proportion as in the 2020/2021 financial year. This allocation was 3% higher than the 2018/19 allocation. Salaries and Primary School Improvement Program (PSIP) grants took a large portion of the basic education budget. Out of the approved budget of MK170.9 billion allocated to basic education, MK150.0 billion was for salaries for the primary school teachers implying that 88% of the resources under basic education were for salaries and 12% of the resources were for other recurrent transactions such as the purchase of TLMs and school grants for all the public primary schools countrywide.
21. As was the case in the 2018/2019 financial year, in the 2019/2020 financial year, salaries, and PSIP grants took a large portion of the basic education budget. This was the same in the 2020/2021 financial year. Out of the approved budget of MK170.9 billion allocated to basic education in the 2019/2020 financial year, MK150.0 billion was for salaries for the primary school teachers implying that 88% of the resources under basic education were for salaries and 12% of the resources were for other recurrent transactions such as the purchase of teaching and learning materials and school grants for all the public primary schools countrywide.
22. Whereas in the 2020/2021 financial year, out of an approved budget of MK181.5 billion allocated to basic education, MK170.6 billion was for salaries for the primary school teachers implying that 94% of the resources under basic education were for salaries and 7% of the resources were for other recurrent transactions such as the purchase of TLMs and school grants for all the public primary schools countrywide.

23. It can be noted that over the reporting period, there has been a steady increase in the budget towards salaries of primary school teachers which is attributed to the increase in the number of teachers hired to reduce the pupil-teacher ratio and the qualified teacher-pupil ratio. It can also be noted that the allocation towards TLMs and school grants also decreased over the reporting period. While there is a decrease in the Government budget, this has been supplemented by funds from development partners funding the provision of TLMs and other items necessary for learning which increased from 22% in the 2018/2019 financial year to 24% in the 2019/2020 financial year to 36% in the 2020/2021 financial year. The Government of Malawi is alive to its obligation to ensure the necessary enabling environment for children to learn and endeavours to increase its budget allocation towards TLMs.

### **Secondary Education**

24. With regard to the Secondary Education program, in the 2018/19 financial year, the Secondary Education programme was allocated 13% of the total recurrent budget to the education sub-sector. This allocation was one percentage point higher than that of the 2017/18 FY which was at 12%. Out of the MK29.6 billion approved allocation, MK19.2 billion was for salaries for secondary school teachers, representing 64.8% of the recurrent budget allocated to the program. The balance of MK10.4 billion was allocated for the Other Recurrent Transactions (ORT) expenses such as the purchase of TLMs and day-to-day running costs of over 850 public secondary schools and community day secondary schools (CDSSs) across the country. The ORT resources were mainly for:

- (1) the purchase of Teaching and Learning Materials (TLMs) for the new curriculum amounting to MK1.5 billion, out of which MK300 million was for procurement of TLMs for special needs; and
- (2) recurrent operations for six education division offices, all cost-centre secondary schools and non-cost centre secondary schools, and payments of bursaries and cash-transfers for needy students in secondary schools amounting to MK6.4 billion.

25. In the 2019/2020 financial year, the Secondary Education Programme was allocated 12% of the total recurrent budget. Out of the MK32.6 billion allocated to the programme during the 2019/2020 financial year, MK21.3 billion was for the payment of salaries for

secondary school teachers representing 65% of the recurrent budget. The remainder was for the Other Recurrent Transactions (ORT) expenses such as the purchase of TLMs and day-to-day running costs of over 850 public secondary schools and community day secondary schools (CDSSs) in the country. The major allocations for ORT resources were for:

- (1) the purchase of Teaching and Learning Materials (TLMs) for the new curriculum amounting to MK936 million out of which MK300 million was for procurement of TLMs for special needs; and
- (2) recurrent operations for six education division offices, all cost centre and non-cost centre secondary schools, and payments of bursaries and cash-transfers for needy students in secondary schools amounting to MK7.2 billion.

26. In the 2020/21 financial year, the Secondary Education programme was allocated 14% of the total recurrent budget, an allocation 2% higher than that of the 2019/20 financial year. Out of the MK45.4 billion allocated to the program, MK29.5 billion was for payment of salaries for secondary school teachers representing 65% of the recurrent budget. The remainder was for the Other Recurrent Transactions (ORT) expenses such as the purchase of TLMs and day-to-day running costs of over 850 public secondary schools and community day secondary schools (CDSSs) in the country.

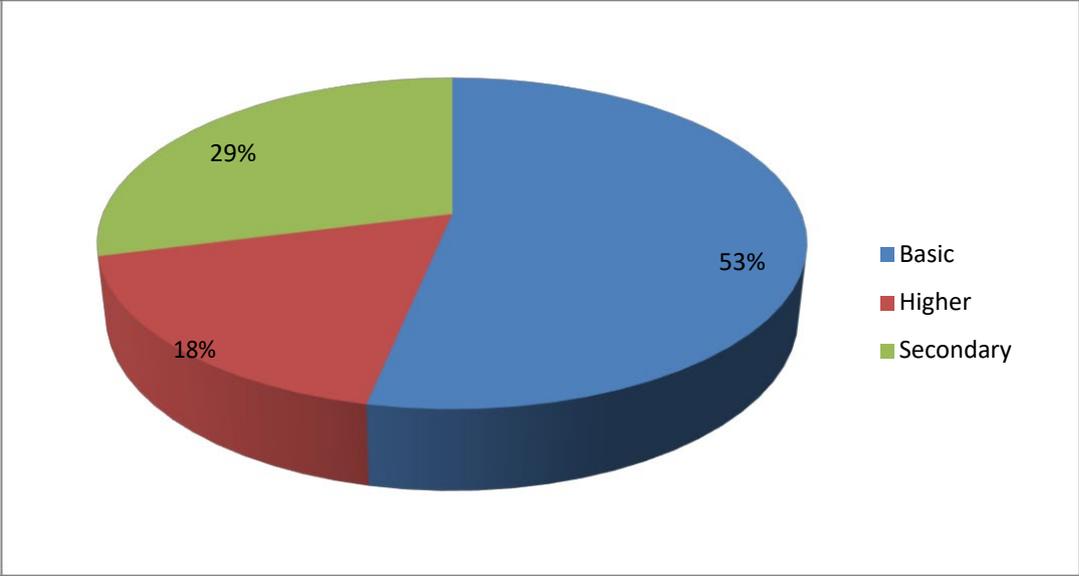
27. The statistics above show an average of 13% of the total education sector budget being allocated for secondary education, during the reporting period. Furthermore, the secondary school teachers' salaries budget has remained constant but there has been a steady increase in the allocation towards ORT over the reporting period. The Government of Malawi remains committed to increasing the ORT allocation to ensure that learners can exercise their right to education.

### **Development Budget**

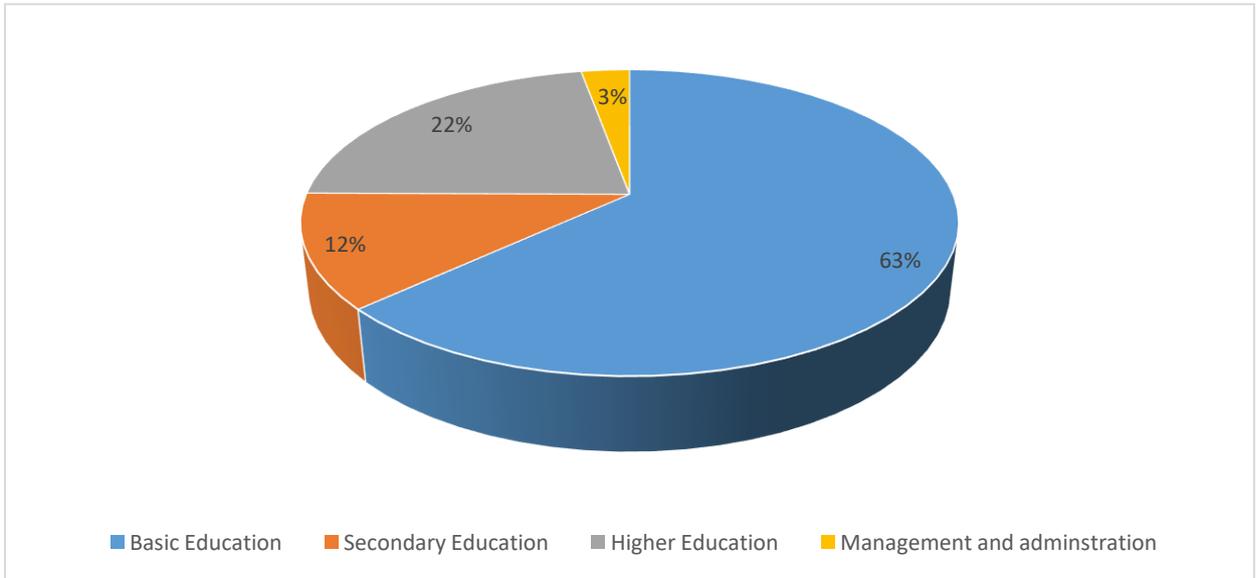
28. With regard to the development budget (the budget dedicated to development projects in the education sector), in the 2018/2019 financial year, MK 43.6 billion was allocated towards education sector development projects. Whereas in the 2019/20 financial year, the approved budget for education sector development projects was MK49.5 billion. In the 2020/2021 financial year, the development budget was MK49.05 billion and was revised upwards to MK 54.6 billion.

29. Therefore overall, there was an upward trend in the development budget during the reporting period. The budget was allocated towards projects such as the construction of girls' hostels, science laboratories and libraries, a secondary school, primary schools and teachers' training colleges.

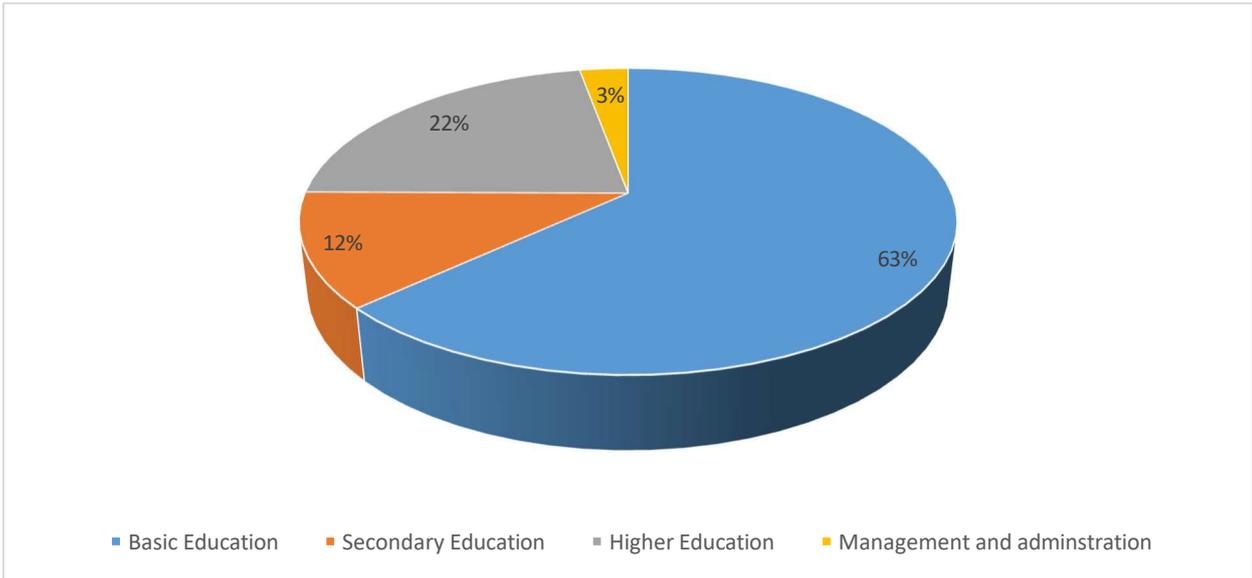
30. Below is a general trend of budget allocations to the Ministry of Education:



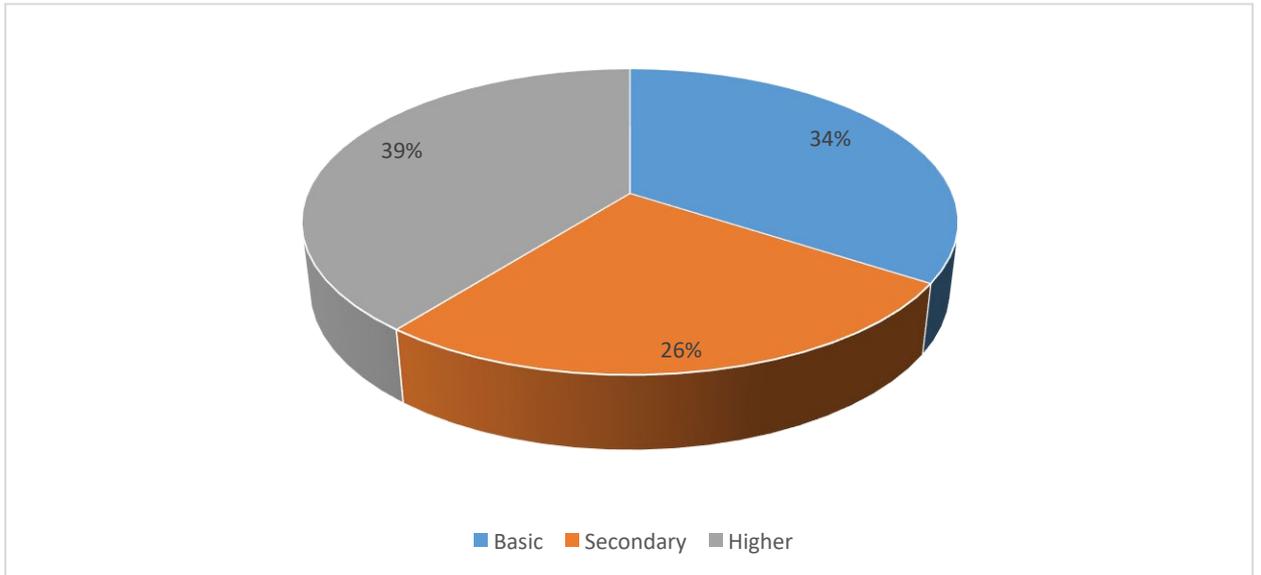
**Figure 1: Education Sector Recurrent Percentage Allocation by Program for 2018/19 FY**  
**(Source: Ministry of Finance)**



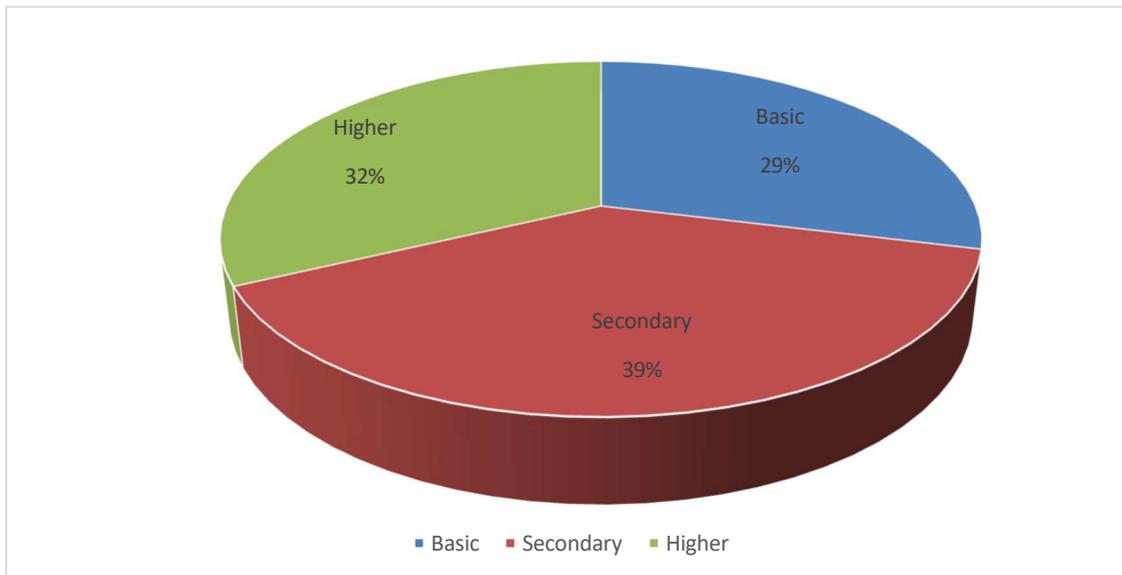
**Figure 2: Education Sector Recurrent Percentage Allocation by Program for 2019/20 FY (Source: Ministry of Finance)**



**Figure 3: Education Sector Recurrent Percentage Allocation by Program for 2020/21 FY (Source: Ministry of Finance)**



**Figure 4: Education Sector Development Budget Allocations by Programme 2019/2020 FY (Source: Ministry of Finance)**

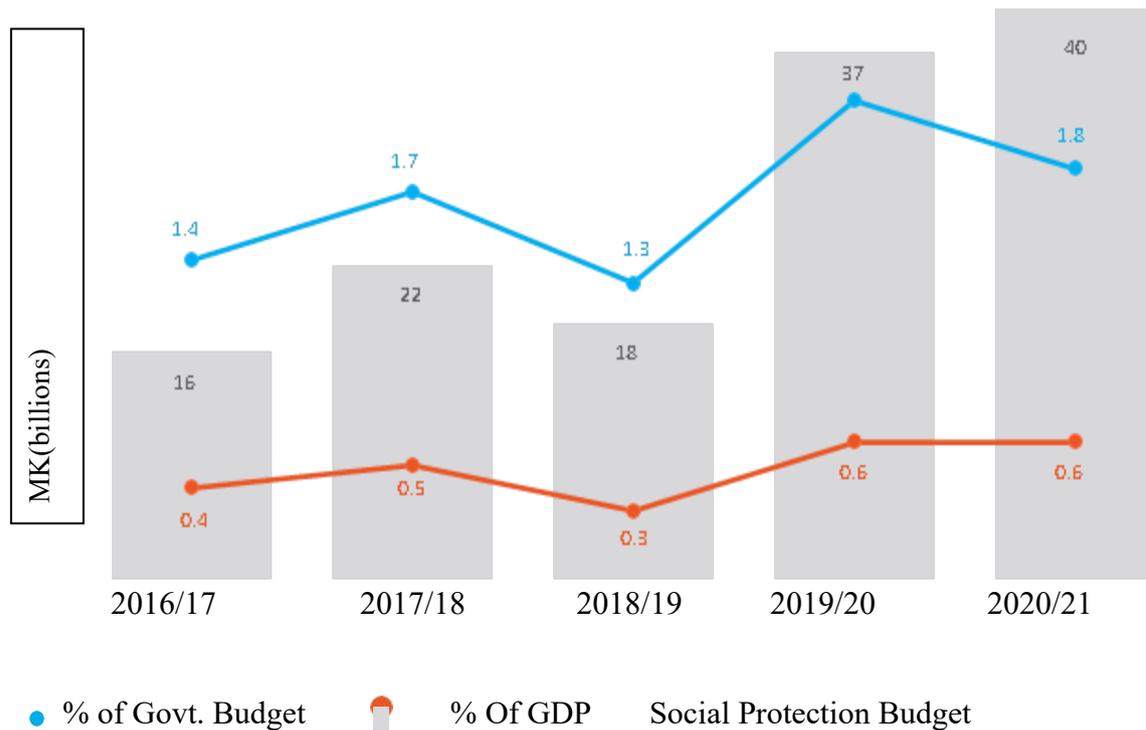


**Figure 5: Education Sector Development Budget Allocations by Programme 2020/2021 FY (Source: Ministry of Finance)**

31. With regard to total expenditure towards health programmes, in the 2018/2019 financial year, the health sector was allocated MK 104 billion. About 82% of the MK104 billion was allocated to recurrent expenditures.
32. Whereas in the 2019/2020 financial year, the health sector was allocated MK168 billion and finally, in the 2020/2021 financial year, Government allocated a total of K204.7 billion to the health sector representing 9.3% of the total national budget.
33. Out of the K204.7 billion allocated during the 2020/2021 financial year, about 43% was allocated towards the provision of health services. The health services budget as a share of the total health sector budget increased from 37% in 2019/20 to 43% in 2020/21. Furthermore, a total of MK42 billion was allocated towards support to service delivery in 2020/21, representing a 39% increase from MK31 billion allocated in 2019/20.
34. This entails that there has been a steady increase in the budget over the reporting period. Though the budget allocations have increased, there are several challenges which remain to be addressed such as inadequate medicines. The Government of Malawi will continue to work towards improving access and quality of health services.

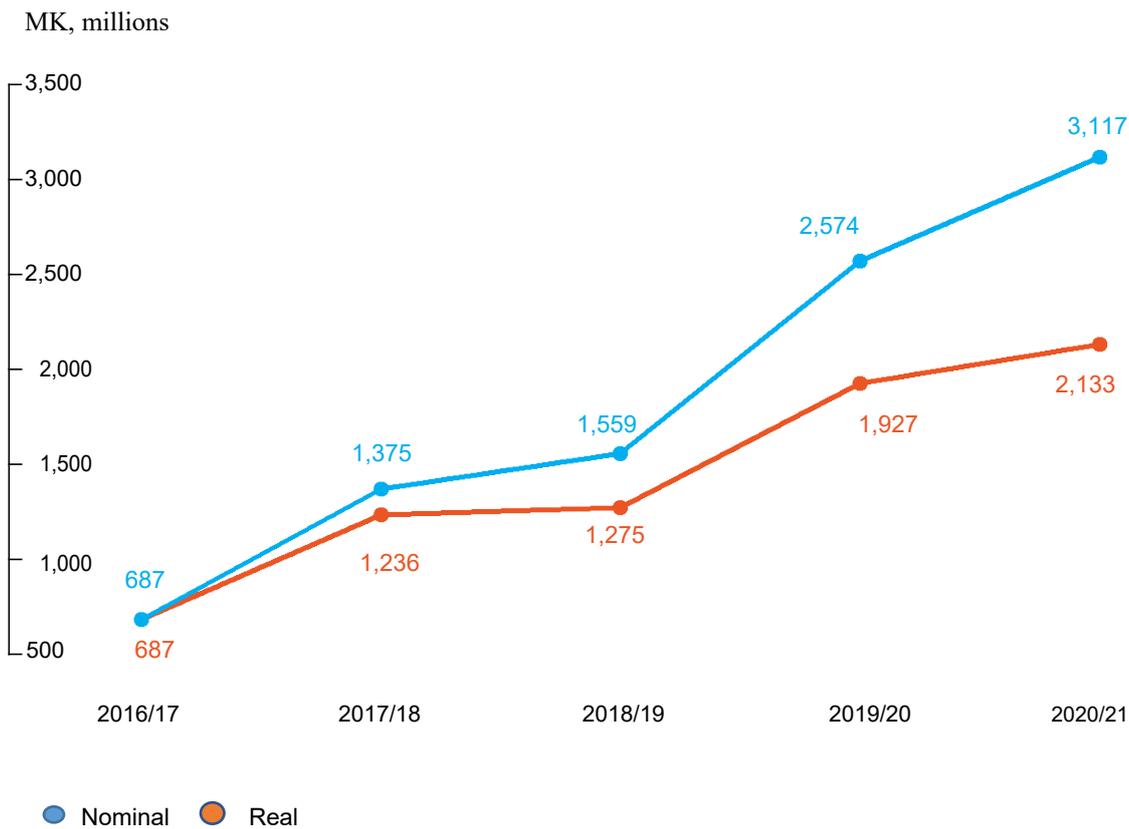
### **Social Protection**

35. With regard to the total expenditure on social protection, which largely benefits children, on-budget social protection spending has steadily increased since 2016/17. The Government allocated MK40 billion to on-budget social protection programmes in 2020/21. As a share of total government expenditure, on-budget social protection spending has averaged 1.7% between 2016/17 and 2020/21.



**Figure 6: The trend of on-budget Social Protection Spending (Source: Ministry of Finance)**

36. As an example, Government’s spending on the Social Cash Transfer Programme (SCTP), the key social protection programme being implemented currently in Malawi, has steadily increased over time. A total of MK3 billion was allocated by the Government to the SCTP in 2020/21, from MK2.5 billion in 2019/20. Compared to 2019/20, the Government allocation was at around 0.14% of the total budget and has increased from 0.04% to 0.05% of GDP in 2020/21. Overall, the Government allocation to the SCTP increased by 21%, which is consistent with the general increase in the national budget (22.9%).



**Figure 7: Trends in Government spending on the SCTP (Source: Ministry of Gender, Community Development and Social Welfare)**

### **Nutrition**

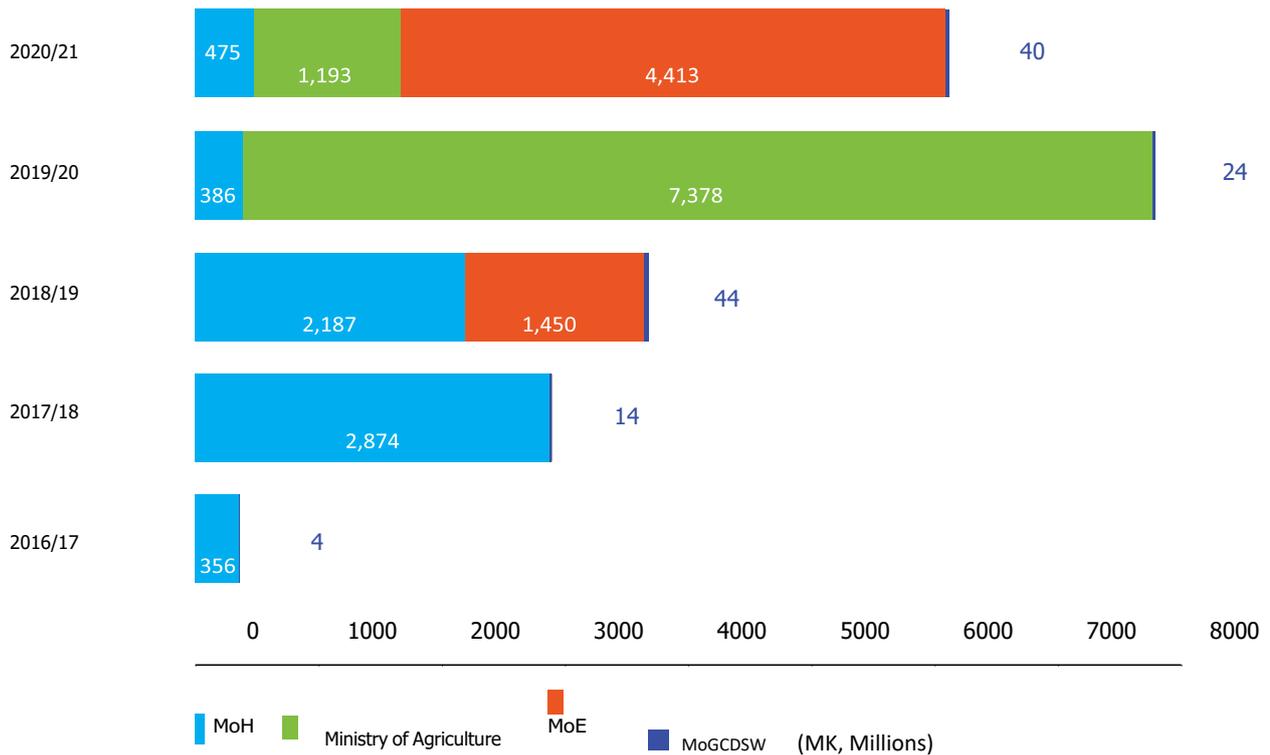
37. With regard to the total budget for nutrition, in the 2018/2019 financial year, a total of MK3.5 billion was identifiable as allocated towards nutrition programmes. In the 2019/2020 financial year, MK7.7 billion was allocated towards nutrition programmes. Finally, in the 2020/2021 financial year, the Government of Malawi allocated a total of K6.1 billion to identifiable nutrition-specific programmes.

38. The decline in allocations between 2019/20 and 2020/21 is linked to a reduction in on-budget donor contributions for the Afikepo Nutrition Programme, whose budget declined by almost ten-fold, from MK6.9 billion to MK699 million as well as most of the health sector-related budget being dedicated towards the COVID -19 pandemic.

39. The above-mentioned budget allocation covers allocated sums to the Ministry of Education, Ministry of Agriculture, MoGCDSW and Ministry of Health, which implement

nutrition programmes. The following is the composition of the nutrition-specific budget by the Ministry.

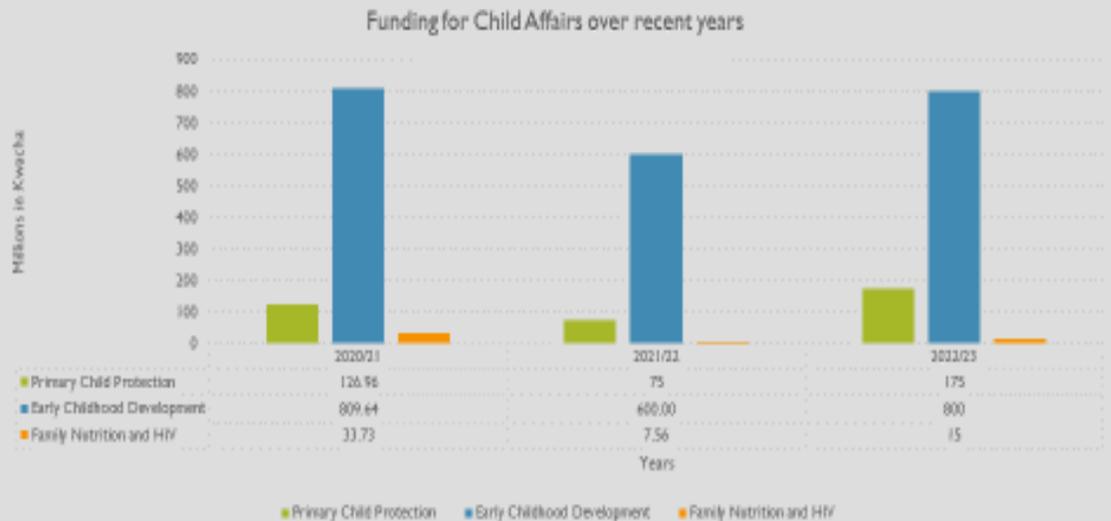
**Figure 8: Trends in the composition of nutrition-specific budgets (by Ministries)**  
**(Source: Ministry of Finance)**



**The Committee further recommends the State Party to increase budgetary allocation to the Ministry of Gender, Children, Disability and Social Welfare and ensure that adequate human and technical resources are provided to the Ministry to carry out its mandate effectively.**

40. Since 2018, the MoGCDSW, in collaboration with its partners such as UNICEF have been conducting budget scoping exercises to analyse the annual budget allocation towards programmes targeting children in the key sectors of health, education, nutrition, security and access to justice.
41. Between 2018 and 2020 the MoGCDSW has seen a slight increase in its financial allocation from 0.3 per cent to 1.8 per cent. However, in the year 2021, there has been a sharp decrease to 0.7 per cent due to the reallocation of resources in response to the COVID-19 pandemic. Figure 8 below shows the yearly allocation to the Ministry of child affairs.
42. With regard to ensuring adequate human and technical resources, the Ministry has recruited an additional 55 social workers, trained them and deployed them to all districts across the country, during the period. The Government of Malawi reiterates its commitment to progressively ensure that there are enough personnel to service the population.

## GOVERNMENT FUNDING FOR CHILD AFFAIRS OVER THE RECENT YEARS



**Figure 9: Budget allocation for the MoGCDSW on child affairs for the 2020/21 FY, 2021/22 FY, and projected budget for 2022/23 FY (Source: Ministry of Gender, Community Development and Social Welfare)**

43. Despite the low budgetary allocation, cooperating partners supplement the budget by financing various programmes targeting children. For instance, the Delivery Coordination and Monitoring of HIV Services in Malawi through the Faith Based Organisations Project run by the Christian Health Association of Malawi (CHAM). The project aims at providing victims of defilement and gender-based violence. The project also assists in fast-tracking the hearing of defilement cases. CHAM implements this project with the assistance of funding from the Centre for Disease Control and Prevention (CDC).

**The Committee recommends to the state party to translate the Charter into local languages and undertake nationwide dissemination and sensitization. The Committee further encourages the State party to strengthen training among various organs of the Government such as the police, judiciary and ministries to raise awareness on child rights issues.**

44. With regard to the translation of the Charter into local languages, the MoGCDSW has included the programme in its work plan and will begin the programme soon. The Ministry will work closely with the Malawi Human Rights Commission. The Charter will be translated into three local languages in the pilot phase and gradually work towards translating the Charter into all the local languages.

45. With reference to training, the capacities of various cadres that are working with children have been strengthened through training. These include community child protection workers, social workers, police officers, teachers, child magistrates, early child development caregivers, journalists and other volunteers. Table 3 below indicates the numbers of officers that have been trained in different aspects including child rights issues:

<b>Cadre</b>	<b>Number</b>
Prosecutors	60
Detectives	60
Police Child Protection Officers	41
Community Policing Coordinators	41
Victim Support Unit Officers	41
Community Child Protection Workers	85
Social Workers (Degree level)	120
Social Workers (Certificate level)	81
Social Workers (in-service training)	99

**Table 3: Number of officers trained on child rights issues by cadre (Source: Ministry of Gender, Community Development and Social Welfare)**

46. The MoGCDSW in collaboration with its cooperating partners has published and distributed the Child Justice Core Competencies Training Manual, Child Protection Mentorship Guide, Compendium of Child Related Laws and the Early Child Development

Training manual and the Child-friendly version of the African Charter on the Rights and Welfare of Children.

47. Furthermore, the Malawi Police Service, Malawi Institute for Legal Education, University of Malawi, and other training and academic institutions have also incorporated child rights issues in their training curricula.

48. To supplement the efforts mentioned above, the Government in conjunction with the National Child Justice Forum (NCJF) has for the past five (5) years been training various categories of players on their roles in relation to the Child Care, Protection and Justice Act, Convention on the Rights of a Child and the Charter and this continues to be a priority. Judges, Magistrates, Court Clerks, Court Marshals, Probation Officers/Social Welfare Officers, Police Prosecutors, Investigators and Child Protection Officers are among the stakeholders trained.

**The Committee encourages the State party to ensure that the Malawi Human Rights Commission is provided with adequate human, technical and financial resources to carry out its mandate effectively in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including making the commission accessible for all children in all districts of the country.**

49. The MHRC operates through its headquarters in the capital city, Lilongwe. This office also covers the central region of Malawi. The MHRC also has a regional office in the southern region of the country. In 2021, the MHRC began the process of opening its regional office in the northern region of the country. The process should complete in the 2022/2023 financial year. However, at the district level, the MHRC utilizes the District Social Welfare Officers in collaboration with the NGOs working in child protection, National Initiative for Civic Education (NICE) to handle matters on its behalf.

50. In terms of human resource capacity, the MHRC has a total establishment of 124 personnel of which 61 positions are filled representing a 49.1% staffing level. Specifically, the Child

Rights Section within the Commission has a total establishment of 10 positions of which only 3 are filled, representing a 30% staffing level. There are plans to increase the number of personnel in the Child Rights Section to enable it to function effectively.

51. With regard to the funding of the MHRC, the annual budget is currently at K1 billion (about US\$1,212,121), this includes funding for personal emoluments and funding for programmes. The funding still is not adequate for the MHRC to carry out its mandate as provided for in the Constitution of the Republic of Malawi.

**The Committee further recommends that the state party ensures that the mechanism for monitoring children's rights, under the Human Rights Commission is able to receive, investigate and address complaints by children in a child-sensitive manner.**

52. The MHRC has five directorates namely Civil and Political, Social Economic and Cultural, Disability and Elderly, Gender and Women, and Children's Rights. The Children's Rights Directorate receives, investigates and handles complaints from the public including from children. The MHRC has in place a Child Safeguarding Policy which is the overall guide to its child rights-based programming.

53. Currently, the MHRC is working on the review of its complaints handling manual to properly align it with the Child Safeguarding Policy. The review will ensure, among other things, that investigations are done in a child-friendly and sensitive manner.

54. Furthermore, the MHRC entered into a memorandum of understanding with the NGO, National Initiative for Civic Education (NICE) to use their offices at the district level. With this arrangement, the MHRC is accessible in all 28 districts of Malawi and will be able to handle more child-related complaints.

**The Committee further encourages the State party to strengthen training among various organs of the Government such as the police, judiciary and ministries to raise awareness on child rights issues.**

55. The Government of Malawi has conducted trainings on child rights issues to strengthen the capacity of various organs of the Government such as the police, judiciary and ministries, departments and agencies.

56. With regard to the police, the Malawi Police Service conducts in-service training which covers trafficking in persons, gender-based violence and online child exploitation. The training runs from a minimum of two weeks to a maximum of twelve weeks. Furthermore, police officers have also been trained by NGOs such as Plan International Malawi, on how to deal with and prosecute cases of defilement and gender-based violence.

57. Training of judicial officers has also been strengthened. Judicial officers have been trained on the handling of gender-based violence cases and defilement by the judiciary itself and NGOs such as the Women's Legal Resources Centre (WOLREC).

58. Ministries and Departments that work closely with children have also been trained on child rights issues.

**The Committee urges the State party to take immediate measures to combat corruption and strengthen institutional capacities to effectively identify and investigate cases of corruption and prosecute the perpetrators and take appropriate measures to ensure effective and efficient use of resources allocated for the promotion and protection of children's rights in all sectors and ministries.**

59. In order to combat corruption, the Anti-Corruption Bureau (ACB), (the Statutory body charged with investigating and prosecuting corrupt practices), is currently implementing the National Anti-Corruption Strategy (NACS II). The implementation of this Strategy commenced in 2019 and will continue to run until 2024. The Strategy builds on its predecessor (NACS, 2008-2013), in the realisation that fighting corruption is the responsibility of all stakeholders who need to be guided and coordinated by one common vision of creating a corrupt-free Malawi. To effectively make combating corruption the

responsibility of all stakeholders, the ACB has revitalised its Whistleblowing Campaign, which encourages any person who is of the view that they have witnessed any suspected corrupt practices to report to the ACB. In addition, the approach adopted by the NACS II to make every stakeholder responsible for fighting corruption is proving effective. Civil Society Organisations such as the Human Rights Defenders Coalition also initiated a Whistleblowing campaign in July 2020 inviting any person to report to them any suspected corrupt practices; for the purposes of relaying the same to the ACB. Further, various Ministries Departments and Agencies have established Integrity Committees to fight corruption and ensure the prudent use of resources at the sector level;

60. The table below shows the number of corruption cases prosecuted, completed, convictions secured, acquittal and cases awaiting judgment since the 2017/2018 financial year.

YEAR	Cases Prosecuted	Cases Completed	Convictions	Acquittals	Cases Awaiting Judgment	% of completed cases resulting in convictions
2017/18	45	7	5	2	6	71
2018/19	74	11	6	3	16	55
2019/20	50	18	9	3	14	50
2020/21	103	16	4	1	13	67

61. In order to make the ACB effective in combating corruption, its funding was increased in the 2020/2021 financial year from K3.7 billion in the 2019/2020 financial year to K5.2 billion in the 2020/2021 financial year. The increase in the funding allocation is a clear indication of the Government's commitment to combat corruption.

62. Furthermore, the budget for the governance and rule of law sector comprising the ACB, MHRC, the Office of the Ombudsman, the Law Commission, MoJ, Legal Aid Bureau and

the Judiciary for the 2021/2022 financial year is K37.9 billion with an expected increase in the 2022/2023 financial year of K61.62 billion.

63. Finally, at this moment, the Government of Malawi is of the view that the current legal framework is sufficient to combat corruption.

64. The resources lost to corrupt practices will ultimately be for the benefit of the children of Malawi.

### **III. DEFINITION OF A CHILD (ART. 2)**

**The Committee encourages the State Party to undertake speedy harmonization of laws in conformity with the Constitutional amendment and the Charter and ensure wide public awareness of all the relevant legislative changes**

43. The Government of Malawi has been undertaking the process of harmonizing all legislation to conform with the constitutional amendment on the age of the child. The Bills containing the amendments will be submitted to Cabinet soon.

44. Once the Bills are passed into law, the Government, in collaboration with CSOs will develop a community awareness handbook, targeting chiefs and community groups. Further, special programmes on television stations and radio stations will be conducted.

**The Committee urges the State Party to amend the Marriage, Divorce, and Family Relations Act and ensure that the minimum marriageable age of 18 has no exceptions under all types of marriages allowed in Malawi.**

45. Section 14 of the Marriage, Divorce and Family Relations Act states that the marriageable age is 18 years. There is no exception to any type of marriage allowed for any person below the age of 18 years. Furthermore, the Constitution of Malawi was amended in 2017 so that the age of marriage is 18 years (section 22 (6) of the Constitution).

#### IV. GENERAL PRINCIPLES (ARTS. 3, 4, 5, AND 26)

##### *Non-discrimination*

**The Committee recommends to the State Party devise and implement strategies to increase budgetary allocation for the provision of services to children with disabilities**

46. The budgetary allocation for the provision of services to children with disabilities has remained low in recent years. However, several strategies are being implemented to increase the allocation. One of the major strategies is the operationalization of the National Disability Mainstreaming Strategy (2018-2023) which is a useful tool in promoting public sector-led equity and inclusive development through the implementation of national and sectoral policies that take cognisance of human rights and development needs of persons with disabilities. As a result of this strategy, there has been an improvement in the budgetary allocation of resources on sectoral programmes and activities targeting persons with disabilities including children.
47. Furthermore, the Government of Malawi operationalised the Disability Trust Fund established under the Disability Act to provide financial resources for undertaking disability programmes and provision of services in the country. Since 2019, the Government allocates money to the Fund. Soon, non-state actors will also be able to donate to the Fund. This will, therefore, equally result in an increase in budgetary allocation for services targeting children with disabilities in the country.
48. Finally, the Government of Malawi, through the national budget is also allocating financial resources for the implementation of the multisectoral National Action Plan on Persons with Albinism, which is benefiting children with albinism through education support and access to eye and skin care services.

**The Committee further recommends that the State Party increases the number of trained teachers, healthcare professionals and social workers to serve children with special needs and to ensure accessibility of schools, healthcare facilities and other essential services to children with disabilities.**

49. To ensure that children with disabilities have access to education, in 2019, the Ministry of Education introduced a one-year Blended Learning Inclusive Education certificate course for training inclusive education teachers at an average of 200 every year at Montfort SNE College. This is in line with Government's National Inclusive Education Strategy being operationalized with the purpose to ensure that all children must learn together while at the same time meeting their individual needs within an inclusive setting.
50. With regard to training teachers to serve children with disabilities, the Ministry of Education introduced courses catered towards serving children with disabilities in three training institutions, namely, Montfort Special Needs Education College offering convention special needs education training for teachers, Montfort Special Needs Education College offering blended inclusive education for teachers, and Machinga Teachers Training College offering open distance learning in special needs education to teachers. The Open Distance Learning Diploma Course will be training 200 special needs teachers per programme. The government is also implementing inclusive education and continuous professional development teacher training across the country targeting teachers that had no opportunity to undergo special needs education training. These trainings are offered to teachers while they are on job. Currently, 5,326 teachers have been trained so far.
51. With regard to the training of health professionals to serve children with special needs, the Government of Malawi continues to train health professionals using Community Health Workers Training Manuals and nurses and doctors training curricula.
52. With regard to the training of social workers, the Government of Malawi in collaboration with Non-Governmental Organisations (NGOs) train social workers and volunteers at a community level on how to serve children with disabilities. Social workers training has been mainstreamed at most tertiary institutions in Malawi.

**The Committee encourages the State Party to continue dialogue with religious communities and public and private schools on dress code, having in mind the**

**principle of non-discrimination and equality in order to accommodate children of various religious groupings.**

53. The Government of Malawi promotes equal access to education for all children either in private or public schools regardless of religion. Furthermore, the Government permits religious schools to operate in Malawi. 58.6% of schools in Malawi are categorized as either public or private religious schools.
54. To ensure proper management and non-discrimination of children on the basis of religion, the school system encourages all children to wear school uniforms and wear short hair as a way of ensuring that they look the same. There was a request from the Rastafarians and the Muslim community to make an exception to the school dress code in accordance with their religion. There is still dialogue with the respective religious communities on the dress code, particularly in public schools having in mind the principle of non-discrimination and equality. However, in the private school set up, the dress code, the particular school is at liberty to regulate the dress code and accommodate religious regalia in their schools.
55. The Government of Malawi continues to be committed to the dialogue which is ongoing with religious communities to ensure that children enjoy their right to education. Most schools with the exception of a handful, allow Rastafarian and Muslim children to attend school in their religious regalia. This is because the Government considers it paramount that children attain an education regardless of the faith they practice.

**The Committee urges the State Party to undertake mass sensitization to prevent discrimination and violence against children with albinism, ensure accountability for crimes committed against children with albinism and ensure affordable and accessible sunscreen lotion, optical glasses and other basic necessities to children with albinism.**

56. The Government of Malawi continues to undertake mass sensitization campaigns to prevent discrimination and violence against children with albinism. The community has been sensitized on how to protect children with albinism from attack and how to promptly call for help from police officers.

57. To ensure accountability for crimes committed against children with albinism, offenders are being prosecuted and convicted. As an example, in 2021, the High Court sentenced a man who killed children and persons with albinism to life imprisonment.
58. The Government of Malawi with the support of its cooperating partners will continue to provide sunscreen lotion, optical glasses and other basic necessities to children with albinism.

***Best interests of a child***

**The Committee recommends the State party furnish adequate funding and trained human resources to ensure the effective implementation of the principle in the justice system.**

59. The Government of Malawi reiterates its commitment to ensuring that the justice system is adequately funded and has trained personnel.
60. With regard to funding, the judiciary was appropriated K11.3 billion in the 2018/2019 financial year; K13.4 billion in the 2019/2020 financial year and in the 2020/2021 financial year, 14.9 billion. The funding to the judiciary has steadily increased during the reporting period.
61. With regard to trained human resources, the number of judges and magistrates has been steadily increasing. In October 2020, His Excellency, President Dr Lazarus M. Chakwera appointed 12 new Judges and in March 2022 appointed seven more new judges increasing the total number of Judges to 52. There are 201 magistrates.
62. With regard to lawyers, the number of lawyers being admitted to the Malawi bar is increasing steadily. In the 2018/2019 financial year, there were 488 lawyers with valid practising licences. In the 2020/2021 financial year, there were 523 lawyers with valid practising licences whereas in the 2021/2022 financial year, there were 588 lawyers with valid practising licences. As a requirement for renewing a practising licence, private

practice lawyers are supposed to undertake one pro bono case a year. This is assisting the Legal Aid Bureau in increasing the number of cases being handled.

**The Committee further encourages the State party to undertake training and awareness creation among Government officials and personnel of the justice system to ensure that primary consideration is given to the best interest of the child in all decisions and actions concerning a child.**

63. The Justice system created a special child justice court to handle cases involving children. All the 28 District Councils have designated Child Justice Magistrates and they are trained in child rights and protection. Cases involving children are heard in-camera to protect the identity of children. So far there are seven purposefully built child justice courts. In addition, the Malawi Judiciary is in the process of upgrading magistrate court premises at the district level which among other things includes child-friendly facilities. So far six Magistrate Courts have been upgraded in Chitipa, Mangochi, Karonga, Mzimba, Mwanza and Chikwawa districts.

64. Children that are found in conflict with the penal law are sent to Reformatory Centres. There are currently two major reformatory centres namely Chilwa Reformatory Centre and Mpemba Reformatory Centre. At Mpemba Reformatory Centre there is a girls' hostel to accommodate girls. This position of the law was confirmed by the High Court in the cases of **R v Children in Detention at Bvumbwe and Kachere** Criminal Review Case No. 21 of 2017, where the court ordered that all children in prison should be immediately released. The court further reiterated that children can only be detained in exceptional circumstances before a finding of responsibility is made, and in the case of **8 Children v State** Criminal Review Case No. 5 of 2021.

65. With regard to dealing with children with special needs going through the justice system, the Malawi Police Service has trained 36 child justice practitioners in sign language communication. These include magistrates, prosecutors, court clerks and detectives. Additional 18 police officers (detectives and prosecutors) were trained in sign language interpretation. This will ensure that children with hearing impairment can access the justice system. In the 2022/2023 financial year, the judiciary intends to train another 36 court

clerks and sign interpreters in sign language communication and disability-friendly service delivery.

66. Furthermore, several training manuals for professionals such as police, education and social workers have been reviewed to comprehensively tackle child protection issues. The Malawi Police Training Manual and the Teacher Training Manual were reviewed in 2018 and 2020 respectively. The reviews included an addition of a comprehensive unit on child protection. In 2020, the National Child Justice Forum also developed a child justice training manual.

***Right to life, survival and development***

**The Committee recommends that the State party undertake the following measures:**

**(a) devise short-term and long-term strategies to combat and prevent stunting in children;**

67. The Constitution of Malawi mandates the Government to devise policies to ensure adequate nutrition to promote good health and self-sufficiency. The Government will soon begin to work on legislation to regulate activities in the sub-sector. At a policy level, the Malawi Growth Development Strategy III (MDGS III) recognizes that eliminating all forms of malnutrition plays a catalytic role in building a resilient, productive and competitive nation. Furthermore, the Government developed a solid policy and strategic framework to guide the delivery of nutrition services in Malawi through the Malawi National Multi-Sector Nutrition Policy (2018-2022), which is operationalized through the National Multi-Sector Nutrition Strategy (2018-2022). Considering the multi-sectoral nature, there are several complementary strategies across different sectors, such as the Nutrition Education Communication Strategy, Multi-sectoral Adolescent Nutrition Strategy, Agriculture Sector Food and Nutrition Strategy, National Micronutrient Strategy and Multi-Sector Maternal, Infant and Young Child Nutrition Strategy.

**(b) provide dietary supplementation and life-saving treatments to children suffering from Severe Acute Malnutrition (SAM) and Moderate Acute Malnutrition (MAM);**

68. To operationalize the National Nutrition Strategic Plan 2018–2022 and the Community-based Management of Acute Malnutrition (CMAM) Guidelines, which aim at combating SAM and MAM, the Government of Malawi implemented various steps. Firstly, children are screened and after the screening, one-to-one counselling is conducted for caregivers whose children are diagnosed with malnutrition. Topics such as breastfeeding, complementary feeding, nutritional care of sick children, hygiene and sanitation, family planning, and other relevant topics are discussed. Caregivers often need additional support and counselling to identify the reasons for malnutrition and prevent relapse. They are carefully counselled on a child’s feeding practice and health and any other support that may be required.
69. Most children admitted to CMAM are under 2 years. Promoting optimal breastfeeding practices and educating caregivers on age-appropriate complementary feeding practices assist in the prevention of growth failure, stunting, and acute malnutrition.
70. Furthermore, the growth targets of children aged 0-59 months are periodically measured by checking the weight and height/length of a child relative to age to assess growth. Currently, growth monitoring is done every month at designated growth monitoring clinics. Growth monitoring also provides a valuable interface with the community to improve participation in health and nutrition programmes. Growth monitoring motivates caregivers, families, and communities to practice behaviour that supports adequate growth in young children. More importantly, growth monitoring and early intervention prevent children from becoming malnourished.
71. In addition, Government has a Supplementary Feeding Programme (SFP) which treats MAM in children 6 months–15 years and pregnant or lactating women with dry, take-home food rations. Children attend an SFP site every 2 weeks for medical check-ups and re-supply of food rations.
72. Outpatient Therapeutic Programme (OTP) Treats SAM in children 6 months–15 years who present with appetite and without medical complications. Routine medications and Ready-

to-Use Therapeutic Food (RUTF) are given to such children as outpatients. Children attend an OTP site weekly for medical check-ups and a re-supply of RUTF.

73. Children who are HIV positive and are SAM are at a much greater risk of death than an HIV-negative child with SAM. For this reason, children with HIV are treated at an earlier stage of acute malnutrition using therapeutic care. Children identified with MAM are treated in OTP rather than SFP. The treatment protocol for children with HIV in OTP is identical to that for HIV-negative children. Extra care is taken to assess appetite and recurrent illness. Children on ART treatment who are determined to require special care, specific counselling and encouragement are provided due to reduced appetite from the medications. Caregivers of children with HIV-positive are referred to programmes and organisations that support people living with HIV for example prevention of mother-to-child transmission (PMTCT) programmes, Mothers to Mothers, Mayi Khanda, Mother Infant Pair and GMP.

74. According to the Malawi Nutrition Updates issued by the Ministry of Health, SAM admissions declined from 25,006 in 2019 to 24,249 in 2020, which is a 3% decline. 4,462 children aged 6-59 months with SAM received life-saving treatment in OTP centres and Nutrition Reference Values.

**(c) provide assistance to pregnant and lactating mothers suffering from malnutrition;**

72. The Government of Malawi in collaboration with its cooperating partners such as the Red Cross, UNICEF, BMZ, KFW, USAID and China Aid are:

- (a) training community leaders to facilitate communal cooking demonstrations on how to prepare balanced diets using locally available food;
- (b) providing counselling through National Counselling Cards for community-based activities by community volunteers;
- (c) recommending a healthy diet for pregnant and lactating mothers, i.e., the six diversified food groups;
- (d) providing antenatal care and anaemia control;
- (e) providing sanitation information; and

(f) providing iron supplements to pregnant and lactating women.

**(d) implement school feeding programs and ensure the accessibility of potable water in areas with a high risk of malnutrition for children;**

73. The Government of Malawi began implementing the school feeding programme in 1999. This programme is normally administered in schools, adopting two modalities. The first is provided with the assistance of the World Food Programme (WFP) and Mary's meals. The second modality is the provision of food through a home-grown school feeding programme. This model empowers communities to manage their school feeding programme, allowing local farmers to access and benefit from the school feeding market and provide students with fresh, nutritious, locally-grown food. Both school feeding programme run by all service providers reaches about 3 per cent of all primary schools in Malawi. The WFP programme reaches about 18 per cent of primary school students. The feeding programme targets the poorest and most vulnerable and hard-to-reach areas in Malawi.

**(e) invest in long-term food-based strategies including promotion of agricultural practices that result in dietary diversification and;**

74. To ensure that Malawi achieves dietary diversification, The Government of Malawi adopted the National Multi-Sector Nutrition Policy (NMNP) (2018–2022), which will be renewed after expiration. The Policy provides a guiding framework for the successful implementation of the national nutrition response, including strategies to promote the farming of diverse crops beyond maize and rice to improve the dietary needs of Malawians. Other strategies being implemented in tandem with the NMNP include the Agriculture Sector Food and Nutrition Strategy, Nutrition Education and Communication Strategy and the National Micronutrient Strategy. The implementation of these policies and strategies is also guided by the Agriculture Sector Wide Approach which aims at coordinating food security and nutrition programming at national and community levels.

75. In the long term, Agenda 2063, Malawi's policy blueprint for the development of the nation, also aspires to utilize the promotion of small and medium holder farmers with skills and the necessary technology to enable Malawians to grow diverse types of goods, taking into account climate change.

**implement the recommendations of the UN Special Rapporteur on the right to food, following a visit to Malawi in 2014.**

76. In 2014, the UN Special Rapporteur on the right to food on her visit to Malawi made several recommendations. Since the visit, the Government of Malawi has taken steps to implement the recommendations which were made.

77. To address the recommendation to establish a framework law on the right to food, building on the draft food security bill, through a consultative process with relevant stakeholders; the Government of Malawi believes the Food Security Bill if passed can provide the appropriate legal framework to promote the right to food. The Government will continue to work toward the Bill being passed into law.

78. To address the recommendation to strengthen the integration of a gender perspective into food and nutrition security strategies and programmes; the Government of Malawi has integrated the gender perspective into the development and implementation of its nutrition policies and strategies namely, the Malawi National Multi-Sector Nutrition Policy (2018-2022), operationalized through the National Multi-Sector Nutrition Strategy (2018-2022); the Nutrition Education Communication Strategy, Multi-sectoral Adolescent Nutrition Strategy, Agriculture Sector Food and Nutrition Strategy, National Micronutrient Strategy and Multi-Sector Maternal, Infant and Young Child Nutrition Strategy.

79. To improve mechanisms and methodologies for the collection of adequately disaggregated data on poverty and food insecurity, and to improve the accuracy and

reliability of different national surveys; the Government of Malawi, through the National Statistical Office (NSO) in its Poverty Report of 2020 collected disaggregated data on poverty. The data collected on poverty was disaggregated by urban/rural areas and regions.

80. To review and reform the farm subsidy programme, in 2020, the Government of Malawi reformed the programme. The programme is now called the Affordable Inputs Programme. Implementation, the programme has undergone some changes to address the challenges noted during its implementation. Some of the challenges include insufficient particularity about the criteria to be used to identify beneficiaries; the timely and cost-effective procurement of the farm inputs and malpractices in the distribution of the coupons. To address these issues, the Ministry of Agriculture provides the criteria for selecting beneficiaries every year and as much as possible, the selection of beneficiaries occurs at the community level. In addition, to reduce malpractices in the distribution of coupons the office of the Anti-Corruption Bureau and the Malawi Police Service provide an oversight role. The coordination and timing of the procurement of the farm inputs have also improved.
81. To initiate concerted national efforts to support farmers in improving soil fertility leading to an exit strategy from FISP, with significant multiplier effects in terms of productivity, nutrition and employment; the Government of Malawi through the Ministry of Agriculture is promoting the use of Integrated Soil Fertility and Management (ISFM Practices. These are a group of techniques designed to increase the fertility of soils. ISFM includes the application of mineral fertilizers, incorporation of organic matter, adoption of agroforestry, crop rotation and intercropping with legumes (such as soy), and use of conservation agriculture practices. ISFM provides potential solutions to increasing smallholder productivity.
82. To improve irrigation methods, the Government of Malawi, with funding from the World Bank is implementing the Irrigation, Rural Livelihoods and Agricultural Development

Project (IRLADP) which is supporting irrigation farming through the integrated provision of hardware, mainly irrigation infrastructure, and software, mainly local and institutional capacity building. The project introduced water user associations for the local management of water and financial resources in the irrigation schemes.

83. To shift towards greater diversification of the economy, including the promotion of large-scale commercial farms, bearing in mind the importance of creating employment opportunities both in agriculture, the Government of Malawi is implementing a six-year Agricultural Commercialization (AGCOM) project, with support from the World Bank. The project aims at increasing the capacity of 650,000 farming households to improve the production and marketing of legume and horticultural crops in order to better the farmers' livelihoods in the face of the dwindling of the country's main cash crop tobacco. Focus will also be placed on dairy and aquaculture fisheries to give the farmers a wide range of choices for their specialization. The project represents a stepping stone toward increasing the commercialization of agricultural output to resultantly increase the number of large-scale commercial farms in Malawi.
84. To ensure that the legal framework for the governance of land, currently under consideration, provides adequate protection against land grabbing and forced displacement, and gives specific attention to the specific obstacles faced by women; legislation relating to land, namely the Land Act (Cap 57:01), the Land Acquisition Act (Cap 58:04) and the Customary Land Act (Cap 58:01) were recently reviewed to protect people from land grabbing. Expropriation of land can only occur following the due process provided under the Land Acquisition Act (Cap 58:04) and compensation is provided in the form of money or an alternative piece of land allocated for the person whose land has been expropriated. Furthermore, the Customary Land Act (Cap 59:01) specifically provides for the inclusion of women in the management of customary land. Section 5(2) (b) of the Act provides that membership of Land Committees, responsible for the management of customary land, be comprised of six persons, at least three of whom should be women.

### ***Child participation***

**The Committee recommends that the State party gives due consideration to the views of children and strengthens structures for their participation, especially at the community level, in the family, at schools and in judicial and administrative procedures concerning them.**

85. The Government of Malawi ensures that the views of children are given due consideration through their participation structures.

86. Malawi has the National Child Participation Guidelines. The Guidelines guide all stakeholders working with children on how they can meaningfully involve children in matters that affect their lives. The Guidelines have clearly defined child participation structures from the community, and district to national levels.

87. In addition, there is also a National Child Participation Strategy which was developed in 2021 to operationalize the National Child Participation Guidelines with investments in capacity building, the establishment of mechanisms for monitoring child participation and the interface between children and duty bearers. The child participation Policy framework further provides for a child participation strategy aimed at guiding the implementation and realization of the participation guidelines.

88. The Government of Malawi has also implemented various child participation structures at different levels of society from the family, society, school and national levels. In promoting child participation at the family level, the Ministry responsible for children developed a positive parenting manual which advocates for listening to the views of the child and allowing the child to participate in her discipline process. At the level of schools, there are several children-led clubs. In 2021, the Ministry of Education developed Guidelines for the Establishment and Management of Learners' Councils in primary schools. These guidelines mainstream child participation in school and make it mandatory for every school to have such structures in place.

**The Committee further recommends the State party establish a national children's parliament that focuses on child-related laws, policies and actions undertaken at a**

**national level, as well as include the resolutions of children's parliaments in the National Children Policy and other laws and policies affecting children.**

89. The Child Parliament over the years has been one of the core children's participatory structures and the Ministry responsible for children has made all efforts to enhance its existence. The Child Parliament currently operates at the community level to broaden the opportunity and encompass more children even from the rural setup. Apart from the community Child Parliament, the MoGCDSW managed to establish a total of 2672 children corners reaching out to 25,1382 children across the country by the end of 2022. The ultimate aim is to scale up the Parliament to a national level.
90. Furthermore, the MoGCDSW developed Child Participation Guidelines to facilitate the participation of children either in the National Child Parliament, Community Child Parliament or children's corners.

## **V. CIVIL RIGHTS AND FREEDOMS (ARTS. 6-10 AND 16)**

### ***Right to name, nationality and birth registration***

**The Committee recommends to the state party to:**

**(a) develop mobile registration centres and create a mechanism for sub-district registration to ensure that the registration service is accessible to all Malawians;**

91. The Government of Malawi has significantly improved Hospital-based birth registration following the operationalization of the National Registration Act in 2015. A nationally-representative Demographic and Health Survey highlighted that 67 per cent of children are registered, with rates higher for children under two (71 per cent) than children between two and four (65 per cent), indicating a positive trend over time.

**(b) expedite the scaling up of health facility-based birth registration;**

92. The Government of Malawi rolled out hospital-based birth registration in all 28 districts in Malawi. Furthermore, community health centre birth registration has been rolled out in 18 districts and will soon be rolled out to all the districts.

**(c) develop and implement a robust awareness-raising program for the general public on birth registration with a focus on remote and marginalized districts;**

93. The National Registration Bureau (NRB), the entity entrusted to implement the registration of births, routinely carries out mass awareness campaigns through meetings in communities, messages from a mobile van, radios and television programmes to educate parents on the importance of registering their children in remote and marginalized districts.

**(d) ensure that birth certificates are issued to all children born in the territory, and  
(e) undertake national birth registration campaigns to increase the rate of birth registration and certification.**

94. The NRB rolled out mass registration for all children already born but under the age of 16. The Bureau will continue to issue birth certificates to all children born within Malawi.

95. Furthermore, the NRB will continue to undertake national registration campaigns to increase the rate of birth registration and certification.

**The Committee recommends the State party consider ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 convention on the Reduction of Statelessness and align its laws with these instruments.**

96. The Government of Malawi intends to accede to the 1961 Convention on the Reduction of Statelessness and the 1954 Convention relating to the Status of Stateless Persons. The Ministry of Homeland Security is taking necessary steps by consulting various stakeholders and depositing the instruments of accession thereafter.

### ***Protection against abuse and torture***

**The Committee recommends for the State party to undertake the following measures:**

**(a) prevent and monitor abuse of children in the domestic setting;**

97. Mechanisms have been put in place to ensure that children are protected from any forms of abuse in the domestic setting. Parents or guardians are empowered to report to the

relevant authorities if a family member is abusing a child in their home. Furthermore, Community Child Protection Committees are helping in identifying cases of abuse of children in domestic settings.

98. To protect children from performing hazardous work and also from being exploited, section 21 of the Employment Act prohibits the employment of children under the age of fourteen which is likely to be harmful to the health, safety, education, morals or development of such a person; or prejudicial to his attendance at school or other vocational or training programme.

99. Labour inspectors have to apply to the Industrial Relations Court to obtain a warrant of inspection to inspect a home. Due to the bureaucratic processes involved in obtaining the warrants, the inspections in homes are limited. However, parents, guardians, children and well-wishers are encouraged to report any suspected cases of abuse of children in homes so that the appropriate authorities can investigate the claims and take the appropriate course of action to remedy the situation.

**(b) ensure that the Ministry of Gender Children and Social Welfare takes a proactive role in preventing, investigating, prosecuting and remedying cases of violence against children on farms and in a domestic setting and;**

100. To ensure the protection of children from violence in farms and domestic settings, child protection workers conduct awareness in collaboration with community-based organisations on child labour. Malawi Government also developed a National Action Plan on Child Labour which was implemented between 2010-2016 and a successor NAP has been developed for the period 2020-2025. Malawi's Decent Work Country Program for 2011 - 2016 under Priority 1 included the elimination of the worst forms of child labour and the successor DWCP has also included child labour elimination as a priority area.

101. Employers, especially those in the tobacco sector where there is hazardous work embraced the implementation and strict adherence to the List of Hazardous Work for

children and included its provisions in the Agriculture Labour Practices Manual for their growers and contracted farmers.

102. Furthermore, the Employment (Prohibition of Hazardous Work for Children) Order, 2012 prescribes the list of occupations which are hazardous to children below the age of eighteen.

103. Where any person is suspected of abusing a child on their farm or domestic setting, child protection workers in conjunction with labour inspectors conduct inspections to investigate the allegations. Where substantial evidence is found to warrant prosecution, the evidence is handed over to prosecutorial officers to conduct further investigations, make arrests and prosecute the court cases.

104. To ensure child protection structures for children suffering from any form of violence, structures are beginning from the village level. At the village level, there is a child protection committee. At the Traditional Authority level, there is a Community Victim Support Unit and Child Protection Worker. At the district level, there is a one-stop centre, district child protection committee, child magistrate, child protection office, child investigators, child prosecutors and probation officers.

**(c) create awareness among personnel of the justice system and those working with children about the rights of children to protection against abuse and torture.**

105. Judicial officers, especially the officers working in the Child Justice Courts across the country are trained on the rights of children and the legislative measures available to protect children from violence and torture enshrined under the Constitution of Malawi and other laws such as the Child Care Protection and Justice Act, the Employment Act and international human rights instruments namely, the Convention on the Rights of a Child (CRC) and the Charter.

106. National Child Protection Guidelines have been developed. They will be disseminated within the 2022/2023 financial year to all the institutions that work with children including actors in the justice system.

**The Committee urges the State party to review relevant laws and expressly prohibit corporal punishment in all settings and create awareness in schools, among parents, community, traditional and cultural leaders, and among personnel of the justice system on the negative impacts of corporal punishment on the wellbeing of children.**

107. The process of consulting the relevant stakeholders to include provisions in the legislation that expressly prohibit corporal punishment has begun. Depending on the outcome of the consultations the Government will proceed to implement what the stakeholders recommend is the best course of action in the context of corporal punishment in schools.

108. Meanwhile, the MoGCDSW in collaboration with cooperating partners, has developed the Positive Parenting and Discipline Manual and the Child Protection Manual for Teachers to ensure children are disciplined in a manner that respects their rights.

109. Furthermore, awareness is being created in schools, among parents, community, traditional and cultural leaders, and among personnel of the justice system on the negative impacts of corporal punishment on the wellbeing of children.

**The Committee further recommends that the state party actively promote positive and non-violent forms of child-rearing and correction.**

110. The Government through the Ministry of Education has developed a positive discipline handbook which is in force. This Handbook promotes non-violent forms of child correction as a form of disciplining children in schools.

## **VI. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

**The Committee recommends that the State party undertake the following measures:**

**(a) adopt and implement a comprehensive family environment and alternative care guidelines in line with the charter and other international standards;**

111. The Government through the MoGCDSW is in the process of developing family environment care guidelines.

112. Furthermore, the Child Care Protection and Justice Act (Cap 26:01) stipulates measures to ensure a family environment for children through guardianship, parentage and fostership. The Regulations to elaborate on the procedural aspects of alternative care provided for under the Child Care Protection and Justice Act (Cap 26:01) are in the process of being developed.

**(b) periodically monitor and evaluate the situation of children in alternative care institutions;**

113. The Government periodically monitors and evaluates the situation of children in alternative institutions. The Child Cases Review Board (comprising controlling officers from the Government Ministries responsible for children, justice, the youth, homeland security, Malawi Police and MHRC, a non-governmental organization working with children and a religious organization) is mandated under the Child Care Protection and Justice Act (Cap 26:03) to oversee matters relating to alternative care of children. The Board conducts ad-hoc inspections of alternative care institutions. The MHRC also monitors alternative care institutions. A monitoring exercise was conducted in 2020 targeting selected childcare institutions in the country with a special focus on overseeing measures institutions have put in place to prevent children under their care from contracting COVID-19. After the monitoring exercise, the MHRC recommended a comprehensive monitoring exercise of all other institutions of care in the country to assess the impact of COVID-19 on children living under institutional care and how Covid-19 is affecting their rights.

114. In 2021, the MHRC conducted a national-wide monitoring exercise in all 169 childcare institutions. The objective of the exercise was to assess the impact of COVID-19 on the quality of care offered to children under institutional care. The exercise also aimed at appreciating the Government's responses and initiatives to protect children living under institutional care from the COVID-19 pandemic. Recommendations were made to various institutions within Government for action to be taken.

**(c) establish a mechanism whereby any mistreatment or abuse of children in institutions can be reported and remedied;**

115. The Child Cases Review Board, tasked with monitoring the institutions developed a checklist for monitoring and tracking all forms of abuses in institutions of care. A case management tool has also been developed to manage the cases of abuses reported. Once the Child Cases Review Board investigates and makes determinations on cases of abuse of children, it makes the appropriate decisions including sanctions to remedy the abuse.

116. In 2021, a childcare institution monitoring exercise was conducted. The exercise determined that 25 out of the 122 institutions have Child Protection Policies with a child abuse reporting mechanism. Following this revelation, the MHRC has plans to orient all childcare institutions in the development of a Child Protection Policy. The MHRC in collaboration with the MoGCDSW will ensure that every institution has a child protection policy in place.

117. To closely monitor the compliance of childcare institutions with the provisions of the Child Care, Protection and Justice Act (Cap 26:03), more staff have been trained and deployed to districts. In 2020 and 2021, the MoGCDSW trained 165 Community Child Protection Workers (CCPWs) and over 130 probation officers and deployed them to various districts.

**(d) de-institutionalize and reduce the numbers of children in residential care by placing them into family and community care and upscale the pilot deinstitutionalization program in all districts of the country;**

118. There is a well-trained team currently working on deinstitutionalisation. The programme that started as a pilot programme in Lilongwe, Blantyre, Dedza, and Mangochi has been upscaled to all the districts in the country. To date, the programme has deinstitutionalised 1,250 children (530 boys and 720 girls).

119. The Government will continue to work towards reducing the number of children in institutions even further.

**(e) increase the number of social workers providing services to children deprived of family environment and;**

120. The Ministry responsible for children has trained and recruited social workers and child protection volunteers have been deployed in all districts across the country.

121. There is a plan to upscale the recruitment by December 2022. Table 4 below shows the number of trained social workers by July 2021.

Level of education/Occupation	Sex		Total
	Male	Female	
Degree level	53	47	100
Certificate level	40	41	81
Already in service	42	57	99
Child Protection Volunteers	38	47	85

**Table 4: Number of trained social workers segregated by level of education and sex, 2021**  
(Source: Ministry of Gender, Community Development and Social Welfare)

**(f) provide special protection and support to child-headed families through social cash transfer programs and other means.**

122. The Government through the MoGCDSW, with the assistance of development partners, are implementing the SCTP. It is an unconditional cash transfer programme targeting the ultra-poor, labour-constrained households to among other things, alleviate children turning to labour to help support their families. The programme began as a pilot in Mchinji district in 2006. Since 2009, the programme has expanded to reach 18 out of 28 districts in Malawi. Currently, 3479 child-headed households, representing 1.09% of the 320,000 beneficiaries of the SCTP are benefiting from the programme. The programme is being redesigned to increase the number of child-headed households on the list of beneficiaries of the Programme.

**The Committee encourages the State party to accelerate the review process ensuring that the Adoption of Children Act complies with the Charter and other international standards.**

123. The report of the Law Commission on the review of the Adoption of Children Act was completed. The report will soon be tabled before Cabinet for its approval. If approved, Government will proceed to draft the Adoption of Children Bill for tabling before Parliament.

**The Committee further recommends the State party to establish an organ responsible for monitoring the status of children who have been adopted within and outside the country.**

124. The Department of Social Welfare within the MoGCDSW monitors children who have been adopted within and outside the country. The department has offices at the district level to monitor all applications for adoption being made at a district level. The Department also collaborates with the Ministry of Foreign Affairs when processing intercountry adoptions.

**The Committee encourages the State party to consider ratifying the 1993 Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption.**

125. The Government of Malawi, through the policyholder for children affairs, the MoGCDSW is consulting stakeholders to consider ratifying the 1993 Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption. However, even though Malawi is not a party to the Convention, its provisions have been recommended by the Law Commission report on the review of the Adoption of Children Act for incorporation into the new regime that will replace the current one.

126. Furthermore, the MoGCDSW has adopted into practice the provisions relating to the functioning of a central authority for adoption when the Social Welfare Department is dealing with inter-country adoption applications.

## **VII. BASIC HEALTH AND WELFARE**

**The Committee recommends that the State party undertake the following measures accordingly:**

**(a) strengthen health system management and undertake appropriate measures to improve access to basic healthcare services for children and pregnant and lactating mothers;**

119. The Government of Malawi, through the Ministry of Health, is working towards strengthening the health system to improve access to basic healthcare services for children and pregnant women and lactating mothers. Policies and Guidelines are being reviewed for managing pregnant mothers and children including those women who live in hard-to-reach areas. The revised policies, strategies and guidelines are as follows:

- (i) the National Sexual and Reproductive Health Rights Policy (2017-2022);
- (ii) the National Sexual and Reproductive Health Rights Strategy (2021-2025);
- (iii) the National Health Policy (2016- 2022);
- (iv) the National Community Health Strategy (2018-2022); and
- (v) Reproductive Health Service Delivery Guidelines (2019-2024).

**(b) undertake necessary measures to improve the population-to-doctor ratio and increase the availability of paediatricians in all districts such as training more doctors and skilled health officers and decentralization of health professionals across the country;**

120. The current doctor/patient ratio is 6 per 100, 000 population. The Ministry of Health sanctioned a Functional Review which was approved and increased the number of physicians to be available in central hospitals, particularly paediatricians, obstetricians and gynaecologists. A similar functional review will follow in district hospitals cascading downwards. The Ministry of Health will collaborate with training institutions to train more clinicians to meet the current demand.

**(c) take urgent measures to reduce child mortality due to preventable diseases, such as pneumonia, diarrhoea, malaria and immunizations, distribution of mosquito nets, and promotion of hygiene and sanitation including the provision of safe drinking water;**

121. Steps are being taken by the Government of Malawi to reduce further child mortality due to preventable diseases. The Government through the Ministry of Health is ensuring the implementation of outreach mobile clinics in hard-to-reach areas where care is provided to children. Furthermore, the Ministry of Health adopted task-shifting guidelines where Health Surveillance Assistants (HSAs) conduct home visits to postnatal mothers and encourage them to go for postnatal checks to prevent diseases in children. Community-based maternal and newborn care programme has also been strengthened to ensure community health care workers are trained in counselling mothers on appropriate care for their children. Information, education and counselling are conducted to the communities and mothers on the importance of good health habits including sleeping under a mosquito net. The Ministry of Health also distributes mosquito nets to new mothers.

122. Water and sanitation play a key role in improving the health status of people in communities and health care establishments. The Government uses participatory

approaches to promote sanitation and hygiene as part of capacitating community action towards increased uptake of sanitation and hygiene services. The communities collectively take action to construct sanitary facilities using locally available technologies in their geographical areas. The country aims to eliminate open defecation by ensuring that each household has a latrine which will consequently reduce sanitary-related diseases. Village Health Committee members are actioned to continuously monitor these interventions for sustainability purposes. In certain cases, artisans/masons are trained to provide sanitation products as a means of moving up the sanitation ladder.

123. With regard to safe water supply, Government has a deliberate policy to ensure that water sources are located within a radius of 500 meters and that each water source must serve 240 people. Water quality monitoring is internally done by the Department of Water Supply services while external monitoring is done by the Ministry of Health (Environmental Health Section) and Malawi Bureau of Standards (MBS). Water Point Committee members are also trained on the management of water sources as part of community-based management of water supply i.e., in case of breakdowns, they can maintain the water points. The spare parts network is also established in rural areas to ensure that water points are always functioning.

**(c) improve the drug management system and address mismanagement of resources in public health facilities;**

124. The following steps are being taken to ensure the better management of drugs in public health facilities:

- (a) development of yearly medicines, equipment and supplies quantification with stakeholders;
- (b) requests are shared with the Ministry of Health and Partners to procure equipment, medicines and supplies;
- (c) districts and central Hospitals manage their medicines budgets and procure medicines and supplies from the Central Medical Stores Trust;

- (d) gaps of equipment, medicines and supplies are identified through monitoring visits to the health facilities and during review meetings; using Logistics Management Information Systems and Health Management Information System;
  - (e) distribution of equipment, medicines and supplies is done according to levels of care and identified gaps; and
  - (f) health workers are mentored on equipment, medicines and supplies use, care and accountability through the use of inventories and stock cards.
125. To improve the mismanagement of resources in public health facilities, using monitoring and accountability measures such as establishing drug advisory committees in health facilities whose mandate is to provide checks and balances as well as monitor the drug management system in health facilities. Every health facility has an established committee and is monitored regularly by the district council members.

**(d) implement the national charcoal strategy in order to promote alternative household cooking mechanisms thereby preventing cases of severe pneumonia in children**

126. To implement the National Charcoal Strategy (2017-2027), the Government of Malawi is promoting the adoption of alternative cooking and heating fuels by removing taxes on butane and providing a robust framework for the regulation of the use, storage and sale of gas to promote the use of gas for cooking. Furthermore, the Government is stimulating the wide-scale adoption of fuel-efficient charcoal and firewood cookstoves. The Government, through the Ministry of Natural Resources, is increasing sustainable wood production, specifically for biomass energy production. Finally, penalties for illegal charcoal production were enhanced to deter people from the use of charcoal.
127. The Government of Malawi also amended the Forestry Act in 2019 which regulates the production and sale of charcoal. The production, possession, import and export of charcoal is not permitted without a charcoal permit. The permit can only be granted by the Department of Forestry, and only in conjunction with a Department of Forestry-approved reforestation or forest management plan.

**(e) allocate adequate resources to effectively implement the five-year malaria strategic plan (2017-2022);**

127. The Government of Malawi, through the Ministry of Health, with the help of cooperating partners has allocated adequate resources for the implementation of a five-year Malaria Strategy 2017-2022 and currently the process to revise the strategy has begun. The revised strategy shall be used as an advocating tool to lobby for more resources targeting Parliamentary Committee on Health, Finance and Economic Planning.

**(f) undertake age-appropriate comprehensive sexual and reproductive health education and service to adolescents to reduce the rate of HIV infection among the age group;**

128. The Government of Malawi is expanding and intensifying existing life skills modules and Sexual and Reproductive Health (SRH) and HIV education for in-school and out-of-school youth, with a focus on delaying sexual activity, HIV treatment adherence, preventing Gender Based Violence (GBV), avoiding transactional and age-disparate sex, and building self-efficacy.

129. The following are some of the strategic interventions that are being implemented targeting adolescent girls and young women (AGYW):

- (a) increasing availability and access to high-quality combination sexual and reproductive health and rights SRHR/HIV services for AGYW by scaling up locations beyond the health system, community and youth centres;
- (b) increasing AGYW demand for HIV and related services through community-based, digital, and private-sector avenues;
- (c) building social support and increasing AGYW resilience through the delivery of evidence-based social and economic assets interventions for vulnerable AGYW through small group structures such as after-school and community clubs; and

(d) increasing access to and completion of quality primary, secondary and tertiary education, including informal and vocational learning for AGYW.

**(g) take measures to ensure the accessibility of healthcare facilities to children with disabilities and;**

130. To ensure physical accessibility of healthcare facilities to children with disabilities, the Government installed either temporary or permanent ramps in most public health facilities. The Government remains committed to ensuring that health facilities are physically accessible to persons with disabilities.

**(h) improve health infrastructure through further development of existing facilities and upgrading health centres to a secondary level to avoid congestion in referral hospitals.**

131. The Government of Malawi, through the Ministry of Health, continues to improve the health infrastructure through further development of existing health facilities and upgrading health centres to secondary-level health facilities to avoid congestion in referral hospitals. One such approach is the use of Basic Emergency of Obstetric and Neonatal Care (BEmONC) where healthcare workers at the health centre level are capacitated with skills to manage complicated skills before a referral is considered appropriate.

**The Committee encourages the State party to strengthen and continue these measures for further reduction of mother-to-child HIV transmission.**

132. The reduction in the mother-to-child HIV transmission rate is largely attributed to the rapid scale-up of ‘Test and Treat’ initiatives since 2011 where all HIV-infected pregnant and lactating women are put on lifelong ART known as Option B+. Consequently, 84% of pregnant women infected with HIV were on ART by December 2020 through the Option B+ Programme. In addition, coverage of testing among children born to HIV-infected women has increased from 20% in 2015 to 71% in 2017 to 79% in 2020.

133. The Government will continue to implement the following initiatives to further reduce mother-to-child HIV transmission:

- (a) decentralizing “Test and Treat” initiatives to all pregnant and lactating women in all health facilities providing HIV services;
- (b) improving the effectiveness of the Prevention of Mother to Child Transmission (PMTCT) programme by providing lifelong Anti-retroviral treatment (ART) to all HIV-positive pregnant women irrespective of their CD4 count or clinical stage of HIV infection termed Option B+ to reduce morbidity and mortality among HIV infected women, their exposed infants and uninfected partners;
- (c) development of policy frameworks supporting both prevention and treatment notably Adolescent and Young Women Strategy, Malawi Paediatric and adolescent Roadmap, PMTCT Strategic Plans;
- (d) standardizing and scaling up community service delivery models to allow easy access to HIV services at the community level;
- (e) strengthening health systems through improved infrastructure, transport systems, laboratory capacity and supply of medical equipment as means of building conducive maternal and child health platforms where PMTCT is delivered;
- (f) scaling up paediatric ART treatment and decentralizing teen clubs;
- (g) recruitment of auxiliary teachers;
- (h) strengthening the prevention strategy of HIV among the general population; and
- (i) the provision of HIV testing services during Antenatal care services for early identification of HIV Infected women.

**The Committee encourages the State party to engage parents, community leaders and religious leaders in creating awareness about the need to seek medical attention for their sick children and to take into account the best interest of the child in doing so.**

134. The Government of Malawi, through Health Surveillance Assistants, Community Health Workers and social workers continue to sensitize parents, community leaders and religious leaders about the need to seek medical attention for their sick children.

135. The Government also uses radio stations to spread the word about the importance of seeking medical attention when a child is sick.

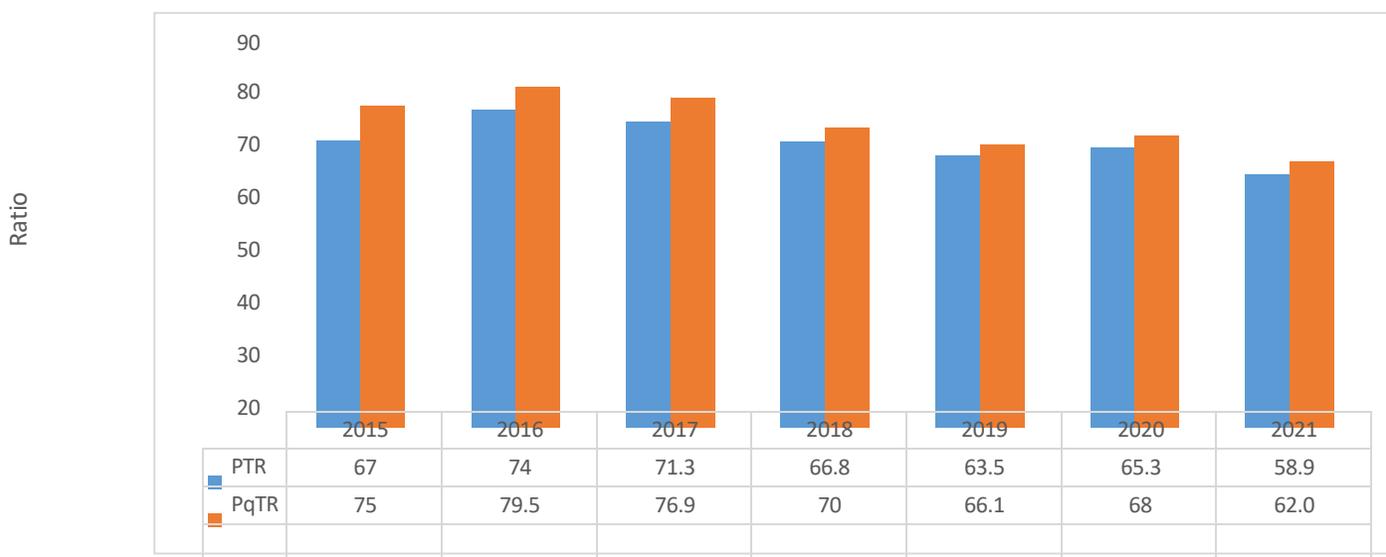
***Education, leisure and cultural activities***

**The Committee recommends to the State party take the following measures:**

**(a) recruit qualified teachers to reduce pupil to teacher ratio;**

127. The Government of Malawi, through the Ministry of Education, has been recruiting qualified teachers.

128. An assessment done by the Ministry of Education in the 2020/2021 financial year showed a decline in both the pupil-teacher ratio and pupil-trained (qualified) teacher ratio this is a result of the recruitment of more teachers. Figure 10 below shows the trend in the pupil-teacher ratio and the pupil-qualified teacher ratio since 2015.



**Figure 10: Trend in Pupil-Teacher Ratio and Pupil Qualified Ratio up to 2020/2021 FY (Source Ministry of Education)**

129. Furthermore, to attempt to reduce the pupil-to-qualified teacher ratio, especially in schools, the Government introduced school shifts to reduce learners' congestion and to improve access to schools. There are single-shift, double-shift and overlapping schools. In a single-shift school, the students learn all their classes in the morning. A double-shift school operates in two groups, with one group of students in the morning and the second group of students in the afternoon. In an overlapping school, one group of students learn in the morning and the next group joins them before the first group knocks off. 3 % of secondary schools are double-shift schools whereas 97% of the schools are single-shift. The figure below shows the percentage distribution of school shifts.

130. The above statistics show that Malawi has met the target it set in the National Education Sector Investment Plan (NESP) which set the target pupil-trained (qualified) teacher ratio at 60:1. However, the Government will put more effort to reduce the ratio even further. Table 5 below gives a detailed mapping of the pupil-teacher ratio by the district.

District	Learners	All Teachers	Qualified Teachers	PTR	PqTR
Chitipa	74,390	1453	1333	51	56
Karonga	109,216	1901	1842	57	59
Rumphi	64,026	1403	1309	46	49
Mzimba North	128,320	2190	2168	59	59
Mzimba South	145,598	2706	2662	54	55
Mzuzu City	60,150	1284	1225	47	49
Nkhata Bay	85,415	1580	1506	54	57
Likoma	3,982	72	71	55	56
Kasungu	255,301	4386	4339	58	59
Nkhotakota	119,657	1942	1925	62	62
Dowa	197,559	3312	3229	60	61
Ntchisi	85,627	1567	1561	55	55
Salima	137823	2254	2191	61	63
Mchinji	161500	2856	2763	57	58
Lilongwe City	185,556	4090	3151	45	59
Lilongwe Rural East	231,920	3941	3754	59	62
Lilongwe Rural West	234,772	4081	3972	58	59
Dedza	211,979	3492	3407	61	62
Ntcheu	168,240	2970	2912	57	58
Mangochi	341,196	4770	4624	72	74
Balaka	137471	2112	2088	65	66
Machinga	206,542	3010	2943	69	70
Zomba Urban	26,731	747	699	36	38
Zomba Rural	223,472	3384	3371	66	66
Blantyre City	181,943	3935	2910	46	63
Blantyre Rural	148629	2801	2652	53	56
Mwanza	41,771	714	667	59	63
Chikwawa	181,986	2651	2546	69	71
Nsanje	101,128	1521	1469	66	69
Chiradzulu	103,676	1611	1579	64	66
Thyolo	200,252	3305	3193	61	63
Mulanje	204494	3247	3173	63	64
Phalombe	147,300	2011	1987	73	74
Neno	49,045	787	762	62	64
Total	4,956,667	84086	79983	59	62

**Table 5: Pupil Qualified Teacher Ratio by District (2020/2021 FY) (Source: Ministry of Education)**

**(b) improve resource administration in the education sector to enhance efficiency and improve the quality of education;**

131. The Government of Malawi continues to highly value the role the education sector plays in the country as demonstrated by an allocation of 5 per cent of the country's GDP to the education sector in the 2020/21 financial year which is slightly higher than the allocation of 4.6 per cent of the country's Gross Domestic Product (GDP) allocated to the sector in 2019/20 financial year as shown in Table 1 above.

132. To better manage the financial resources allocated to the education sector, Government has *inter alia* developed resource management for district councils. This reduces the expensive bureaucratic steps which resultantly reduces the amount of money devoted towards ensuring the right to education is promoted.

133. The Government will continue to devise ways to ensure that the financial resources devoted to the education sector ultimately benefit its intended beneficiaries.

**(c) simplify and decentralize at the school level, the procedure for re-admission for adolescent mothers aspiring to return to school;**

134. The Government, through the Ministry of Education, commenced the revision of the Re-admission Policy in 2016. The revised policy was launched in October 2019. The Policy allows all adolescent mothers to return to school without facing any bureaucracy and discrimination. To ensure the Policy is meaningfully implemented, teachers are being sensitised to admit adolescent mothers indiscriminately. In addition, Mother Groups and School Committees have been charged with providing psychosocial support to adolescent mothers to ensure a smooth transition back into the education system.

135. Sexual and reproductive health education has been incorporated into the secondary school curriculum. Schools have also established clubs where boys and girls in secondary school can learn about sexual and reproductive health. However, societal attitudes toward sharing such information remain a challenge, especially in rural schools. Furthermore, the Government commits to doing more to ensure that sexual

and reproductive health education materials are accessible to persons with different types of disabilities.

**(d) harmonize the provisions of the Penal Code and Teaching Service Commission Act, so that cases of sexual offences by teachers against students are appropriately handled;**

136. The Teaching Service Commission Act provides that inappropriate sexual conduct with students or affecting students is a disciplinary offence, teachers charged with such disciplinary offences when found guilty are dismissed since the Teaching Service Commission Act provides for penalties which are meted out arising from the employer-employee relationship that exists between the Government (Ministry of Education) and teachers. While disciplining the teacher, the Ministry of Education also reports the case to prosecutorial officials to prosecute such teachers. This is when penal charges prescribed under the Penal Code are levelled against the teacher and the prosecution for the sexual offences commences.

137. The Government sees these processes are parallel processes arising out of different branches of law in our legal system, therefore, does not see the need to harmonize the processes.

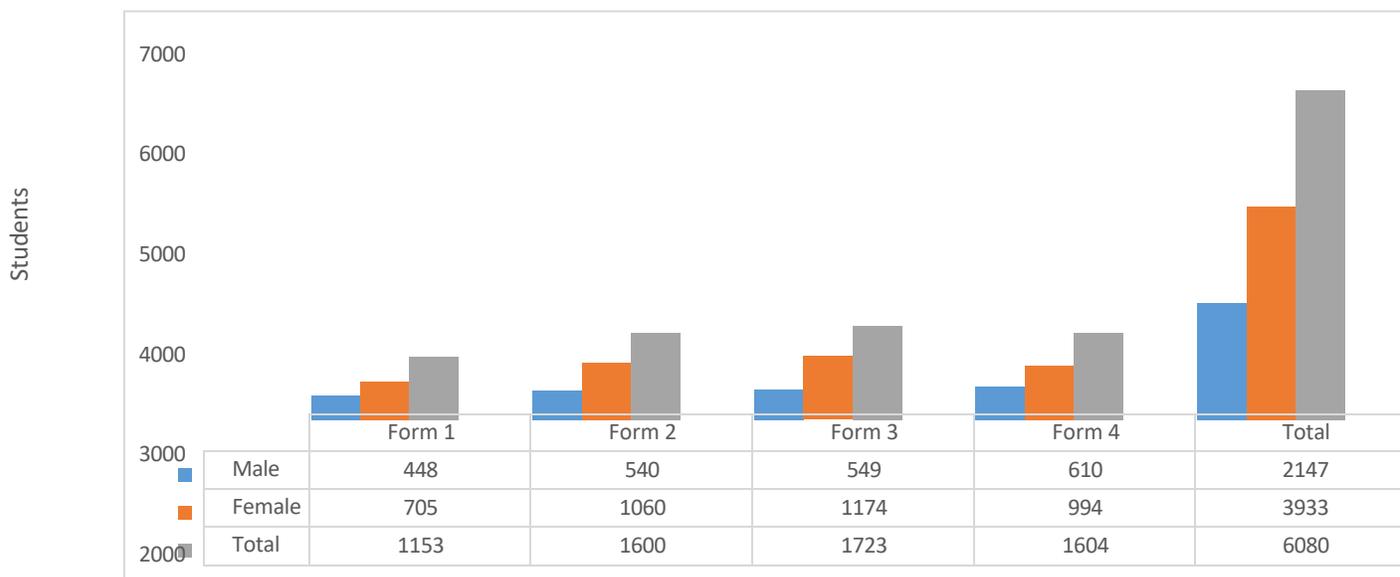
**(e) expressly prohibit all fees in primary education;**

138. Primary education in public schools is free. However, some public primary schools were charging user fees to cover any financial gap between funding from Government and the schools' needs. The financial gap is being addressed by increasing the funding to the schools through programmes such as the Malawi Education Reform Programme (MERP) so that the cost of accessing education is not passed to learners by charging user fees. Public schools have been prohibited from charging user fees.

**(f) improve attendance in secondary schools by, among others, making schools safe spaces, providing school feeding programs, and ensuring that economically disadvantaged children obtain support;**

139. To improve attendance in secondary schools, several efforts have been made; such as the continued construction of 100 girls' hostels across the country over the next five years. In the 2020/2021 financial year, the Ministry of Education was constructing 13 girls' hostels on 13 sites. The project progress was at 45% up from 35% in the 2019/20 financial year.

140. Furthermore, the Ministry of Education has simplified the re-admission policy for students wishing to return to school. In 2020/21, the Ministry of Education collected information on students that were readmitted to school after dropping out. Figure 11 below shows the number of students readmitted in the 2020/21 school year by form and sex.



**Figure 11: Number of re-admitted students by form and sex (Source: Ministry of Education)**

141. Furthermore, the schools are being made safe spaces for female students through the provision of sanitary facilities. The National Girls Education Strategy highlights that unavailability of changing rooms and incinerators in secondary schools is among the challenges affecting girls' education. In the 2020/21 financial year, the Ministry of Education collected data on the number of changing rooms available to girls.

Facility	Type	Grant				CDS S Cost Centres	CDSS Non-Cost Centres	Total
		National Boarding	Grant Aided Boarding	District Boarding	District Day			
<b>No. of Change Rooms</b>	Improved in use	0	34	101	39	130	65	<b>369</b>
	Improved under construction	0	0	0	0	19	13	<b>32</b>
<b>Rooms</b>	Basic and in use	0	13	46	11	83	49	<b>202</b>
	Basic under Construction	0	0	1	3	19	2	<b>25</b>
<b>Incinerators</b>	Improve and in use	3	7	13	7	18	6	<b>54</b>
	Improve under construction	1	0	1	2	3	1	<b>8</b>
	Basic in Use	0	3	6	0	26	4	<b>39</b>
	Basic and under construction	0	0	2	0	24	6	<b>32</b>

**Table 6: Girls change rooms and incinerators (Source: Ministry of Education)**

142. With regard to school feeding programmes in secondary schools, unfortunately, currently the programme is not being run in secondary schools. An assessment will be done by the Ministry of Education to assess the financial implications of rolling out the programme to public secondary schools.

143. To increase access to secondary education, the Ministry of Education provided bursaries to economically disadvantaged students. Out of a total of 64271 students who applied for a bursary in the 2020/21 academic year, 31959 received the bursaries representing 49.7 per cent. This is an increase from the 2019/20 financial year when only 33 per cent of students that applied for bursary received it. Of the students that applied for bursary in the 2020/2021 financial year, 54 per cent were female while 46

per cent were male. On the other hand, out of those students that received bursaries, 64 per cent were female while 36 per cent were male. Table 7 below shows bursary statistics by district. This shows the deliberate efforts the Government is making to encourage girls to access secondary education.

District	Applied			Received		
	Male	Female	Total	Male	Female	Total
Chitipa	866	1082	<b>1948</b>	299	472	<b>771</b>
Karonga	1168	1039	<b>2207</b>	414	528	<b>942</b>
Rumphi	475	477	<b>952</b>	195	184	<b>379</b>
Mzimba North	558	899	<b>1457</b>	172	596	<b>768</b>
Mzimba South	750	692	<b>1442</b>	241	347	<b>588</b>
Mzuzu City	460	592	<b>1052</b>	246	389	<b>635</b>
Nkhata Bay	576	907	<b>1483</b>	183	643	<b>826</b>
Likoma	103	91	<b>194</b>	129	101	<b>230</b>
Kasungu	1160	1096	<b>2256</b>	318	378	<b>696</b>
Nkhotakota	922	1055	<b>1977</b>	304	587	<b>891</b>
Dowa	1457	1418	<b>2875</b>	434	404	<b>838</b>
Ntchisi	665	657	<b>1322</b>	174	229	<b>403</b>
Salima	1001	1155	<b>2156</b>	482	894	<b>1376</b>
Mchinji	564	807	<b>1371</b>	231	429	<b>660</b>
Lilongwe City	693	726	<b>1419</b>	217	200	<b>417</b>
Lilongwe Rural East	770	779	<b>1549</b>	223	198	<b>421</b>
Lilongwe Rural West	916	1028	<b>1944</b>	369	453	<b>822</b>
Dedza	1177	1581	<b>2758</b>	356	1139	<b>1495</b>
Ntcheu	1043	1167	<b>2210</b>	321	310	<b>631</b>
Mangochi	1224	1869	<b>3093</b>	280	1605	<b>1885</b>
Balaka	617	527	<b>1144</b>	343	281	<b>624</b>
Machinga	826	1114	<b>1940</b>	230	967	<b>1197</b>
Zomba Urban	373	1124	<b>1497</b>	152	1172	<b>1324</b>
Zomba Rural	732	930	<b>1662</b>	252	568	<b>820</b>
Blantyre City	792	952	<b>1744</b>	368	459	<b>827</b>
Blantyre Rural	1173	1177	<b>2350</b>	494	466	<b>960</b>
Mwanza	291	322	<b>613</b>	165	136	<b>301</b>
Chikwawa	2030	2532	<b>4562</b>	975	1740	<b>2715</b>
Nsanje	1218	1498	<b>2716</b>	649	934	<b>1583</b>
Chiradzulu	651	751	<b>1402</b>	368	439	<b>807</b>
Thyolo	1550	2118	<b>3668</b>	612	974	<b>1586</b>
Mulanje	1235	1279	<b>2514</b>	619	1204	<b>1823</b>
Phalombe	875	1147	<b>2022</b>	522	886	<b>1408</b>

Neno	369	403	772	102	208	310
<b>Total</b>	29280	34991	<b>64271</b>	11439	20520	<b>31959</b>

**Table 7: students who applied and received bursary by district, 2020/2021 FY  
(Source: Ministry of Education)**

**(h) strengthen measures to increase the transition rate of girls from primary school to secondary school and tertiary level through the provision of adequate teaching materials and facilities and providing tutorials;**

144. To strengthen the transition rate of girls from primary school to the tertiary level, the Government, through the Ministry of Education, is implementing various measures. Some of these measures include the increase in access to sanitary facilities, as shown in Table 6 and an increase in the number of hostels shown in paragraph 138.

145. Furthermore, the Government is implementing the Equity with Quality and Learning at Secondary School Project (EQUALS) with support from the World Bank which aims at improving the quality of science and mathematics instruction in CDSSs through the provision of the appropriate learning materials particularly targeting at encouraging girls to take up careers in the sciences.

**(i) undertake training of primary and secondary school teachers on children’s rights and;**

146. Child rights issues are included in the training manuals used to train primary and secondary school teachers in the Teachers’ Training Colleges across the country.

**(j) implement the National Inclusive Education Strategy of 2016 and ensure the availability of teachers trained to serve children with disabilities in all districts of the country.**

147. The National Inclusive Education Strategy is being implemented. The Ministry of Education disseminated the National Inclusive Education Managers from National

Level to Zonal Levels targeting Directors, District Commissioners, District Education managers, Secondary and Primary School Headteachers, and teachers. In collaboration with Disability Peoples Organizations, the capacity for inclusive education increased through awareness raising. This has led to the increase of learners with disabilities from 120,007 (57655 Girls and 62,362 Boys) in 2016 to 173 715 (84,826 Girls and 88,889 Boys in Basic Education in 2020.

148. District Councils have a budget line that targets learners with disabilities as a strategy for promoting learners with disabilities in schools. There has been a mindset change towards the education of children with disabilities more parents are willing to send their children with disabilities to school. To increase the number of teachers supporting learners with disabilities, in 2019, the Ministry of Education introduced a one-year Blended Learning Inclusive Education certificate course for training inclusive education teachers at an average of 200 every year at Montfort SNE College. Furthermore, the Ministry of Education has also introduced an Open Distance Learning Diploma Course that will be training 200 special needs teachers per programme.

### **Special protection measures**

#### ***Refugee and migrant children***

**The Committee recommends that the state party undertakes the following measures to enhance the protection of refugee children:**

- (a) provide educational services for refugee children and ensure the re-integration of refugee children into the Malawian community;**

149. Educational services are provided at all levels in the refugee camp. These are a pre-school, primary school, secondary school and tertiary level (there is also an online tertiary school that accommodates students from both communities). All the schools operating within the camp allow for the integration of the children from the local community.

150. Furthermore, refugee Children are in different schools at different schooling levels across the country. Some refugee children at the secondary school and tertiary education level are even benefiting from the scholarship programmes that are provided by the different organizations working with the Government in the provision of quality education for refugee children in Malawi.

151. To ensure that there is an all-inclusive education system, the Committee should note that there is strengthened coordination between implementing Partners in education and the Ministry of Education Science and Technology to ensure there is increased access to education services under Malawi's national Agenda.

**(b) fast track the review of the Refugees Act and ensure that it is in line with the Charter and other international standards;**

152. The Government of Malawi is delighted to inform the Committee that it is taking strides in making sure that the Refugee Act is reviewed. The Committee may wish to note that background work is underway namely:

- (a) drafting of the National Migration Policy which will inform greatly the review of the Refugee Act;
- (b) the review of the Citizenship Act, which will address some issues closely related to refugee and migrant children born in Malawi and prevent Statelessness issues;
- (c) the review of the Immigration Act which will tackle some residential issues of all refugees including children;
- (d) there is a proposal for an amendment of the 2010 National Registration Act to address the challenges faced in the registration of all refugees and children born in Malawi. This is proposed to avoid issues of statelessness as every child is supposed to be recognized by the original country of his/her parents, and
- (e) a study is underway to measure the magnitude of statelessness issues in Malawi, the refugee population was part of the targeted population noting that there is

an average of 150 children born in the camp every month. The Population was targeted to get recommendations on how to avoid children born in Malawi of refugee parents losing their identity. The outcome of the study will help with strategizing the review of the Refugees Act.

**(c) provide rehabilitation and psychosocial support to refugee children who were former soldiers;**

153. The Government of Malawi is working with Child Protection specialists to ensure that all children including the separated and unaccompanied children are identified and provided with the necessary support. The ex-child soldiers are identified through the Refugee Status Determination Procedures and are referred for psycho-social support. Ministry of Health monitors the referred cases and assists with checking all necessary referral mechanisms.

**(d) put in place family reunification programs for children separated from their parents and caregivers and;**

154. Family reunification is one of the main aspects promoted in Refugee protection and is prioritized by the Malawi Refugee Protection Programme. The Malawi Red Cross Society works in partnership with the Government and the office of the United National High Commissioner for Refugees (UNHCR) and assists with tracing and family reunification. Unaccompanied and separated minors are supported by foster parents and caregivers with the assistance of Plan International Malawi.

**(e) consider lifting the reservations made to the 1951 Convention relating to the Status of Refugees, particularly reservations to articles 15, 22 and 24.**

155. Despite entering reservations to the 1951 Convention relating to the Status of Refugees, the Government of Malawi, is in practice, implementing the provisions. With regard to article 22 on public education, refugee children are allowed to go to different schools in the country. All school-going children are given a chance to attend school both in the camp and outside the camp. Some refugee children are selected to attend secondary school in most of the Government schools upon being selected from the

Dzaleka Refugee Camp Primary School. At present consultations are underway to have the reservations revisited.

**The Committee urges the State party to prevent the detention of migrant children and develop suitable places of safety.**

156. As mentioned above, section 95 of the Child Care, Protection and Justice Act prohibits the detention of children unless the Director of Public Prosecutions satisfies the Magistrate that the detention is necessary. This provision applies to migrant children too.

157. In 2021, The Government of Malawi, through the MoGCDSW designated 8 safety homes in Blantyre, Lilongwe, Zomba and Rumphi. Consequently, each administrative region has at least one safety home. Migrant children separated from their parents or guardians are placed in these homes while the children's parents or guardians are being located.

### ***Trafficking***

**The Committee recommends to the State party to strengthen ongoing efforts and undertake the following additional measures:**

**(a) develop cooperation and work closely with source and destination countries to combat trafficking of children in order to prevent trafficking and also to ensure the return of child victims;**

158. Cooperation and information exchange mechanisms have also been established with border countries. There is an annual Southern African Development Community (SADC) Forum where countries meet to share trafficking-in-person information. The Malawi Police Service also makes use of mechanisms such as the Southern African Regional Police Chiefs Cooperation Organisation and INTERPOL. INTERPOL has played a very vital role to rescue victims and arresting perpetrators outside the borders of Malawi. The International Organization on Migration assists the Malawi Police Service immensely with trafficking issues.

**(b) ensure the investigation, prosecution, and conviction of perpetrators who recruit and transfer children for any form of exploitation; and**

159. The Malawi Police Service is investigating and prosecuting cases relating to the trafficking of children. In 2021, there were 37 cases involving the trafficking of children. 24 cases were completed and convictions were secured in all the cases. 10 cases are currently under investigation and 3 cases are still before the courts.

**(c) put in place procedures for detecting child victims of trafficking and provide the necessary support and assistance to children who are victims of trafficking.**

160. Measures have been put in place to detect child victims of trafficking. Cross-border cooperation with neighbouring countries plays a huge role in detecting trafficking. Furthermore, community policing structures play a huge role in detecting trafficking as well as providing support to the children who are victims of trafficking.

161. Standard Operating Procedures for the identification and assistance of victims of trafficking and a national referral mechanism, were launched in 2019. The Government of Malawi is also in the process of developing a national data collection tool for trafficking in persons which will enhance data collection and management of trafficking in persons.

162. Regarding the protection and rehabilitation of victims, much is yet to be done due to resource constraints. The Trafficking in Persons Act provides for a Trafficking in Persons Fund. The largest shelter in the country is run by Salvation Army in Mchinji district which borders Zambia in the central region. Currently, the Government through the Social Welfare Office under the Ministry of Gender is running a shelter in Rumphi district. The shelter was constructed and initially run by a local NGO, Youth Net and Counselling (YONECO). The Government through the Ministry of Gender also runs a social Rehabilitation Centre in Lilongwe city. The centre, though not constructed solely

for trafficking-in-persons victims is currently under maintenance to accommodate as many trafficking-in-person victims as possible. Additional social workers have also been recruited in nine border districts to monitor children travelling in and out of the country through the land borders.

*Children in conflict with the law*

**The Committee urges the State party to:**

**(a) implement the national Child Justice strategic plan and establish Child Justice Courts in every district;**

163. Following the expiry of the Child Justice Strategic Plan 2012-2016, the Child Justice Strategic Plan 2019-2024 was developed and is being implemented.

164. With regard to the establishment of a Child Justice Court in every district, since 2019, at least one Child Justice Magistrate has been designated in every district. Processes are underway to designate more courts, especially in remote communities within a district. In the meantime, in line with the Child Justice Strategic Plan, mobile courts are being used to reach remote communities in districts. To ensure efficiency in the implementation of the Child Justice mobile courts, the NCJF also published and distributed the National Standards for Child Justice Court Circuits in 2021. However, out of all the 28 districts and other court centres, only Blantyre, Lilongwe, Mzuzu, Salima, Mulanje, Nkhatabay, and Zomba districts have stand-alone specialized child justice court structures. The Districts of Chitipa, Karonga, Kasungu, Mzimba, Chikwawa (at Nchalo), Nkhatakota, Mwanza, Likoma and Mangochi (at Monkey Bay) have structures which have child-friendly facilities that can accommodate children although they are not necessarily stand-alone child justice courts.

**(b) increase the age of criminal responsibility to at least 12 years and establish age assessment guidelines in the justice system;**

165. At the moment, there are no plans to increase the age of criminal responsibility. However, Regulations for the assessment of age in the justice system are in development.

**(c) ensure that children in conflict with the law are kept in child reformatory centres separate from adults and those that are having trial are also kept in safe homes;**

166. There are separate detention centres for children. Section 42(2)(g) of the Constitution provides that any person under eighteen years shall be separated from adults when imprisoned. Furthermore, the Child Care Protection and Justice Act (Cap 26:03), under section 97, provides that no child, while in detention in a safe home or reformatory centre or while being conveyed to or from any court or while awaiting before or after attending a criminal court, shall be permitted to associate with an adult, not being a relative, who is charged with an offence other than the offence with which the child is jointly charged with the adult.

167. Where a decision has been made to detain a child before a finding against the child, the child is detained in a safe home. There are three safety homes run by the Malawi Prisons Service namely, Byanzi, Kachere and Bvumbwe reformatory centres. There are two further reformatory centres run by the MoGDCSW, namely Chilwa and Mpemba reformatory centres. All the centres work towards rehabilitation and re-integration of children into society. All the reformatory centres are not fenced which ensures that the children maintain an active engagement with members of their community. In addition, even though the reformatory centres provide education facilities to ensure the smooth re-integration of the children into society, children from standard 7 are allowed to learn in public schools with other children. In addition, the children are encouraged to participate in sporting activities in their community to engage with their community in a positive manner.

**(d) undertake a continuous assessment of detention centres to ensure that no child is detained with adults;**

168. The Prisons Inspectorate conducts a continuous assessment of detention centres to ensure that no children are detained with adults. When children are found to be detained by adults, they are removed from detention centres and taken to safe homes.

169. The Malawi Police Service also allows routine independent inspections of police cells by Malawi Human Rights Commission and NGOs.

**(e) take appropriate measures to ensure that judges and magistrates presiding over cases involving children are trained in child rights and are acquainted with the Charter;**

170. The Government of Malawi, with the help of its cooperating partners, has administered training to court officials such as judges and magistrates, including court clerks, particularly those working at the Child Justice Court on the contents of the Charter.

**(f) ensure that detention centres for children are focused on rehabilitation and reintegration; and**

171. Reformatory centres focus on rehabilitation and reintegration through the implementation of various programmes run in the centres. The curriculum for Reformatory Centres will be reviewed within the year 2022.

**(g) prioritize alternative measures and diversion in the child justice system to minimize detention of children and;**

172. Alternative measures and diversion are prioritized over detention. Section 95 of the Child Care Protection and Justice Act (Cap 26:03) provides that no child shall be detained before a finding against him/her unless the Director of Public Prosecutions, in writing or upon hearing, satisfies the inquiry magistrate or court that—

- (a) the prosecutor wishes to charge the child with a serious offence in respect of which there is sufficient evidence to prosecute;
- (b) it is necessary for the interest of the child to remove him from undesirable circumstances; or
- (c) the prosecutor has reason to believe that the release of such a child would defeat the ends of justice.

173. In addition, the Child Care, Protection and Justice Act (Cap 26:03) under Division 5 and the Fifth Schedule provides for diversion. The options for diversion include the child making an oral or written apology to the victim or victims of the offence or to any other specified person or institution; placing the child under the supervision and guidance of a mentor or peer role model; issuing a good behaviour order requiring a child to abide by an agreement made between the child and his family to comply with certain standards of behaviour, mediation between the child and the victim and referral of the child to counselling or therapy.

174. When selecting a specific diversion option for a particular child at a preliminary inquiry or in a court, consideration shall be given to the cultural, religious and linguistic background of the child; the educational level, and cognitive ability. Domestic and environmental circumstances of the child, the proportionality to the offence of the option recommended or selected; the interest of society; the child's age and developmental needs; whether the child is a repeat offender and any other peculiar circumstances relating to the child (section 113 of the Child Care, Protection and Justice Act (Cap 26:03)).

175. The Judiciary, through the NCJF, developed guidelines for the implementation of Diversion which cover the duties and responsibilities of Judicial Officers, police officers (and prosecutors), probation officers and paralegal officers and other ancillary court staff.

176. The Judiciary, through the NCJF, has also developed and put in use six diversion program options for children in conflict with the law to supplement and complement those options that are provided in the Child Care Protection and Justice Act's Fourth Schedule.

These are family group conferencing; life skills; pre-trial community service; victim-offender mediation and therapeutic counselling. Magistrates, prosecutors, Social Welfare Officers and some NGO personnel (all totalling 28) from 7 districts were trained on the use of the options when implementing the diversion options.

**(h) take measures to ensure that child reformatory centres and similar facilities meet minimum standards and cater for the basic needs of children such as health and education.**

177. As mentioned above, child reformatory centres are monitored by the Child Case Review Board to ensure adherence to the expected minimum standards including in education and health. The previous monitoring was done in September 2021 and reached out to all three centres of Lilongwe Social Rehabilitation Centre, Chilwa Reformatory Centre and Mpemba Reformatory Centre.

178. The Government of Malawi is also finalizing the Child Care Protection and Justice Act (Foster Homes) Regulations that set minimum standards for the operation and provision of quality care.

179. Plans are also underway to review the curriculum for Reformatory Centres. This has been included in the 2022 joint Annual Working Plan for Child Protection

*Children of imprisoned parents or caregivers*

**In accordance with its General Comment No. 1 on Article 30 of the Charter, the Committee urges the State Party to undertake the following measures:**

**(a) prioritize non-custodial sentences for expectant mothers, primary or sole caregivers;**

180. The decision of whether to impose a custodial or non-custodial sentence depends on the offence committed. The more serious the offence the more likely it is that the court will mete out a custodial sentence. This ensures that expectant mothers do not use

their pregnancy to avoid a custodial sentence. Nonetheless, for expectant mothers who are given custodial sentences, only unweaned children can stay in prison and are under five years old. Through District Social Welfare offices, efforts are undertaken to identify foster parents to take care of children who are aged above three years.

**(b) when custodial sentences are passed to sole primary caregivers, the decision to keep the child with the caregiver in detention should take into account the age, sex, level of maturity, quality of relationship with the caregiver and the existence of quality alternatives available to ensure the best interest of the child. It should also take into account the views of the child depending on age and maturity;**

181. As mentioned above, only unweaned children under five years are allowed to stay in prison with the primary caregiver where foster parents or relatives cannot be identified to take care of the child. The prison personnel work closely with the social welfare office of the particular district the prison is located to assess the suitability of a particular child staying in prison with the primary caregiver, taking into account the age, level of maturity of the child, health and the best interests of the child in general. Where a child has been weaned, the officer in charge of the particular prison upon being satisfied that there are relatives or friends of the child able and willing to support the child shall hand over the child to the relatives or friends or a welfare authority.

**(c) in cases where custodial sentences are found to be necessary and the child's best interest dictates that she/he be kept in a detention facility with the caregiver, establish special alternative institutions;**

182. The Prisons Service in Malawi is undergoing reform. When the reform process determines that the establishment of special alternative institutions for caregivers with children, is a workable solution in Malawi, this will be implemented.

**(d) extend the protection given to incarcerated mothers, to primary or sole caregivers under whose custody a child is placed;**

183. Prison personnel at all times ensure that a child in prison with their primary caregiver is protected and not harmed in any way.

**(e) ensure that children are not discriminated against in accessing their rights because of their parents/primary caregivers' incarceration;**

184. The children are not discriminated against in accessing their rights. They have access to basic services such as health and early child development services without discrimination.

**(f) ensure that children living with caregivers in prison are never treated as prisoners and that their rights to health, food, shelter, education and an adequate standard of living are respected, protected and fulfilled;**

185. Due to resource constraints, the Prisons Service have challenges providing all the services which a child would have access to outside the prison. However, efforts are made to ensure that the children have access to services. The Ministry of Education in collaboration with CSOs to provide child-friendly meals to prisoners' children who have accompanied their mothers to prisons. The Ministry of Education has established prison schools under their school feeding programme so that prisoners' children receive nutritious foods provided by Mary's Meals. Furthermore, the Malawi Prisons Service has opened Early Childhood Development Centres in or near the prisons where these children go to learn and interact with their friends who are outside the prison. The school is a combination of inmates' children, officers' children and children from members of the general public surrounding the prison campus. Children also have access to health services at the prison and where need be, outside the prison in the major Government hospitals.

**(g) ensure that expectant mothers deliver outside remand or prison facilities with adequate health care services provided and;**

186. Expectant mothers are given the opportunity to give birth at a hospital or health centre outside the prison to ensure that appropriate medical attention is provided.

**(h) if birth occurs in remand or prison facilities, ensure that birth registration takes place without delay and without mentioning the prison or remand centre as the place of birth.**

187. The Prisons Service endeavours to ensure that all births occur at a hospital or health facility. When a woman is on remand in a police cell or prison or convicted; the woman is taken to the nearest health facility or hospital soon after giving birth. The birth of the child is registered at the health facility or hospital.

*Children in situation of exploitation and abuse*

**The Committee recommends for the State party undertake the following measures:**

**(a) finalize and implement national child labour and child protection policies;**

188. As part of the Government of Malawi's efforts to eradicate child labour, the first National Action Plan on Child Labour Elimination (2012-2017) (NAP) was adopted. It was widely disseminated and adopted by partners. Several programmes were implemented using the Plan. However, it had challenges notably, the lack of funding which necessitated the review of the NAP. A reviewed NAP was adopted in 2019 and will run from 2019 to 2025. The revised NAP has included areas like Chronic illnesses and child labour, the tenancy system and trafficking.

189. Malawi is also reviewing the Malawi Decent Work Country Program which has a pillar on child labour elimination, rights at work and social protection. The MDWCP promotes decent work for adults so that they can support their children attending school and avoid engaging in activities that border on child labour A successor project to Child

Labour Elimination in Action for Real Change commenced in 2020 and will run for 4 four years funded by Elimination of Child Labour in Tobacco Growing Foundation.

190. Other child protection policies include the National Plan of Action for Vulnerable Children. The action plan enhances the national effort to care for, protect and support vulnerable children and the National Children Protection Policy which was adopted in 2019.

**(b) allocate adequate resources to ensure the full implementation of laws and policies on child labour including the National Code of Conduct on Child labour;**

191. All child labour elimination programmes, including the National Code of Conduct on Child Labour, have been mainstreamed into the Ministry's work plans and are funded as part of the Ministry of Labour's budget.

192. However, CSOs and private companies such as Limbe Leaf and JTI assist the Government of Malawi in funding some of the programmes in the Ministry's work plan.

193. This funding arrangement is ensuring the implementation of child labour laws and policies. The Government of Malawi remains committed to progressively increasing the funding towards activities relating to eliminating child labour.

**(c) establish referral mechanism from the Ministry of Labour to the Ministry of Gender, Children, Disability and Social Welfare and vice versa to ensure effective coordination;**

194. There is a coordination mechanism in the form of Technical Working Groups. These working groups include representatives from key child rights stakeholders including the Ministry of Labour and the MoGCDSW where information and technical support are shared.

**(d) strengthen social cash transfer programme aimed at the reduction of child labour targeting vulnerable children and implement the program in all districts of the country;**

195. In 2019, an impact evaluation was conducted for the SCTP. The evaluation concluded that the programme has contributed to human capital improvements for beneficiaries, through improved school enrolment, attendance and education-related expenditures for children. For adults, the evaluation documented notable improvements in adult health and their use of health services. SCTP has a multiplier effect of 1.69, which means that every Malawi Kwacha (MK) received by beneficiaries is translated into MK1.69 of spending.

196. Though the SCTP has registered a positive impact, the programme requires strengthening. The programme can only cover 7 per cent of the population which is ultra-poor whereas the total percentage of the population which is ultra-poor is 20.5%. In each district, the target coverage of the SCTP is limited to the 10% poorest. Despite the shortcomings, the programme has increased its reach and currently has 320, 000 beneficiaries. Progressively, the Government of Malawi, with the support of its cooperating partners, will address all the shortcomings of the programme and address and make the programme.

**(e) ensure that children who are engaged in child labour are withdrawn and provided with the necessary support for their rehabilitation and reintegration.**

197. The Ministry of Labour works in collaboration with the District Social Welfare office jointly to arrange for the children to be transferred to safe homes for immediate and further support and thereafter liaise with the destination districts for reintegration.

***Harmful practices***

**The Committee recommends that the State Party strengthens sensitizing communities to change societal attitudes towards harmful practices using mass media and other platforms, and working in collaboration with traditional leaders.**

198. The Government of Malawi will continue to sensitize communities to change the societal attitude toward harmful practices. The Government uses Malawi Broadcasting Corporation, (radio and television) and private radio and television stations to sensitize the public on the dangers of perpetuating harmful practices. Beyond the use of mass media, chiefs and community groupings are used to spread the message as well. Prominent community leaders have been identified as Champions in the elimination of harmful cultural practices.

**The Committee encourages the State Party to accelerate the reduction of child marriage by allocating adequate resources towards the implementation of the Campaign to End Child Marriage. The Committee further recommends that the State Party undertakes mass sensitization about the negative impact of child marriage on the rights of the child and society as a whole.**

199. The Government of Malawi will continue to work toward reducing the number of child marriages. This includes the continuation of the implementation of provisions prohibiting child marriages in the Marriage Divorce and Family Relations Act and the National Strategy on Ending Child Marriage. Unfortunately, the COVID-19 pandemic has increased the number of child marriages in rural areas. Between April and September 2020, 13,000 child marriages and 40,000 teenage pregnancies were recorded. However, to address this in 2021, the capacity of 1,561 Chiefs on VAWG, including gender-related laws and referral pathways was built. These champions of change went on to collectively annul 9, 122 child marriages. The efforts to annul all child marriages will continue.

200. The Government of Malawi will also continue to conduct mass sensitization about the dangers of child marriages. Symposiums are held annually, inviting various stakeholders to discuss the illegality of child marriages as well as the social, economic and

health impact of child marriages. The Government of Malawi also developed a community awareness handbook on child and gender-related laws in 2019 to assist in sensitization. The government also declared the month of December as child protection month starting from December 2020.

201. The National Symposium on ending child marriages has been institutionalized for stakeholders to take stock of progress in ending child marriage, share practices and challenges to strengthen efforts for ending child marriage in Malawi.

## VIII. RESPONSIBILITY OF THE CHILD

**The Committee recommends that the State party to come up with initiatives to guide parents, teachers and other concerned bodies to facilitate the active participation of children for the greater good of society.**

202. The National Child Participation Guidelines, attached hereto as Annex 2, guide parents, teachers and any other groups that work with children on how to facilitate the active participation of children in the family setting, community setting and on a national level.

**The Committee further encourages the State Party to sensitize children about their rights and responsibilities and to empower them through education and the media to assume their responsibilities in society and prepare them to develop into well-rounded adults.**

203. The Government of Malawi, through the MoGCDSW, sensitizes children about their rights and responsibilities through Child Corners. These are community-owned safe spaces for children aged 6 to 18 years to provide psychosocial support, life skills education and empowerment on children's rights. Children are also sensitized through radio programmes targeting children on privately owned and Government owned radio stations. Television programmes are also used to sensitize children about their rights and responsibilities.

## **IX. CONCLUSION**

204. The report shows that Malawi is making slow but steady progress in the realisation of the rights of children. Significant challenges remain in fully implementing the provisions of the Convention. The challenges include:

- (a) weak implementation of laws and policies- while Malawi boasts of very progressive laws and policies, there remains a huge implementation gap;
- (b) resource constraints- with competing interests for resources, programs under human rights have not always made it on the priority list. As such, this has affected progress in the implementation of human rights-related programs;
- (c) the slow pace of institutional reforms- the new constitutional order in Malawi places radical human rights requirements on Government as the primary human rights defender. This requires state institutions to reform in line with constitutional ideals. However, the necessary reforms have not been fully implemented, consequently affecting the pace of enjoyment and enforcement of human rights; and
- (d) lack of public awareness of rights- despite progress in the general awareness of rights in Malawi there is still a lack of awareness of the rights of children.

205. The Government reiterates its commitment to ensuring that children in Malawi enjoy their rights as espoused under the Charter. Malawi looks forward to sharing more information on the progress made in implementing the recommendation during the review of the report.

## **X. ANNEX**

### **ANNEX 1**

The following are the members of the treaty body reporting task force:

1. Ministry of Justice (Chairperson)
2. Ministry of Gender, Community Development and Social Welfare
3. Ministry of Health
4. Ministry of Education, Science and Technology
5. Ministry of Homeland Security
6. Ministry of Agriculture
7. Ministry of Finance and Economic Development
8. Ministry of Natural Resources
9. Ministry of Water and Sanitation
10. Ministry of Labour
11. Ministry of Youth, Sports and Culture
12. Department of Immigration
13. Refugee Determination Unit
14. Malawi Police Service
15. Malawi Prisons Service
16. Ombudsman
17. Law Commission
18. Malawi Human Rights Commission
19. National Registration Bureau
20. Legal Aid Bureau
21. The Judiciary
22. UNICEF
23. UN Women
24. Plan International- Malawi
25. Save the Children International- Malawi
26. NGO Coalition on Child Rights
27. Article III
28. Eye of the Child
29. Girls Empowerment Network
30. Malawi Human Rights Youth Network
31. National Child Justice Forum

32. Coalition for Empowerment of Women and Girls
33. Campaign for Female Education (CAMFED)
34. Action Aid
35. Youth Net and Counselling (YONECO)

## **ANNEX 2**

### **Handbook on The National Child Participation Guidelines**