

**CONCLUDING OBSERVATIONS AND RECOMMENDATIONS OF THE AFRICAN
COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD TO
THE GOVERNMENT OF THE REPUBLIC OF MALAWI ON ITS FIRST PERIODIC
REPORT ON THE IMPLEMENTATION OF THE AFRICAN CHARTER ON THE
RIGHTS AND WELFARE OF THE CHILD**

January 2025

I. Introduction

1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC/the Committee) extends its compliments to the Government of the Republic of Malawi for submitting its first periodic report on the status of implementation of the African Charter on the Rights and Welfare of the Child (the African Children's Charter/the Charter).
2. During the 43rd Ordinary Session which was held from 15 April to 25 April 2024, the Committee considered the periodic report of Malawi which was submitted in compliance with the State Party's obligation under Article 43 of the Charter.
3. The Committee takes note of the written replies to its list of issues from the Malawi Human Rights Commission and appreciates the Republic of Malawi for sending its Delegation, which was led by the Minister of Gender, Community Development and Social Welfare, Honourable Ms. Jean M Sendeza who had a productive discussion with the Members of the ACERWC. The discussion undoubtedly assisted the Committee to better understand the measures that the State Party has undertaken towards the implementation of the Charter as well as the challenges faced. After careful consideration of the facts in the report and the information provided during the constructive dialogue, the Committee has developed and adopted the following concluding observations and recommendations which provide guidance to better enhance the implementation of the Charter in the State Party.

II. PROGRESS IN THE IMPLEMENTATION OF THE CHARTER

4. The Committee would like to recognize and appreciate the Government of the Republic of Malawi for undertaking several measures to realize the implementation of the provisions of the African Children's Charter through the domestication of its aspirations under the Constitution, various legislation, and policies.

III. AREAS OF CONCERN AND RECOMMENDATIONS

A. General measures of implementation

5. The Committee notes with appreciation the adoption of new laws, policies, strategies and frameworks as well as the revision of laws that is taking place to ensure compliance with the African Children's Charter. The Committee, however, notes that the Adoption of Children's Act has still not been finalized. The Committee reiterates its previous recommendation and encourages the State Party to fast track the review of the Adoption of Children's Act. The Committee also urges the State Party to prioritize ratification of The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and implement comprehensive measures to protect the welfare of children involved in intercountry adoption.
6. The Committee notes with appreciation the increase in allocation of funding towards the education and the health sector. The Committee notes the challenge in determining the total percentage of allocated resources for child protection in Malawi's National Budget due to integration of child protection across various program areas in different sectors. The Committee recommends the State Party to improve coordination and mainstreaming of child protection interventions through

the Ministry of Gender, Community Development and Social Welfare (MoGCDSW) to enhance reporting and ensure accurate financial tracking across sectors. Further, noting that there was a sharp decrease in the budget allocation to the MoGCDSW Ministry of Gender in the year 2021, due to the reallocation of resources in response to the COVID-19 pandemic, the Committee recommends the State Party to continue making efforts to increase budgetary allocation to the MoGCDSW and ensure that adequate human and technical resources are provided to the Ministry to carry out its mandate effectively.

7. The Committee further notes that there was a decrease in the budget allocation for nutrition and the decline is linked to a reduction in budget donor contributions for the Afikepo Nutrition Program, 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. The Committee recommends the State Party to explore alternative funding sources and integrate nutrition into health sector planning to ensure sustained support for nutrition interventions.
8. The Committee commends the State Party for taking measures to ensure that the Malawi Human Rights Commission (MHRC) is provided with adequate resources. The Committee however notes that the MHRC has a total establishment of 124 personnel of which 64 positions are filled, representing a 51% staffing level. Further, the Child Rights Directorate within the MHRC has a total establishment of 10 positions of which only 3 are filled, representing a 30% staffing level within the directorate. The Committee also notes from the response to the list of issues that the Commission is still not adequately funded. Further, the Committee notes that the process of establishing a regional office for the Commission in the northern region has not been completed due to financial challenges. The Committee recommends the State Party to expedite staff recruitment on all vacancies in the Child Rights Directorate and ensure that the regional office in the north is operationalized through recruitment of staff and provision of necessary resources.
9. The Committee notes with appreciation that the Children's Rights Directorate within the MHRC receives, investigates and handles complaints from the public including from children. Further, the MHRC has a Child Safeguarding Policy which is the overall guide. The Committee notes that the MHRC is in the process of reviewing its complaints handling manual to properly align it with the Child Safeguarding Policy. The Committee urges the State Party to fast track the review of the complaints handling manual to ensure that investigations are done in a child-friendly and sensitive manner.
10. The delegation informed the Committee that the State Party is facing challenges in data collection due to the lack of a coordinated data collection mechanism. Further, the Committee was informed that there is limited coordination between government agencies promoting and protecting the rights of children. The Committee recommends the State Party to put in place a comprehensive data collection system and to include disaggregated statistical data under all clusters in its next report. The Committee further recommends the State Party to enhance inter-agency collaboration and develop a centralized coordination framework that facilitates more efficient data sharing and program implementation across all government agencies involved in promoting and protecting the rights of children.
11. The Committee notes with appreciation that the State Party has made plans to translate the Charter into local languages, with a program to translate the Charter into three languages in the pilot phase. The Committee also commends the State Party for training the capacities of various actors working with children such as

community child protection workers, social workers, police officers, teachers, child magistrates, early development caregivers, journalists and other volunteers. The delegation however informed the Committee during the dialogue that there is limited awareness about the provisions of the Charter despite the sensitization campaigns conducted by Government and CSOs. Further, the delegation informed the Committee that there is limited training and capacity development of law enforcement officers, judicial officers and medical practitioners in addressing the needs of children. The Committee recommends the State Party to ensure that the Charter is translated into all languages and report on the measures taken to disseminate and sensitize citizens about the Charter in its next report. The Committee further encourages the State Party to continue expanding training programs for various actors working with children, ensuring they are equipped with comprehensive knowledge of children's rights as outlined in the Charter.

B. Definition of the Child

12. The Committee commends the State Party for undertaking a process for harmonizing all legislation to conform with the constitutional amendment on the definition of a child. The Committee however notes with concern that the Bills containing amendments have not yet been tabled to the Cabinet. The Committee recommends the government to expedite the process of finalizing and tabling the Bills to the Cabinet to ensure that all legislation is promptly aligned with the constitutional definition of a child. Additionally, the Committee recommends the government to implement comprehensive awareness-raising campaigns to educate the public and relevant stakeholders about the new legislative changes and the updated definition of a child.

C. General principles

Non-discrimination

13. The Committee notes that whilst the budgetary allocation for the provision of services to children with disabilities has remained low in the recent years, the State Party has implemented several strategies to increase the allocation such as the operationalization of the National Disability Mainstreaming Strategy (2018-2023), and the Disability Trust Fund, as well as allocating financial resources for the implementation of the National Plan of Action on Persons with Albinism. The Committee further notes that the State Party has undertaken efforts to train teachers, healthcare professionals and social workers to serve children with special needs. The Committee recommends the State Party to continue allocating and increasing financial resources to ensure the effective implementation of the National Plan of Action on Persons with Albinism and the National Disability Mainstreaming Strategy. The Committee further recommends the State Party to consider renewing and extending the currently expired Plan of Action on Persons with Albinism and the National Disability Mainstreaming Strategy.
14. The Committee commends the government for promoting equal access to education for all children regardless of religion and notes that the government is committed to the dialogue which is ongoing with religious communities to ensure that children enjoy their right to education. The Committee however notes from some reports that the Ministry of Education has not issued any circular instructing education managers to allow Rastafarian children to access education without

cutting off their hair. The Committee recommends that the government issues a directive to all educational institutions mandating the acceptance of Rastafarian children without requiring them to cut their hair, thereby upholding their religious rights and ensuring equal access to education for all.

15. The Committee commends the State Party for undertaking mass sensitization campaigns to prevent discrimination and violence against children with albinism, the prosecution and conviction of perpetrators of crimes against children with albinism, and the provision of sunscreen lotion, optical glasses and other necessities to children with albinism. The Committee however notes from the response to the list of issues that children with albinism continue to face violence and the prosecution rate of offenders remains low. The Committee recommends that the State Party intensify efforts to protect children with albinism by increasing the prosecution and conviction rates of offenders, expanding awareness campaigns, and ensuring the consistent and adequate provision of sunscreen lotion and other essential supplies to safeguard their health and well-being.

Best interests of the child

16. The Committee appreciates the State Party's efforts to ensure that the justice system is adequately funded and staffed with trained personnel. The Committee further commends the creation of a special child justice court to handle cases involving children, the designation of Child Justice Magistrates in all 28 district councils, and the ongoing upgrades to magistrate court premises to include child-friendly facilities. To further strengthen the child justice system, the Committee recommends that the State Party expedite the completion of the upgrades to magistrate court premises, ensure that all child justice courts are fully equipped with necessary resources, and provide continuous training for personnel on child-sensitive judicial processes to better protect and serve the needs of children in the justice system.

The right to life, survival and development

17. The Committee notes with appreciation the steps taken by the State Party to promote the right to life, survival and development including through the development and implementation of policies and strategies to combat malnutrition (e.g. the Malawi National Multi-Sector Nutrition Policy 2018-2022, National Multi-Sector Nutrition Strategy 2018-2022, and the National Nutrition Strategic Plan 2018–2022) ; the upcoming legislation to regulate activities in the nutrition sub-sector; promoting optimal feeding practices; the supplementary feeding program; the outpatient therapeutic program and special care for children with HIV; and the implementation of the recommendations of the UN Special Rapporteur on the right to food, following a visit to Malawi in 2014. The Committee however observes, based on the Malawi Nutrition Updates from the Ministry of Health, that severe acute malnutrition admissions decreased from 25,006 in 2019 to 24,249 in 2020, representing a 3% reduction. The Committee considers this reduction slight, indicating that the incidence of severe acute malnutrition remains significantly high. The Committee also notes that the school feeding program run by all service providers reaches about 3 per cent of all primary schools in Malawi, whilst the World Food Programme reaches about 18 per cent of primary school students.
18. The Committee recommends the State Party to:

- a. Renew any lapsed policies and strategies and extend their scope to combat malnutrition more effectively.
- b. Fast track the process of enacting and implementing upcoming legislation that will regulate activities in the nutrition sub-sector to ensure better governance and accountability.
- c. Increase the reach of the supplementary feeding program, the outpatient therapeutic program, and special care for children with HIV, ensuring broader access to these essential services across all regions.
- d. Increase the coverage of the school feeding program to include a larger percentage of primary schools and students, aiming for universal access.
- e. Continue to promote optimal feeding practices through public education campaigns, targeting caregivers and healthcare providers to enhance awareness and adoption of these practices.

Participation of the child

19. The Committee appreciates the initiatives taken by the State party to ensure child participation, including the development of National Child Participation Guidelines and the National Child Participation Strategy (2022 - 2023). The Committee further notes that the Child Parliament currently operates at the community level to broaden the opportunity and encompass more children even from the rural setup, and that 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. It is noted from the State Party report that the ultimate aim is to scale up the Parliament to a national level. The Committee recommends the State Party to expedite the process of scaling up the Child Parliament to a national level, ensuring that it is inclusive and representative of all regions, and to continue supporting and expanding children's corners to facilitate active and meaningful child participation throughout the country.

D. Civil rights and freedoms

Name, nationality, identity and registration at birth

20. The Committee commends the State Party for its significant efforts to enhance birth registration processes, including the implementation of hospital-based birth registration across all 28 districts and community health center birth registration in 18 districts. Additionally, the Committee appreciates the awareness campaigns aimed at increasing birth registration rates. It also acknowledges the steps being taken by the Ministry of Homeland Security towards the ratification of the 1961 Convention on the Reduction of Statelessness. The Committee however notes that the State Party has not undertaken any measures for mobile birth registration, as recommended by the Committee in its previous recommendations. The Committee also notes from some reports that the birth registration system is not efficient and effective as the approval for issuance of birth registration certificates is done centrally, resulting in serious delays in the processing and in some instances no issuance at all of birth certificates. To further strengthen birth registration efforts, the Committee recommends the State Party to:

- a) Establish mobile registration centers and create a sub-district registration mechanism to ensure that all Malawians have access to registration services.
- b) Extend community health center birth registration to all districts to ensure no child is left unregistered, especially in rural and underserved areas.

- c) Provide continuous training and adequate resources to healthcare workers and officials involved in birth registration to maintain high standards and address any operational challenges.
- d) Utilize digital platforms and mobile technology to streamline the birth registration process, making it more efficient and accessible for all citizens.
- e) Intensify awareness campaigns focusing on the importance of birth registration, targeting remote and marginalized communities to ensure they understand the benefits and process of registering births.
- f) Expedite the ratification of the 1961 Convention on the Reduction of Statelessness and align national laws with these international standards to provide better protection for stateless persons.

Freedom of expression, conscience, thought, religion, assembly, and protection of privacy

21. The Committee notes that the State Party report has no information regarding the implementation of children's rights to fundamental freedoms. The Committee would appreciate it if more information could be provided regarding the protection mechanisms in place to ensure the realization of children's fundamental freedoms, including in the online environment in the State Party's next report.

E. Protection against abuse and torture

22. The Committee notes the efforts taken by the State Party to protect children against abuse and torture including through the establishment of Community Child Protection Committees to help identify cases of abuse in domestic settings; establishing Community Victim Support Units and Child Protection Workers; awareness raising initiatives; the development of a Positive Parenting and Discipline Manual and the Child Protection Manual for Teachers by the MoGCDSW in collaboration with cooperating partners; and the development of the Positive Discipline Handbook through the Ministry of Education. The Committee however notes that the process of reviewing relevant laws to expressly prohibit corporal punishment in all settings has not been finalized. The Committee notes with concern that the State Party reports indicates that *'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.'* Whilst the Committee acknowledges the importance of consulting stakeholders on the subject, the Committee is of the view that different stakeholders may have divergent views, leading to inconsistent or incomplete protections for children in all settings. Further, if influential stakeholders hold conservative views that support corporal punishment, their input could hinder progressive legal reforms aimed at banning such practices in all settings.
23. The Committee thus recommends that the State Party prioritize and ensure the completion of the legal review process to explicitly prohibit corporal punishment in all settings, and ensure that there are no exceptions with regard to the prohibition of corporal punishment in all settings. To further strengthen efforts to eliminate abuse and torture in general, the Committee recommends the State Party to intensify awareness campaigns to educate the public about the negative impacts of corporal punishment and promote positive, non-violent forms of discipline. The

State Party is further encouraged to enhance support services for victims of abuse, including counseling, rehabilitation, and reintegration programs.

F. Education, leisure, recreational and cultural activities

24. The Committee acknowledges the steps taken by the State Party to ensure realization of the right to education such as the recruitment of teachers; a slight increase in allocation of resources to the education sector; revision of the Re-admission Policy to allow adolescent mothers to return to school; incorporating sexual and reproductive health education into the secondary school curriculum; and implementing the Malawi Education Reform Program to prevent charging of user fees on learners. The Committee however notes that there are some challenges that still persist such as the education sector receiving less than 20% of the national budget; negative societal attitudes towards sharing sexual and reproductive health information learners; the lack of school feeding programs in secondary school; long distances to schools and completion rates that remain low. The Committee has also been informed that the procedure for re-admitting adolescent mothers into the school system remains complex and has not seen significant progress. Further, although programs to make schools safe spaces and provide support for economically disadvantaged children have shown modest progress, high repetition and dropout rates continue to impact both genders' attendance. The Committee recommends the State Party to:
- a. Allocate more funds to the education sector to ensure sufficient resources for infrastructure, teaching materials, and support programs.
 - b. Invest in the construction of new schools and expansion of existing ones to reduce long distances students must travel.
 - c. Introduce and expand school feeding programs in secondary schools to enhance student nutrition and attendance.
 - d. Streamline the re-admission process for adolescent mothers, ensuring it is user-friendly and widely communicated. Additionally, the State Party should provide support services, including childcare, counseling, and financial assistance, to adolescent mothers to facilitate their return to school.
 - e. Conduct community awareness campaigns to address negative societal attitudes towards sexual and reproductive health education.
 - f. Expand bursaries, scholarships, and financial aid programs for economically disadvantaged students.
 - g. Introduce targeted interventions for students at risk of repeating grades or dropping out, such as remedial classes.
25. The Committee appreciates the measures taken by the State party to ensure inclusive education for children with disabilities, particularly the implementation of the National Inclusive Education Strategy and allocation of resources targeted at learners with disabilities among other initiatives. The Committee however notes from some reports that the implementation of the Strategy has faced challenges such as inadequate funding and limited program capacity. The Committee has been informed that a critical shortage of specialist teachers has led to a high pupil-to-teacher ratio in special needs education, further complicating efforts to provide quality education to students with disabilities. As a result, enrolment of special needs education pupils in public schools remains low. The Committee recommends the State Party to develop a National Inclusive Education policy to support an effective Inclusive Education Strategy. Additionally, the State Party is encouraged to allocate additional financial resources specifically for the

implementation of the National Inclusive Education Strategy to ensure adequate support for learners with disabilities.

26. The Committee notes from some reports that there is a lack of leisure and recreational facilities for children in the State Party. The Committee recommends the State Party to improve infrastructure in schools to ensure that all schools in Malawi provide leisure and recreation-related activities and establish public leisure and recreational centers to reach out of school and other children and ensure that such centers are friendly to children with disabilities.

G. Basic health and welfare

27. The Committee commends the State Party for its various initiatives aimed at improving access to health and healthcare services. These include the review of policies and guidelines for managing pregnant mothers and children; increasing the number of physicians in central hospitals; implementation of mobile clinics in hard-to-reach areas; provision of safe water; improving the management of resources in public health facilities; provision of age-appropriate sexual and reproductive health education and services for youths; ensuring the accessibility of healthcare facilities to children with disabilities; reduction in the mother-to-child HIV transmission rate; and sensitization on the need to seek medical attention for sick children.
28. The Committee notes the challenges in the health sector, including limited electricity access in rural health facilities, with 24% of these facilities far from communities. The Committee notes that there is heavy reliance on external funding, little investment in the Malaria Strategy Plan, delays in publishing regulations for the HIV/AIDS (Management) Act, and human rights-based programming is not fully integrated. Additionally, there are delays in finalizing the Public Policy and Termination of Pregnancy Law. Other issues include limited access to sexual and reproductive health information and services, particularly for adolescents, a high unmet need for contraceptives among young women, misinformation and stigma around contraceptive use, and restrictive laws limiting safe abortion services. In addition, maternal health services are inadequate, especially in rural areas, where long distances to facilities and social stigma deter timely care. Furthermore, the criminalization of consensual non-coercive adolescent sexual conduct deters young people from accessing necessary health services, exacerbating issues like teenage pregnancies and the spread of sexually transmitted infections.
29. The Committee recommends the State Party to:
 - a) Increase the number of physicians in district hospitals.
 - b) Allocate more resources to the implementation of the Malaria Strategy Plan and other critical health programs.
 - c) Ensure the publication of regulations required to implement the HIV/AIDS (Management) Act.
 - d) Accelerate the finalization and implementation of the Public Policy and Termination of Pregnancy Law to enhance legal frameworks supporting health services.
 - e) Increase access to comprehensive sexual and reproductive health information and services, particularly for adolescents, through education and community outreach programs.
 - f) Put in place measures to ensure the availability and accessibility of basic and emergency maternal health services for adolescent girls including increasing

the funds allocated to maternal health and building and equipping of health facilities closer to people.

- g) Amend laws to decriminalize consensual, non-coercive adolescent sexual conduct, ensuring adolescents can access necessary health services without fear of legal repercussions.

H. Family environment and alternative care

- 30. The Committee notes that the government through the MoGCDSW is in the process of developing Family Environment Care Guidelines and the Regulations to elaborate on the procedural aspects of alternative care provided for under the Child Care Protection and Justice Act. The Committee notes from the response to the list of issues that the 122 residential Child Care Institutions (CCIs) are not registered with the government as per the requirements of the Child Care Protection and Justice Act since the regulations on foster care homes are yet to be finalized. The Committee recommends the State Party to expedite the development and implementation of the Family Environment Care Guidelines and Regulations, ensuring they are comprehensive and aligned with international standards. Additionally, the guidelines should emphasize family-based care over institutionalization and support families to prevent unnecessary separation of children from their families.
- 31. The Committee appreciates other efforts to ensure the protection of children deprived of the family environment such as the nationwide monitoring of childcare institutions which was conducted by the Malawi Human Rights Commission in 2021, the strategies put in place by the Child Cases Review Board to manage cases of abuse in childcare institutions, increasing the number of social workers providing services to children deprived of family environment, and conducting deinstitutionalization programs in all districts. The Committee notes from the State Party report that the monitoring exercise conducted in 2021 revealed that only 25 out of the 122 institutions had child protection policies. The Committee also notes that the number of children in institutions remains high, despite the implementation of the deinstitutionalization programs. Further the Committee notes that there is establishment of new childcare institutions, some of which are not properly monitored by the government, and CCIs are reluctant to adopt deinstitutionalization due to inadequate knowledge of its benefits. The Committee recommends the State Party to:
 - a. Ensure that all childcare institutions develop and implement comprehensive child protection policies.
 - b. Continue conducting regular and systematic monitoring of all childcare institutions to ensure compliance with child protection standards and improve the quality of care.
 - c. Intensify deinstitutionalization programs to reduce the number of children in institutions, promoting family-based and community-based care alternatives.
 - d. Expand and support alternative care options, such as foster care and kinship care, to provide children with stable and nurturing family environments.
 - e. Conduct awareness campaigns and provide training for caregivers and staff in childcare institutions on child protection, rights, and alternative care options.
- 32. The Committee notes from the response to the list of issues that the State Party faces significant challenges with the management of adoption data. These data inconsistencies suggest a lack of a proper data management system across

different levels—from individual CCIs to the national system—resulting in some adoptions potentially going unrecorded. This situation complicates the ability to accurately track adopted children and raises concerns about possible child trafficking through the adoption process. The Committee recommends the State Party to establish a centralized, robust data management system that ensures consistent and accurate recording of adoption data across all entities involved, including the MoGCDSW, the courts, and CCIs.

33. The Committee notes that the Social Cash Transfer Program to support child-headed families is being implemented in 18 out of the 28 districts. The Committee recommends the State Party to extend the Social Cash Transfer Program to all 28 districts to ensure comprehensive support for all child-headed families across the country, and ensure that the financial assistance provided through the program is sufficient to meet the basic needs of child-headed families and is regularly reviewed to keep pace with inflation and cost-of-living increases. Additionally, the State Party is encouraged to complement the cash transfers with additional services such as access to education, healthcare, and psychosocial support to address the broader needs of child-headed families.

I. Special protection measures

Refugee and displaced Children

34. The Committee notes the measures taken by the State Party to ensure realization of rights by refugee and displaced children such as the provision of education, the review of laws (e.g. the Citizenship Act, Immigration Act, and proposal for amendments to the National Registration Act) to tackle some challenges faced by refugees, provision of psychosocial support to refugee children who are former child soldiers, and promoting family reunification. It is also noted that a study is being conducted to measure the magnitude of statelessness issues in the State Party. However, the Committee notes that the process of reviewing the Refugee Act has not been finalized and that the government has not yet lifted its reservations made to the 1951 Convention relating to the Status of Refugees, particularly reservations to articles 15,22 and 24. The Committee also notes from some reports that refugee camps are overpopulated and children in some refugee camps are subjected to child labor, abuse, and child marriages. Further, the response to the list of issues indicates that there is a good number of children that are considered to be stateless at refugee camps. These children do not have any effective national protection and face discrimination when it comes to accessing rights generally available to nationals. Therefore, the Committee recommends the State Party to:
- a) Expedite the review and finalization of the Refugee Act to ensure that it is fully aligned with international standards.
 - b) Consider lifting its reservations to the 1951 Convention relating to the Status of Refugees
 - c) Address overpopulation issues in refugee camps by increasing the capacity, improving infrastructure, and ensuring adequate resources and facilities are available to meet the needs of refugee children and their families.
 - d) Implement robust child protection measures within refugee camps to prevent and respond to child labor, abuse, and child marriages.

- e) Share the major findings of the study relating to stateless children in its next report and the steps taken by the government to implement the recommendations of the study.

Sale, abduction and trafficking of children

- 35. The Committee notes the various initiatives undertaken to strengthen ongoing efforts to address sale, abduction and trafficking of children such as establishing cooperation and information exchange mechanisms with border countries, investigating and prosecuting cases relating to prosecution, the launch of the Standard Operating Procedures for the identification and assistance of trafficking and a national referral mechanism, and the process of development of a national data collection tool for trafficking in persons. The Committee, however, notes from the State Party report that due to resource constraints, much is yet to be done regarding the protection and rehabilitation of child trafficking victims. The Committee also notes that trafficking of children for sexual exploitation and child labor persists in the State Party.
- 36. The Committee recommends that the State Party expedite the finalization of pending trafficking cases to ensure timely justice; finalize the development of the national data collection tool for trafficking in persons; increase public financing for the implementation of anti-trafficking laws and policies, and train labor inspectors to identify and report forced labor and trafficking violations. Additionally, the State Party should increase awareness and monitoring of trafficking crimes, allocate more resources to develop shelters and rehabilitation programs for trafficking victims, including psychological support and reintegration services.

Children in conflict with the law

- 37. The Committee notes with appreciation the State Party's efforts to ensure the protection of the rights of children in conflict with the law. The Committee however notes from the State Party report that there are currently no plans to increase the age of criminal liability. The Committee also notes that only 7 specialized child justice courts have been built so far, out of the 28 districts. Further, reports indicate that children continue being mixed with adult offenders in detention centers. The Committee reiterates its previous recommendation that the State Party increases the age of criminal responsibility to at least 12 years. The Committee further recommends the State Party to accelerate the construction of child justice courts in all districts, continue providing comprehensive training for judges, lawyers, and law enforcement officials on child rights and appropriate handling of children in conflict with the law, and to continue undertaking continuous assessments of detention centres to ensure that children are not detained with adults.

Children of imprisoned caregivers

- 38. The Committee commends the State Party for ensuring protection of the rights of children of imprisoned caregivers. The Committee however notes from the State Party report that although the government endeavors to ensure that children of incarcerated caregivers have access to basic services, due to resource constraints, the Prison Service has challenges providing all services which a child would have access to outside the prison. The Committee recommends the State Party to increase funding specifically allocated to the Prison Service to ensure that children of incarcerated caregivers can access the full range of services necessary for their well-being, equivalent to those available outside of prison environments.

Child labor

39. The Committee notes from the State Party report that despite the adoption of the National Action Plan on Child Labour Elimination (2012-2017) and its review thereof (2019-2025), there were challenges in its implementation, particularly resource challenges. The Committee also notes that concerning inspections, labour inspectors have to apply to the Industrial Relations Court to obtain a warrant of inspection to inspect a home. However, due to the bureaucratic processes involved in obtaining the warrants, inspection in homes is limited. The Committee recommends the State Party to:
- a) Allocate sufficient resources to effectively implement the National Action Plan on Child Labour Elimination (2019-2025), ensuring that the goals of the plan are met within the specified timelines
 - b) Simplify the bureaucratic procedures required for labor inspectors to obtain warrants for home inspections and consider legislative or procedural changes that allow quicker and more effective interventions in potential child labor situations within homes.
40. The Committee notes from the State Party report that although the government has been implementing a social cash transfer program aimed at reducing child labor, the program can only cover 7% of the population which is ultra-poor, whereas the total percentage of the population which is ultra-poor is 20.5%. Further, in each district, the target coverage of the program is limited to the 10% poorest. The Committee recommends that the State Party significantly expand the scope and funding of the social cash transfer program to cover at least the 20.5% of the population that is ultra-poor. This expansion should aim to address the broader needs of impoverished families, thereby reducing the economic pressures that contribute to child labor. Additionally, the State Party should reassess and adjust the targeting criteria to ensure that all families in critical need, particularly in each district, are supported by this program.

Sexual exploitation

41. The Committee notes that the State Party report does not have any information on the measures taken to protect children against sexual exploitation. The Committee recommends the State Party to report on the measures undertaken to prevent sexual exploitation both offline and online and to assist survivors of sexual exploitation in the State Party.

Drug and substance abuse

42. Although the State Party report does not have any information on drug and alcohol abuse, the delegation informed the Committee that the government is rolling out awareness and educational programs to educate children about the risks of drug abuse and equip them with skills to resist such behaviors. The Committee was further informed that the government is also working on setting up specialized rehabilitation, counselling, and medical support services in collaboration with the Ministry of Health and private healthcare institutions to help children affected by substance abuse. The Committee therefore recommends the State Party to continue and expand its efforts in implementing comprehensive awareness and educational programs, and to enhance the provisions of services to children

affected by substance abuse. The State Party is encouraged to provide information regarding the progress and challenges faced in that regard in its next report.

Children in street situations

43. The Committee notes that the State Party report does not provide any details regarding children in street situations. The Committee however notes from the response to the list of issues that Malawi continues to be plagued with the presence of street connected children despite policies being put in place. The Committee further notes that children in street situations face challenges such as sexual abuse, as well as drug and alcohol abuse. The Committee recommends the State Party to carry out a thorough assessment to determine the scale and specific needs of children in street situations, and based on the findings, develop and implement targeted interventions aimed at supporting children in street situations such as access to shelter, healthcare and other services tailored to their unique needs. The Committee also recommends the government to ensure robust funding for rehabilitation centers to provide comprehensive counseling and support services for street-connected children, facilitating their successful reintegration into society.

Harmful social and cultural practices

44. The Committee notes the measures taken by the State Party to address harmful practices such as child marriages. The Committee however notes that the COVID-19 pandemic 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. The Committee recommends the State Party to:

- a. Increase funding dedicated to the implementation of laws, strategies, and national plans of action aimed at ending child marriages.
- b. Intensify and sustain mass sensitization efforts to educate communities, particularly in rural and underserved areas, about the legal implications and social consequences of child marriages
- c. Strengthen legal and support systems to ensure that victims of child marriage can easily access justice. This includes providing legal aid, counseling services, and robust mechanisms for reporting and addressing violations.

J. Children's responsibilities

45. The Committee notes, with appreciation, that in line with its previous recommendation, the State Party has developed the National Child Participation Guidelines to guide parents, teachers, and other groups working with children on facilitating active child participation in family, community, and national settings. The State is commended for integrating human rights education and civic responsibilities into the primary and secondary curricula. Additionally, teacher training materials include modules to equip educators with the skills necessary to teach these subjects effectively. Extracurricular initiatives, such as clubs and societies, further enhance students' understanding and practice of human rights and responsibilities. Moreover, schools collaborate with parents and communities through committees and associations to promote child responsibility and participation. The Committee, however, notes that the material on children's responsibilities in teacher training schools is not comprehensive. The Committee recommends the State Party to simplify, translate, and disseminate critical child-related laws and to liaise with primary and secondary school curriculum developers

to ensure that human rights, particularly child rights and responsibilities, are central learning materials.

IV. Conclusion

46. The African Committee of Experts on the Rights and Welfare of the Child commends the Government of Malawi for its efforts to implement the African Children's Charter and aspires for the implementation of these recommendations. The Committee would like to indicate that it will undertake a follow up Mission to assess the implementation of these recommendations in the foreseeable future. The Committee would also like to invite the State Party to submit its second periodic report by January 2028 in accordance with the Committee's Guidelines of Consideration of State Party Periodic Reports.
47. The African Committee of Experts on the Rights and Welfare of the Child takes this opportunity to renew to the Government of the Republic of Malawi the assurance of its highest consideration.