

Malawi

Mid-term

Implementation

Assessment



*Promoting and strengthening
the Universal Periodic Review*
<http://www.upr-info.org>



Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 3 June 2013



Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/malawi>

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

8 stakeholders' reports were submitted for the UPR. 12 NGOs were contacted. 1 UN agency was contacted. The Permanent Mission to the UN was contacted. The National Human Rights Institution (NHRI) was contacted as well.

7 NGOs responded to our enquiry. The UN agency did not respond. The State under Review did not respond to our enquiry. The NHRI did not respond to our enquiry either.

The following stakeholders took part in the report:

1. **NGOs:** (1) Canadian HIV/AIDS Legal Network (CHLN) (2) Centre for Human Rights and Rehabilitation (CHRR) (3) Foundation for Marist International Solidarity (FMSI) (4) Global Initiative to End All Corporal Punishment of Children (GIEACPC) (5) Open Society Justice Initiative (OSJI) (6) Tandem Project (TP) (7) World Vision International (WVI)

IRI: 61 recommendations are not implemented, 28 recommendations are partially implemented, and 20 recommendations are fully implemented. No answer was received for 19 out of 129 recommendations and voluntary pledges (full list of unanswered recommendations is available at the end of this document).



2. Index

Hereby the issues which the MIA deals with:

rec. n°	Rec. State	Issue	IRI	page
7	Algeria	Development	fully impl.	page 8
15	Algeria	Technical assistance	partially impl.	page 32
66	Algeria	International instruments,Migrants	not impl.	page 11
78	Algeria	General	not impl.	page 13
73	Argentina	ESC rights - general,International instruments,Women's rights	not impl.	page 12
74	Argentina	Death penalty,Disabilities,Enforced disappearances,International instruments,Migrants,Rights of the Child	not impl.	page 12
105	Argentina	Rights of the Child,Torture and other CID treatment,Women's rights	not impl.	page 31
11	Australia	National plan of action,Rights of the Child	partially impl.	page 19
19	Australia	Women's rights	partially impl.	page 21
79	Australia	International instruments	not impl.	page 13
111	Australia	Sexual Orientation and Gender Identity	not impl.	page 17
3	Austria	Right to education	partially impl.	page 13
26	Austria	Detention conditions	not impl.	page 15
85	Austria	Justice,Rights of the Child,Treaty bodies	not impl.	page 30
98	Austria	Women's rights	not impl.	page 31
114	Austria	Sexual Orientation and Gender Identity	not impl.	page 17
127	Austria	Right to education,Rights of the Child	fully impl.	page 10
16	Azerbaijan	HIV - Aids,Rights of the Child,Technical assistance	fully impl.	page 32
68	Azerbaijan	International instruments,Women's rights	not impl.	page 11
82	Azerbaijan	Women's rights	not impl.	page 29
30	Bangladesh	Women's rights	fully impl.	page 24
47	Bangladesh	Poverty,Technical assistance	partially impl.	page 8
57	Bangladesh	HIV - Aids	fully impl.	page 9
36	Brazil	Women's rights	partially impl.	page 25
51	Brazil	Right to food	partially impl.	page 9
70	Brazil	International instruments,Justice	not impl.	page 11
92	Brazil	Other	not impl.	page 33
1	Canada	Rights of the Child,Women's rights	not impl.	page 18
27	Canada	Human rights education and training,Women's rights	-	page 23
108	Canada	Sexual Orientation and Gender Identity	not impl.	page 16
45	Cuba	Development,Poverty	fully impl.	page 8
12	Egypt	Rights of the Child,Trafficking	fully impl.	page 20
63	Egypt	HIV - Aids,Poverty,Technical assistance	fully impl.	page 10
95	Egypt	General	fully impl.	page 15
96	Egypt	Rights of the Child,Torture and other CID treatment,Women's rights	not impl.	page 31



rec. n°	Rec. State	Issue	IRI	page
67	France	Enforced disappearances, International instruments, Torture and other CID treatment	not impl.	page 11
88	France	Special procedures, Women's rights	partially impl.	page 30
107	France	Sexual Orientation and Gender Identity	not impl.	page 16
109	Germany	Sexual Orientation and Gender Identity	not impl.	page 16
43	Ghana	Women's rights	partially impl.	page 26
33	Holy See	Labour, Rights of the Child, Trafficking	partially impl.	page 24
39	Holy See	Freedom of religion and belief	fully impl.	page 7
55	Holy See	Right to education, Right to health, Rights of the Child, Women's rights	partially impl.	page 28
60	Holy See	Right to education	not impl.	page 9
106	Holy See	Rights of the Child, Torture and other CID treatment, Women's rights	not impl.	page 32
86	Hungary	International instruments, Rights of the Child	not impl.	page 30
124	Hungary	Right to education	partially impl.	page 10
4	Ireland	Women's rights	partially impl.	page 19
5	Ireland	Other	not impl.	page 32
38	Ireland	Detention conditions, Justice	not impl.	page 15
119	Ireland	Sexual Orientation and Gender Identity	not impl.	page 18
72	Italy	Death penalty, International instruments	not impl.	page 12
89	Italy	Labour, Rights of the Child, Torture and other CID treatment	not impl.	page 30
104	Italy	Rights of the Child, Torture and other CID treatment, Women's rights	not impl.	page 31
113	Italy	Sexual Orientation and Gender Identity	not impl.	page 17
126	Italy	Right to education	partially impl.	page 10
87	Latvia	Special procedures	not impl.	page 13
46	Libya	Development, Poverty	partially impl.	page 8
53	Libya	Right to health	not impl.	page 9
54	Libya	Right to health, Rights of the Child, Women's rights	fully impl.	page 27
56	Libya	HIV - Aids	fully impl.	page 9
59	Libya	Human rights education and training	not impl.	page 9
80	Libya	International instruments	not impl.	page 13
42	Luxembourg	Right to health, Women's rights	partially impl.	page 26
118	Luxembourg	Sexual Orientation and Gender Identity	not impl.	page 17
28	Malaysia	Human rights education and training, Impunity, Rights of the Child, Women's rights	partially impl.	page 23
48	Malaysia	Right to education, Right to health, Rights of the Child, Women's rights	fully impl.	page 8
62	Malaysia	Poverty, Right to education, Right to health, Technical assistance	fully impl.	page 33
61	Mauritius	Right to education	partially impl.	page 10
128	Mauritius	International instruments, Right to education, Rights of the Child	partially impl.	page 10
17	Mexico	Human rights education and training, Treaty bodies, Women's rights	fully impl.	page 20
84	Mexico	Justice, Rights of the Child	not impl.	page 30
91	Mexico	Sexual Orientation and Gender Identity	not impl.	page 16



rec. n°	Rec. State	Issue	IRI	page
123	Mexico	International instruments, Right to education, Rights of the Child	partially impl.	page 10
9	Morocco	Human rights education and training	partially impl.	page 8
44	Morocco	Poverty, Rights of the Child, Women's rights	partially impl.	page 26
58	Morocco	Human rights education and training	not impl.	page 9
25	Norway	Detention conditions	not impl.	page 15
40	Norway	Freedom of association and peaceful assembly, Freedom of opinion and expression, Freedom of the press	fully impl.	page 7
81	Norway	International instruments	not impl.	page 13
83	Norway	International instruments, Women's rights	partially impl.	page 29
129	Norway	International instruments, Sexual Orientation and Gender Identity	not impl.	page 18
2	Slovakia	Detention conditions	partially impl.	page 13
21	Slovakia	Human rights violations by state agents, Torture and other CID treatment	not impl.	page 14
32	Slovenia	Trafficking	not impl.	page 15
37	Slovenia	Justice, Rights of the Child	partially impl.	page 26
6	South Africa	General	partially impl.	page 32
18	South Africa	Rights of the Child, Women's rights	fully impl.	page 21
69	South Africa	International instruments	not impl.	page 11
20	Spain	Women's rights	partially impl.	page 22
75	Spain	Enforced disappearances, International instruments	not impl.	page 12
76	Spain	Disabilities, ESC rights - general, International instruments, Torture and other CID treatment, Women's rights	not impl.	page 12
90	Spain	Labour, Rights of the Child	not impl.	page 31
102	Spain	Death penalty, International instruments	not impl.	page 15
116	Spain	Civil society, Sexual Orientation and Gender Identity	not impl.	page 17
64	Sudan	Technical assistance	fully impl.	page 11
22	Sweden	Torture and other CID treatment	not impl.	page 14
24	Sweden	Detention conditions	not impl.	page 14
110	Sweden	Sexual Orientation and Gender Identity	not impl.	page 17
31	Switzerland	Trafficking	not impl.	page 15
77	Switzerland	Death penalty, International instruments	not impl.	page 12
103	Switzerland	Death penalty	not impl.	page 16
117	Switzerland	Detention conditions, Sexual Orientation and Gender Identity	not impl.	page 17
71	Turkey	International instruments, Rights of the Child	not impl.	page 12
23	United Kingdom	Torture and other CID treatment	not impl.	page 14
29	United Kingdom	Women's rights	partially impl.	page 23
41	United Kingdom	Freedom of association and peaceful assembly, Freedom of opinion and expression, Freedom of the press	fully impl.	page 7
112	United Kingdom	Sexual Orientation and Gender Identity	not impl.	page 17
115	United States	Sexual Orientation and Gender Identity	not impl.	page 17
14	Zimbabwe	Human rights education and training	fully impl.	page 8

3. Feedbacks on recommendations

CP Rights

Recommendation n°39: *Ensure that freedom of religion and of religious practice continue to be guaranteed to all citizens, as the country's Constitution provides (Recommended by Holy See)*

IRI: *fully implemented*

Centre for Human Rights and Rehabilitation (CHRR) response:

This is really being respected

Tandem Project (TP) response:

[...] Faith-based organizations continued to play a vital role in the country's political, economic, and social development. For example, the Interfaith Public Affairs Committee, the Muslim Association of Malawi, and the Catholic Commission for Justice and Peace worked on human rights and good governance issues, and implemented civic education programs. In addition, the Christian Health Association of Malawi played a major role in health care, operating 37-40 percent of the health care services throughout the country and 80 percent of health services in hard-to-staff areas. At the nexus of health and human rights, the Malawi Network of Religious Leaders Living with or Affected by HIV and AIDS (Manerela+) continued its work advocating for access to health services and a reduction in HIV/AIDS stigmatization. U.S. State Department 2011 Religious Freedom Report

Recommendation n°40: *Take the steps necessary to ensure that laws protecting freedoms of expression, press, assembly and association are implemented and adhered to (Recommended by Norway)*

IRI: *fully implemented*

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Recommendation n°41: *Ensure the relevant constitutional provisions relating to freedom of the press are properly implemented and adhered to and that a free press, freedom of speech and assembly are allowed to thrive without undue interference (Recommended by United Kingdom)*

IRI: *fully implemented*

CHRR response:

The Joyce Banda leadership is really respecting this and it immediately repealed the laws Bingu wa Mutharika administration adopted which were seriously violating the above freedoms.

ESC Rights

Recommendation n^o7: *Strengthen efforts to implement the socio-economic development strategy for the period until 2020* (Recommended by Algeria)

IRI: *fully implemented*

CHRR response:

Government is currently implementing an economic recovery plan, an initiative supported by the International Monetary Fund.

Recommendation n^o9: *Strengthen the use of modern means of awareness-raising and dissemination with regard to a culture of human rights, notably the rights of vulnerable groups, and the role of institutions for the protection and promotion of human rights* (Recommended by Morocco)

IRI: *partially implemented*

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Recommendation n^o14: *Consider consolidating the gains on human rights promotion and protection through the public awareness programme* (Recommended by Zimbabwe)

IRI: *fully implemented*

CHRR response:

The Government is mainstreaming human rights in education, enhancing human rights advocacy especially on international days on human rights and gender and translating and dissemination of some human rights messages to the rural masses. The Government has put in place a law on people with disabilities.

Recommendation n^o45: *Continue implementing socio-economic development strategies and plans designed to reduce poverty* (Recommended by Cuba)

IRI: *fully implemented*

CHRR response:

Malawi continues to implement such policies including the economic recovery plan

Recommendation n^o46: *Take the measures necessary for the implementation of the MDGs, including the strategy paper for poverty eradication and the Malawi strategy for economic development* (Recommended by Libya)

IRI: *partially implemented*

CHRR response:

efforts are underway in the implementation of this

Recommendation n^o47: *Continue to fight poverty with cooperation from the international community* (Recommended by Bangladesh)

IRI: *partially implemented*

CHRR response:

There is commitment to this by the current administration

Recommendation n^o48: *Undertake more effective measures to ensure the accessibility of crucial public services such as education, health care and social*



benefits to the population living in rural areas, in particular rural women and children
(Recommended by *Malaysia*)

IRI: *fully implemented*

CHRR response:

The government is really struggling on this especially now that the economy is on the road of recovery

Recommendation n°51: *Adopt a school feeding programme and integrate it with local agricultural production* (Recommended by *Brazil*)

IRI: *partially implemented*

CHRR response:

this is being implemented

Recommendation n°53: *Improve conditions in hospitals in order to ensure the provision of appropriate health-care services* (Recommended by *Libya*)

IRI: *not implemented*

CHRR response:

very slow due to lack of resources

Recommendation n°56: *Strengthen efforts aimed at eliminating HIV-AIDS, and cooperate with WHO in this regard* (Recommended by *Libya*)

IRI: *fully implemented*

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Recommendation n°57: *Continue to fight HIV-AIDS with the support of the international community* (Recommended by *Bangladesh*)

IRI: *fully implemented*

CHRR response:

Being seriously implemented.

Recommendation n°58: *Continue efforts to promote human rights, particularly in the areas of education and professional training* (Recommended by *Morocco*)

IRI: *not implemented*

CHRR response:

very limited at the moment

Recommendation n°59: *Integrate human rights concepts into the curricula for university education* (Recommended by *Libya*)

IRI: *not implemented*

CHRR response:

Not yet only law students and little of arts students

Recommendation n°60: *Make education one of its top priorities, and reinforce - equitable access to higher education - based on academic and educational standards* (Recommended by *Holy See*)

IRI: *not implemented*

CHRR response:

not yet



Recommendation n°61: *Consider promoting and strengthening vocational education and training opportunities to reduce the high number of school dropouts* (Recommended by *Mauritius*)

IRI: *partially implemented*

CHRR response:

It is being implemented though at a low scale

Recommendation n°63: *Seek international assistance in order to address the challenges of extreme poverty and HIV-AIDS, in particular to ensure the supply of antiretroviral drugs* (Recommended by *Egypt*)

IRI: *fully implemented*

CHRR response:

The current leadership is seriously doing this

Recommendation n°123: *Make primary education compulsory, in conformity with article 28 of the Convention on the Rights of the Child* (Recommended by *Mexico*)

IRI: *partially implemented*

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Recommendation n°124: *Strengthen the education system by making it mandatory and free of cost* (Recommended by *Hungary*)

IRI: *partially implemented*

Recommendation n°126: *Take all necessary measures for the realization of effective compulsory and free-of-cost primary education for all* (Recommended by *Italy*)

IRI: *partially implemented*

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Recommendation n°127: *Continue efforts to ensure that all children finish primary school and make primary education compulsory* (Recommended by *Austria*)

IRI: *fully implemented*

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Recommendation n°128: *Consider making primary education compulsory, in accordance with article 28 of the Convention on the Rights of the Child* (Recommended by *Mauritius*)

IRI: *partially implemented*

CHRR response:

The state has not yet made a legislation or policy to declare primary education compulsory though the fact that primary education in Malawi is still free. However, the current leadership has tried to make some strides in this regard, the government took the bill to parliament proposing for compulsory education but it was rejected by the opposition requesting government to review the bill further.



International Instruments

Recommendation n°64: *To call on Malawi to appeal to the international community to fully understand the many challenges faced by the Government of Malawi and consequently provide the necessary technical assistance (Recommended by Sudan)*

IRI: *fully implemented*

CHRR response:

The current government is seriously doing this

Recommendation n°66: *Consolidate the legal framework for the promotion and protection of human rights, through the ratification of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Recommended by Algeria)*

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°67: *Sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance, as well as the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Recommended by France)*

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°68: *Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Recommended by Azerbaijan)*

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°69: *Consider ratifying all outstanding international human rights instruments, and update domestic legislation to bring it into line with their provisions (Recommended by South Africa)*

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°70: *Consider ratifying the Convention on the Prevention and Punishment of the Crime of Genocide (Recommended by Brazil)*

IRI: *not implemented*

CHRR response:

not yet



Recommendation n°71: *Expedite the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict* (Recommended by Turkey)

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°72: *Ratify the Second Optional Protocol of the ICCPR with a view to fully abolishing capital punishment* (Recommended by Italy)

IRI: *not implemented*

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Recommendation n°77: *Ratify the Second Optional Protocol to the ICCPR* (Recommended by Switzerland)

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°73: *Adhere to the following international instruments: the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and the Optional Protocol to CEDAW* (Recommended by Argentina)

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°74: *Adhere to the following international instruments: the Second Optional Protocol to the International Covenant on Civil and Political Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Optional Protocol to the Convention on the Rights of Persons with Disabilities, and the International Convention for the Protection of All Persons from Enforced Disappearance* (Recommended by Argentina)

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°75: *Sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance* (Recommended by Spain)

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°76: *Sign and ratify the Optional Protocol to the Convention against Torture, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Rights of Persons with Disabilities, and ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women* (Recommended by Spain)

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°78: *Pursue efforts to harmonize national legislation with the commitments undertaken at the international level* (Recommended by Algeria)

IRI: *not implemented*

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Recommendation n°79: *Ensure that domestic laws are in conformity with international human rights obligations* (Recommended by Australia)

IRI: *not implemented*

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Recommendation n°80: *Harmonize national laws with international treaties to which Malawi has acceded* (Recommended by Libya)

IRI: *not implemented*

+

Recommendation n°81: *Ensure that all human rights treaties are given full legal effect in domestic laws* (Recommended by Norway)

IRI: *not implemented*CHRR response:

not yet

Recommendation n°87: *Consider extending a standing invitation to all special procedures of the Human Rights Council* (Recommended by Latvia)

IRI: *not implemented*CHRR response:

not yet

Justice

Recommendation n°2: *Adopt and implement expeditiously the Prisons Bill and Legal Aid Bill and other measures needed towards humanization of its penitentiary system* (Recommended by Slovakia)

IRI: *partially implemented*

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Recommendation n°3: *Enact the Legal Education and Legal Practitioners Amendment Bill and the Legal Aid Bill currently pending before Parliament* (Recommended by Austria)

IRI: *partially implemented*CHRR response:

The prison bill has not yet been passed into law. However the legal aid bill was enacted into law but it has not been implemented giving resource constraints as an excuse.



Open Society Justice Initiative (OSJI) response:

In April 2011, the late President Mutharika signed the Legal Aid Act into law. However, it has yet to be given a 'commencement order' by the Minister of Justice and Constitutional Affairs and the Act's implementation is therefore still pending. It is also worth noting that the adopted Legal Aid Act contains provisions regarding cooperation agreements with civil society organizations for the provision of legal aid that places the responsibility for funding activities under such agreements on the civil society organizations. This is regrettable as most, if not all, not-for-profit civil society groups do not have the financial resources to subsidize the provision of legal assistance in Malawi.

With regard to the adoption of the Prison Bill, very limited progress has been made. The draft Bill languished until 2012, when publicity about abhorrent prison conditions provided an impetus to revive the law reform process. The Malawian Law Commission is presently developing a new Prison Act drawing on, inter alia, the 2003 draft Prison Bill.

Recommendation n°21: Adopt and implement appropriate measures, in compliance with international standards, to eliminate reported torture, ill-treatment and other excessive force by law enforcement personnel against suspects, and ensure due accountability for such misconduct, as stipulated in the country's Constitution, and promptly establish the Police Complaint Commission, as provided in the Police Act (Recommended by Slovakia)

IRI: not implemented

CHRR response:

Not much has been done to eliminate torture and the police complaints commission is not yet put in place

Recommendation n°22: Take all necessary measures towards upholding the total prohibition against torture and, in this regard, conduct thorough and impartial investigations into all allegations of torture and physical abuse and bring to justice anyone suspected of having committed excessive use of force, torture and other human rights violations (Recommended by Sweden)

IRI: not implemented

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Recommendation n°23: Develop and adopt measures to prevent, prosecute and punish acts of torture and ill-treatment of prisoners or criminal suspects (Recommended by United Kingdom)

IRI: not implemented

CHRR response:

not yet

Recommendation n°24: Intensify its work on improving prison conditions and bring them fully into line with international standards (Recommended by Sweden)

IRI: not implemented

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Recommendation n°25: *Ensure that legislative measures are taken in order to improve the protection of the human rights of inmates and detainees, including passing the Malawi Prison Bill into law* (Recommended by Norway)

IRI: *not implemented*

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Recommendation n°26: *Take measures to significantly improve prison conditions such as overcrowding, substandard sanitation and poor health facilities* (Recommended by Austria)

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°31: *Address the legal gaps in national legislation on human trafficking and ensure that cases of trafficking are investigated effectively at the earliest possible date with a view to bringing to justice those responsible, and ensure that victims benefit from full reparation* (Recommended by Switzerland)

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°32: *Include the effective prosecution and punishment of traffickers in legislation* (Recommended by Slovenia)

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°38: *Ensure that no one is detained for long periods without trial* (Recommended by Ireland)

IRI: *not implemented*

CHRR response:

Nothing substantial has been done.

Recommendation n°95: *Continue to implement its national laws in accordance with the universally agreed human rights norms and principles* (Recommended by Egypt)

IRI: *fully implemented*

CHRR response:

Recently, Malawi government under the leadership of Joyce Banda has demonstrated this by repealing all the undemocratic laws which were passed during the leadership of Bingu wa Mutharika e.g the law on stopping citizens to seek court injunction against the government, the law to give power to the minister of information to ban media house which are deemed against government. Further to this government's (President Joyce Banda) pronouncement that it was willing to repeal the sodomy laws in Malawi.

Recommendation n°102: *Proceed to a de jure moratorium on the death penalty at the earliest possible date, with a view to its final abolition and, in this regard, sign and*



ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (Recommended by Spain)

IRI: *not implemented*

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Recommendation n°103: Abolish the death penalty (Recommended by Switzerland)

IRI: *not implemented*

CHRR response:

The death penalty is still intact in the laws of Malawi, however, since the the birth of democracy in Malawi no person has ever been put to death. There are many positive steps that have been taken by Malawi in implementing the right to life. However, there are still some concerns with respect to this right. The case of Francis Kafantayeni vs The Attorney General is very clear on the unconstitutionality of death penalty. In that case, the High Court ordered that all murder convicts should be re-sentenced. As at now, none of the murder convicts have been re-sentenced. This matter is of great concern because it means that all the current sentences are unlawful and the State Party cannot continue holding onto convicts illegally and violate their right to fair trial as guaranteed in its Constitution.

SOGI

Recommendation n°91: Completely overhaul the legal system to ensure the compliance of the Constitution and all other domestic legislation with international human rights obligations and standards and, in this regard, amend and-or derogate all legal provisions, including customary law, which result in discrimination, especially on the basis of sexual orientation (Recommended by Mexico)

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°107: Put in place a moratorium on convictions for same-sex relationships and, over time, decriminalize homosexuality in order to fully apply the principle of equality and non-discrimination among all persons (Recommended by France)

IRI: *not implemented*

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Recommendation n°108: Put in place effective measures to prevent discrimination, prosecution and punishment on the basis of sexual orientation or gender identity (Recommended by Canada)

IRI: *not implemented*

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Recommendation n°109: Reform the penal code and abolish discrimination against people based on their sexual orientation (Recommended by Germany)

IRI: *not implemented*

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Recommendation n^o110: *Fulfil its obligations under international human rights law and review its national legislation, as a matter of urgency, to decriminalize same-sex relationships and prohibit discrimination on any grounds, including sexual orientation* (Recommended by Sweden)

IRI: *not implemented*

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Recommendation n^o111: *Repeal legislation discriminating against individuals on the basis of their sexual orientation or gender identity* (Recommended by Australia)

IRI: *not implemented*

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Recommendation n^o112: *Review penal code provisions that discriminate against individuals on the basis of sexual orientation or gender identity, in order to ensure an end to hostility or violence against such groups* (Recommended by United Kingdom)

IRI: *not implemented*

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Recommendation n^o113: *Review national legislation with the aim of decriminalizing homosexuality between consenting adults and prohibiting discrimination on the grounds of sexual orientation and gender identity* (Recommended by Italy)

IRI: *not implemented*

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Recommendation n^o114: *Repeal legislation criminalizing homosexuality and introduce policies aimed at ending discrimination against LGBT people* (Recommended by Austria)

IRI: *not implemented*

+

Recommendation n^o115: *Decriminalize homosexual activity* (Recommended by United States)

IRI: *not implemented*

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Recommendation n^o116: *Derogate legislation that criminalizes same-sex activities between consenting adults and adopt measures to combat incitement to hatred for reasons of sexual orientation or gender identity, and allow the registration of NGOs that defend matters of sexual orientation and gender identity without discrimination* (Recommended by Spain)

IRI: *not implemented*

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Recommendation n^o117: *Review domestic legislation with a view to decriminalizing homosexual relations and prohibiting all forms of discrimination, in compliance with Malawi's international commitments. Release immediately and unconditionally all persons currently deprived of their liberty only for this reason* (Recommended by Switzerland)

IRI: *not implemented*

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Recommendation n^o118: *Renew its efforts to combat ongoing discrimination on a de facto and de jure basis concerning sexual orientation, and decriminalize same-sex relations* (Recommended by Luxembourg)

IRI: *not implemented*

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Recommendation n°119: *Decriminalize same-sex relations* (Recommended by Ireland)

IRI: *not implemented*

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Recommendation n°129: *On the question of the rights of sexual minorities, review laws in order to ensure that legislation is brought into line with international human rights norms* (Recommended by Norway)

IRI: *not implemented*

CHRR response:

Not yet reviewed but unlike the previous leadership the current leadership has expressed some good will towards this by encouraging its citizens to have debates and advocacy on the issues so that citizens should understand the issues to make informed decisions as a nation. During her maiden Speech the president made a pronouncement that as a leadership was willing to repeal these oppressive and discriminatory laws. Also during one of the public debates on sexual minority rights organised by Centre for Human Rights and Rehabilitation (CHRR) and Centre for the Development of People (CEDEP) the two leading institutions championing LGBTI rights in Malawi, the current Minister of Justice who then was also the Attorney General announced a moratorium on the sexual minority oppressive laws. Recently the department of nutrition and HIV/AIDS under the office of the President and Cabinet launched a research study which was conducted on the impact of the current legal environment on the spread of HIV/AIDS. The report strongly recommended for the decriminalisation of the sodomy laws which according to the recommendations of the report are contributing to further spread of the pandemic. However, up to date the government is not doing enough to leave up to its promises.

Women & Children

Recommendation n°1: *Expedite the repeal and reform of discriminatory legislation, with a focus on the adoption of outstanding bills, particularly those affecting women and children* (Recommended by Canada)

IRI: *not implemented*

CHRR response:

Section 9 of the Citizenship Act is still the same and clearly discriminates against women on the basis of their marital status when it provides that a citizen of Malawi, being a woman, who acquires by marriage the citizenship of some country other than Malawi shall cease on the first anniversary of the date of that marriage to be a citizen of Malawi. This does not happen to male citizens of Malawi who acquire by marriage the citizenship of some other country other than Malawi. [...]

Canadian HIV/AIDS Legal Network (CHLN) response:

In Malawi, section 24 of the Constitution of the Republic of Malawi provides that on the dissolution of marriage (either through divorce or the death of one spouse), women are entitled to property that is “held jointly” with her husband. However, the prevailing interpretation of Section 17 of the Married Women Property Act, 1882 only



considers property to be held “jointly” if a monetary contribution has been made to its acquisition.

Because women more often than men make non-monetary contributions to property and perform household and reproductive labour, husbands can more often claim ownership of the assets that they personally purchased. Women are consequently deprived of marital property upon marriage dissolution. Article 16(1)(h) of CEDAW requires States to ensure that both spouses enjoy the same rights with respect to the ownership, acquisition, management, administration, enjoyment and disposition of property. According to the CEDAW Committee, “any law or custom that grants men a greater share of property at the end of marriage or de facto relationship ... is discriminatory and will have a serious impact on a woman’s practical ability to divorce her husband.” Accordingly, the CEDAW Committee has recommended that “[f]inancial and non-financial contributions [of women in marriage] should be accorded the same weight.” In 2009, WLSA-Malawi launched a constitutional challenge to this approach to marital property laws before the Constitutional Court of Malawi. While the case was heard in part in 2010, the court has yet to render a judgment, despite court rules that require it to do so within 30 days and repeated reminders through the office of the Registrar.

World Vision International (WVI) response:

Malawi Government has passed the Gender Equality Bill this year. The Wills, Inheritance and Gender Equality Bill was passed in 2011. [...]

Recommendation n^o4: Make every effort to ensure that the Deceased Estates Bill and the Marriage, Divorce and Family Relations Bills, particularly in relation to the rights of women, enter into force as soon as possible (Recommended by Ireland)

IRI: partially implemented

CHRR response:

Only the wills and inheritance and administration of deceased estate was passed in to law.

WVI response:

Wills, Inheritance and Protection Bill passed in 2011 into an Act; But the Marriage, Divorce and Family Relations Bill is yet to be finalised;

Recommendation n^o11: Finalize and implement the draft National Action Plan for Children, and put in place effective national legislation and policies to protect the rights of children (Recommended by Australia)

IRI: partially implemented

CHRR response:

In 2011 Malawi passed the child care, protection and justice act and they are developing a costed implementation plan for the same [issues].

WVI response:

Currently Malawi Government and stakeholders with support of UNICEF are developing a Costed Implementation Plan for the Child Care, Protection and Justice Act (2010); Rules, regulations and guidelines for the smooth implementation of the



Act have been drafted and review process is currently underway. Plans underway to develop a child policy and task force in place to spearhead process.

Recommendation n°12: *Pay particular attention to the rights of the child, especially in combating trafficking and exploitation (Recommended by Egypt)*

IRI: fully implemented

CHRR response:

Section 79 of the child protection and justice act the new act is addressing child trafficking but the trafficking bill is still in draft form

WVI response:

Development of Anti-Trafficking in Persons Bill underway; However, section 79 of the Child Care, Protection and Justice Act 2010 provides for child trafficking: 79)

(1) stipulates: A person who takes part in any transaction the object or one of the objects of which is child trafficking commits an offence and shall be liable to imprisonment for life.

(2) For the purposes of this section, child trafficking means the recruitment, transaction, transfer, harbouring or receipt of a child for the purposes of exploitation.

Nonetheless there is need for ensuring that the full law on anti-trafficking in persons is finalised

Foundation for Marist International Solidarity (FMSI) response:

The Government is successfully implementing Child protection programmes in the country, however there is a need for coordinating overall comprehensive system. In 2010 the Malawi parliament passed the Child Care, Protection and Justice Act (CCPJA) constituting the backbone of the New normative framework for child protection.

Recommendation n°17: *Follow-up on the recommendations of CEDAW, by renewing national efforts for gender equality, including through educational and sensitization campaigns (Recommended by Mexico)*

IRI: fully implemented

CHRR response:

The government through the parliament have passed the gender equality bill into law, passes the wills and inheritance bill into law in 2012, have trained prosecutors, magistrates, and judges in gender related laws. Intensification of media campaign on various gender issues.

WVI response:

Gender Equality Bill enacted (2013); Government is also working with stakeholders in undertaking advocacy and campaigns organised on the need for inclusion, including male involvement in reducing Gender Based Violence; formation of men to men groups on Gender Based Violence; national response to gender based violence led to higher number of survivors reporting incidences



Recommendation n°18: *Implement further policies to ensure gender equality throughout society and the promotion of the rights of women and children (Recommended by South Africa)*

IRI: *fully implemented*

CHRR response:

The passing of the two legislation on gender and children in 2013 and 2011 respectively.

WVI response:

New Act - Gender Equality Act (2013) recently passed; National Gender Policy and Programme are under review and a gender sector wide approach (SWAp) is being developed.; The National Land Policy; The Re-admission Policy which has brought back teen mothers to schools); Malawi has made effort to domesticate international instruments to promote gender equality and women's empowerment through the Malawi Constitution under the Bill of Rights, Chapter 4, section 24. In addition, there is the Prevention of Domestic Violence law of 2006, the Child Justice and Protection Act of 2010, and the Deceased Estates (Wills, Inheritance and Protection) Act of 2011 which seek to promote the rights of women and children. 34 Child Justice Magistrates, 37 Probation Officers, 39 Prosecutors and 34 Court Clerks were trained in child justice system to strengthen the provision of the judicial services in all the Magistrates Courts in the country over the past two years. Two child friendly courts are operational in two major cities of Blantyre and Zomba

Recommendation n°19: *Take measures, including through legislation, to ensure equality of women, particularly in decision-making processes and access to basic services and infrastructure (Recommended by Australia)*

IRI: *partially implemented*

CHRR response:

promotion of 50/50 representation of women in decision-making position

CHLN response:

In Malawi, section 24 of the Constitution of the Republic of Malawi provides that on the dissolution of marriage (either through divorce or the death of one spouse), women are entitled to property that is “held jointly” with her husband. However, the prevailing interpretation of Section 17 of the Married Women Property Act, 1882 only considers property to be held “jointly” if a monetary contribution has been made to its acquisition.

Because women more often than men make non-monetary contributions to property and perform household and reproductive labour, husbands can more often claim ownership of the assets that they personally purchased. Women are consequently deprived of marital property upon marriage dissolution. Article 16(1)(h) of CEDAW requires States to ensure that both spouses enjoy the same rights with respect to the ownership, acquisition, management, administration, enjoyment and disposition of property. According to the CEDAW Committee, “any law or custom that grants men a greater share of property at the end of marriage or de facto relationship ... is discriminatory and will have a serious impact on a woman’s practical ability to divorce her husband.” Accordingly, the CEDAW Committee has recommended that



“[f]inancial and non-financial contributions [of women in marriage] should be accorded the same weight.” In 2009, WLSA-Malawi launched a constitutional challenge to this approach to marital property laws before the Constitutional Court of Malawi. While the case was heard in part in 2010, the court has yet to render a judgment, despite court rules that require it to do so within 30 days and repeated reminders through the office of the Registrar.

WVI response:

There has been development and implementation of programmes aimed at increasing the participation of women in politics and decision making; the 2013 Gender Equality Act has provisions for affirmative action; ahead of the 2014 tripartite elections, government is implementing the 50-50 campaign in order to increase the number of women in politics.

Recommendation n°20: Amend or derogate legislation that discriminates against women, and adopt measures to expedite the enactment of outstanding bills in this regard, such as the Gender Equality Bill, the Deceased Estates - Wills, Inheritance and Protections - Bill and the Marriage, Divorce and Family Relations Bill (Recommended by Spain)

IRI: partially implemented

CHRR response:

The marriage act has not yet been amended, section 9 is still discriminatory to women where they lose nationality when married to a foreigner

CHLN response:

In Malawi, section 24 of the Constitution of the Republic of Malawi provides that on the dissolution of marriage (either through divorce or the death of one spouse), women are entitled to property that is “held jointly” with her husband. However, the prevailing interpretation of Section 17 of the Married Women Property Act, 1882 only considers property to be held “jointly” if a monetary contribution has been made to its acquisition.

Because women more often than men make non-monetary contributions to property and perform household and reproductive labour, husbands can more often claim ownership of the assets that they personally purchased. Women are consequently deprived of marital property upon marriage dissolution. Article 16(1)(h) of CEDAW requires States to ensure that both spouses enjoy the same rights with respect to the ownership, acquisition, management, administration, enjoyment and disposition of property. According to the CEDAW Committee, “any law or custom that grants men a greater share of property at the end of marriage or de facto relationship ... is discriminatory and will have a serious impact on a woman’s practical ability to divorce her husband.” Accordingly, the CEDAW Committee has recommended that “[f]inancial and non-financial contributions [of women in marriage] should be accorded the same weight.” In 2009, WLSA-Malawi launched a constitutional challenge to this approach to marital property laws before the Constitutional Court of Malawi. While the case was heard in part in 2010, the court has yet to render a judgment, despite court rules that require it to do so within 30 days and repeated reminders through the office of the Registrar.



WVI response:

The 2013 Gender Equality Act has provisions for affirmative action; the Deceased Estates - Wills, Inheritance and Protection Bill was passed in 2011, and serves to offer protection for women from property grabbing; Re-admission policy has brought teenage mothers back to school. Enforcement of the laws is critical as is public awareness of the same.

Recommendation n°27: Conduct a public awareness campaign, with engagement at the highest political levels, to strengthen the implementation of the 2006 Prevention of Domestic Violence Act, and highlight the unacceptability of violence against women and address the attitudes and stereotypes that perpetuate discriminatory practices that are harmful and violent towards women (Recommended by Canada)

IRI: -

CHRR response:

the new law on women is partly tackling this.

WVI response:

120 prosecutors, magistrates and social workers were trained in gender related laws in 2012. [...]

Recommendation n°28: Undertake more effective measures to address the problems of impunity and violence against women and girls, including through the strengthening of law enforcement and the judicial system and intensive media and education programmes aimed at increasing public awareness and sensitivities on the rights of women (Recommended by Malaysia)

IRI: *partially implemented*

CHRR response:

the two new laws on women and children are addressing this

WVI response:

Malawi has Victim Support Units in 34 police stations, 13 police posts and 200 Support Units in 300 Traditional Authority institutions . Malawi has also established 20 One Stop Centres in the central and district hospitals and 4 of them are operational. The Government is also working on a multi-sectoral approach which has enabled Malawi to work with "Men for Gender Equality Now" an NGO which has been conducting travelling conferences in collaboration with their regional counterparts. There are indications that on an annual basis, the NGO reaches 1.5 million people while their multi- media campaign reaches over 6 million people. This has resulted in a number of successes including increased reporting of cases on GBV.

However, financial constraints and slow mindset change are among the key issues mentioned for slow progress made in ensuring that GBV is reduced. Public awareness programmes therefore need to continue to ensure attitude change.

Recommendation n°29: Develop and adopt measures to tackle gender-based violence by increasing women's access to justice and widening coverage of



community policy and victim support units in rural areas (Recommended by United Kingdom)

IRI: *partially implemented*

CHRR response:

Government is implementing a number of programmes to address this such as the gender equality and women empowerment programme

WVI response:

Currently, Malawi has a total of Victim Support Units in 34 police stations, 13 police posts and 200 Support Units in 300 Traditional Authority institutions. Malawi has also established 20 One Stop Centres in the central and district hospitals and 4 of them are operational. There is need to operationalise the rest of the One Stop Centres, continue investing in capacity as well as allocating adequate resources e.g. finances for effective programming.

Recommendation n°30: Strengthen efforts to address violence against women and protection for victims (Recommended by Bangladesh)

IRI: *fully implemented*

CHRR response:

Government is implementing a number of programmes to address this such as the gender equality and women empowerment programme

WVI response:

Enactment of the Prevention of Domestic Violence Act of 2006; establishment of drop-in centre facilities - social rehabilitation centres; and one stop centres; Establishments of Police Victim Support Units up to community level; Government is also working on enhancing advocacy which has led to increased reporting of Gender Based Violence incidences.

However, there has been slow progress made due to the slow pace in changing culture and therefore there is continued need for strengthening efforts currently being made to address GBV..

Recommendation n°33: Adopt practical measures to counteract any form of child labour and human trafficking that stunts and deeply wounds the innate dignity of children (Recommended by Holy See)

IRI: *partially implemented*

CHRR response:

The new law on children is addressing this.

WVI response:

There is a national plan of action on child labour whose objectives are to: The goal of the National Action Plan is to eliminate the worst forms of child labour by 2016 through the following strategic objectives:

1. Create a conducive legal and policy environment by mainstreaming child labour issues in national and sectoral social and economic policies, legislation, and programmes by 2014.



2. Build and strengthen the technical, institutional, and human resource capacity of stakeholders dealing with child labour elimination.
3. Directly combat child labour through the prevention, withdrawal, rehabilitation, and re-integration of working children and their families.
4. Improve the knowledge base on child labour for informed policy and programme development. Malawi has also a gazetted List of Hazardous work aimed at protecting children from child labour. However, there is need to finalise child labour policy; prioritise certain measures including improving education services; enhancing awareness on child labour; strengthening data management for decision-making; enhancing programmes aimed at supporting children that have been withdrawn from child labour and those that are at risk of child labour. There is also need for continued advocacy to address the root causes of poverty; programmes aimed at mitigating the impact of HIV and AIDS among others.

On trafficking, while section 79 of the Child Care, Protection and Justice Act provides measures for handling cases on child trafficking - there is urgent need to expedite the work currently being undertaken on developing the Anti-Trafficking in Persons bill. Public awareness on the issue needs to continue as well as capacity building for local structures. There is also need to pay more attention on internal forms of trafficking.

FMSI response:

The Government is successfully implementing Child protection programmes in the country, however there is a need for coordinating overall comprehensive system. In 2010 the Malawi parliament passed the Child Care, Protection and Justice Act (CCPJA) constituting the backbone of the New normative framework for child protection.

Law enforcement is still a challenge in Malawi and this is due to scarce material and human resources. Nevertheless there are a variety of coordinating mechanism such as National Plan of Action on orphans and other vulnerable children, others are based upon child protection issues like child labour and child trafficking.

Recommendation n°36: *Take measures to guarantee effective access for women victims of gender-based violence to justice, reparation and to rehabilitation* (Recommended by *Brazil*)

IRI: *partially implemented*

WVI response:

Enactment of the Prevention of Domestic Violence Act of 2006; establishment of drop-in centre facilities - social rehabilitation centres; and one stop centres; Establishments of Police Victim Support Units up to community level; Government is also working on enhancing advocacy which has led to increased reporting of Gender Based Violence (GBV) incidences.

However, there has been slow progress made due to the slow pace in changing culture and therefore there is continued need for strengthening efforts currently being made to address GBV.



Recommendation n°37: *Actively implement existing legislation and strategies on violence against children and arrange an adequate juvenile justice system, with emphasis on raising the minimum age of criminal responsibility (Recommended by Slovenia)*

IRI: *partially implemented*

CHRR response:

The new law on children is addressing this though the age of crime responsibility has not yet been reviewed

WVI response:

Currently Malawi Government and stakeholders with support of UNICEF has developed a Costed Implementation Plan for the Child Care, Protection and Justice Act (2010); Most of the last two years, a number of initiatives have undertaken: Rules, regulations and guidelines for the smooth implementation of the Act have been drafted and review process is currently underway. Plans are underway to develop a child policy and task force in place to spearhead process.

However, there is need for public awareness on the law; capacity building for the law enforcers; strong collaboration among all key government stakeholders and CSOs.

Recommendation n°42: *Ensure that rural women participate in the decision-making process and have equal access to health services at the primary care level (Recommended by Luxembourg)*

IRI: *partially implemented*

WVI response:

Government in collaboration with stakeholders is implementing empowerment programmes. This includes the 50 -50 campaign aimed at increasing the number of women in political decision-making ahead of the country's 2014 tripartite elections.

There is however need for development of a firm strategy on enhancing women's political participation; strong capacity building process for women aspirants; strong linkages between such a strategy and electoral system.

Recommendation n°43: *Strengthen efforts aimed at increasing the representation of women in decision-making processes (Recommended by Ghana)*

IRI: -

WVI response:

[...]

Recommendation n°44: *Strengthen efforts to combat poverty, discrimination and the promotion of the status of women and children (Recommended by Morocco)*

IRI: *partially implemented*

CHRR response:

50/50 campaign for women representation on leadership positions and other women empowerment programmes on the ground by government.

CHLN response:

In Malawi, section 24 of the Constitution of the Republic of Malawi provides that on the dissolution of marriage (either through divorce or the death of one spouse), women are entitled to property that is “held jointly” with her husband. However, the prevailing interpretation of Section 17 of the Married Women Property Act, 1882 only considers property to be held “jointly” if a monetary contribution has been made to its acquisition.

Because women more often than men make non-monetary contributions to property and perform household and reproductive labour, husbands can more often claim ownership of the assets that they personally purchased. Women are consequently deprived of marital property upon marriage dissolution. Article 16(1)(h) of CEDAW requires States to ensure that both spouses enjoy the same rights with respect to the ownership, acquisition, management, administration, enjoyment and disposition of property. According to the CEDAW Committee, “any law or custom that grants men a greater share of property at the end of marriage or de facto relationship ... is discriminatory and will have a serious impact on a woman’s practical ability to divorce her husband.” Accordingly, the CEDAW Committee has recommended that “[f]inancial and non-financial contributions [of women in marriage] should be accorded the same weight.” In 2009, WLSA-Malawi launched a constitutional challenge to this approach to marital property laws before the Constitutional Court of Malawi. While the case was heard in part in 2010, the court has yet to render a judgment, despite court rules that require it to do so within 30 days and repeated reminders through the office of the Registrar.

WVI response:

The Government is implementing social cash transfer programmes that currently reaches about 7 districts as one way of addressing poverty; also annually provides farm input subsidy programmes targets the most vulnerable households; there are also women economic empowerment programmes. women in small and medium size businesses are linked to financial lending institutions. Almost 80 women have been trained. However, stereotyping hamper men's full support for women participation in such empowerment programmes, inadequate financial resources lead to lower number of women participating. Women empowerment programmes have to run on long term for effective empowerment. Currently, hard economic situation since the last two years or so, including the devaluation of the local currency since May 2012 has increased the impact of poverty especially for the rural masses with inflation currently at approximately 35%. This has led to increased fuel prices and prices of basic commodities.

Recommendation n^o54: *Pay attention to maternal and child health, and reduce child mortality* (Recommended by *Libya*)

IRI: *partially implemented*

CHRR response:

being seriously implemented

WVI response:

Maternal mortality rate is currently at 675/100,000 (DHS survey 2010) and Malawi is declared currently off track with regard to meeting the MDG on improving maternal health; nonetheless, the Government has made effort to accelerate implementation of safe motherhood programmes; currently, there is more involvement of traditional leaders in promoting maternal health by championing skilled birth attendance; promotion of male involvement in ante-natal attendance for expectant mothers. Malawi is also making strides with regard to child health and is quite on track to meeting the MDG on reducing child health. Among key initiatives are programmes aimed at enhancing nutrition such as Scaling Up Nutrition Campaign. Although the health sector is among the top three sectors that have enjoyed high funding, many health facilities particularly in the rural areas continue to face challenges including shortage of health personnel, poor health facilities and equipment; frequent drug stockouts; Child in Malawi continue to die due to preventable diseases including malaria, pneumonia and diarrhoea. stunting is also a key concern at 47% (DHS 2010). However, the following recommendations are made in order to improve maternal and child health:

- Improve management, supervision and support for existing health workers, including regular training, providing incentives for rural staff and ensuring a basic standard of accommodation;
- Invest in the health management information system to ensure that accurate data can be collected at local health centres, communicated and analysed to inform health sector management and reviewed at district and national levels, and that feedback loops are functional;
- Encourage greater collaboration and coordination between all stakeholders engaged in MNCH, including private health providers, parliamentarians, civil society and media;
- Ensure community engagement in planning and monitoring health services, including in local and national health sector reviews;
- Support Village Health Committees, including ensuring regular interface meetings between health workers/clinics and community members. These will help improve access to health services.

FMSI response:

The Government of Malawi is in the process of mitigating issues facing maternal, newborn and child health. Malawi has developed a National Road Map for Accelerating the Reduction of Maternal and Neonatal Mortality and Morbidity. According to World Health Organisation (WHO) the roadmap is divided into three phases: Phase 1: 2005-2008, Phase 2: 2009-2011, Phase 3: 2012-2014.

For this to be fully implemented in all the areas Malawi still needs material support as well as funds of which UNICEF is one of the supporting NGOs.

Recommendation n°55: Redouble efforts to save mother and child by pursuing the education of young girls, increasing the preparation of birth assistants and accelerating the development of public health structures, especially in rural areas (Recommended by Holy See)

IRI: partially implemented



WVI response:

Maternal mortality rate is currently at 675/100,000 and Malawi is currently declared off track with regard to meeting the MDG on improving maternal health; nonetheless, the Government has made effort to accelerate implementation of safe motherhood programmes; currently, there is more involvement of traditional leaders in promoting maternal health by championing skilled birth attendance; promotion of male involvement in ante-natal attendance for expectant mothers. Malawi is also making strides with regard to child health and is quite on track to meeting the MDG on reducing child health. Among key initiatives are programmes aimed at enhancing nutrition such as Scaling Up Nutrition Campaign. On education, the government is making strides with regard to improving the girl child education, but there are serious challenges including shortage of classrooms and school materials, lack of qualified teachers leading to high teacher pupil ratios, particularly in rural areas, inadequate water and sanitation facilities, and socio-cultural practices such as early marriage. Dropout and repetition rates are high.

However, the following recommendations are made in order to improve maternal and child health:

- Improve management, supervision and support for existing health workers, including regular training, providing incentives for rural staff and ensuring a basic standard of accommodation;
- Invest in the health management information system to ensure that accurate data can be collected at local health centres, communicated and analysed to inform health sector management and reviewed at district and national levels, and that feedback loops are functional;
- Encourage greater collaboration and coordination between all stakeholders engaged in MNCH, including private health providers, parliamentarians, civil society and media;
- Ensure community engagement in planning and monitoring health services, including in local and national health sector reviews;
- Support Village Health Committees, including ensuring regular interface meetings between health workers/clinics and community members. The Government and development partners need to pay attention to shortage of staff, drug and hospital equipment stockouts, poor health facilities.

Recommendation n^o82: *Take immediate steps to ensure that CEDAW is given full legal effect in its domestic laws (Recommended by Azerbaijan)*

IRI: *not implemented*

CHRR response:

Not yet

Recommendation n^o83: *That CEDAW be incorporated into domestic law and that efforts are also directed towards the need for the passing of all other pending bills that affect the women in Malawi (Recommended by Norway)*

IRI: *partially implemented*

CHRR response:

the CEDEW has not been incorporated as per say but the gender equality bill is currently a law

CHLN response:

[...]

Recommendation n°84: *Increase significantly, in conformity with international standards, the minimum age of criminal responsibility of children, which is currently 10 years (Recommended by Mexico)*

IRI: *not implemented*CHRR response:

not yet

Recommendation n°85: *Increase the age of minimum criminal responsibility to at least 12 years, as recommended by the CRC (Recommended by Austria)*

IRI: *not implemented*CHRR response:

not yet

Recommendation n°86: *Create a comprehensive policy to improve the rights of the child, which is essential in this situation, in parallel with the ratification of OP-CRC-AC (Recommended by Hungary)*

IRI: *not implemented*CHRR response:

not yet

Recommendation n°88: *Promote equality between men and women, and to this end reinforce its cooperation with international and regional mechanisms, especially special procedures (Recommended by France)*

IRI: *partially implemented*CHRR response:

The Government through the ministry of gender is doing a number of programmes already to ensure gender equality for example Malawi government in partnership with EU, UNFPA and CSOs in Malawi (CHRR included) is implementing a comprehensive gender Equality and women empowerment programme. Further to this the Malawi government has recently passed the gender quality bill in to law. this will go a long way in advancing this.

Recommendation n°89: *Develop and strengthen appropriate legislative measures to address the issue of sexual abuse and exploitation, ensure prompt prosecution of perpetrators, guarantee that no person under the age of 14 is admitted to employment or work, amend the Constitution to raise the minimum age for engaging in hazardous work to 18 years, and enact and implement legislation to ensure the complete prohibition of corporal punishment (Recommended by Italy)*

IRI: *not implemented*CHRR response:

The Government under the ministry of gender and children is doing a lot programmes to implement this. In 2011 the child care, protection and justice bill was passed into law. This is the law that spearheads all the issues to ensure that children are protected.



Global Initiative to End All Corporal Punishment of Children (GIEACPC) response:

The legality of corporal punishment of children has not changed since the review of Malawi in 2010: it is unlawful in public (but possibly not in private) schools, in the penal system and in state institutions under the Constitution, but it is lawful in the home and other care settings. The Child Care, Protection and Justice Act 2010 did not explicitly prohibit all corporal punishment in childrearing. A Compulsory Education Bill is under discussion: we have yet to establish whether or not the current version includes prohibition of corporal punishment in all schools.

Recommendation n°90: *Adopt the necessary measures to guarantee that, in accordance with national legislation, children under 14 years of age do not work, and amend the Constitution so as to raise to 18 years the minimum age for engaging in work that is likely to be harmful* (Recommended by Spain)

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°96: *Design policies and programmes aimed at combating harmful traditional practices, in particular female genital mutilation* (Recommended by Egypt)

IRI: *not implemented*

CHRR response:

This is not applicable in Malawi unless further research is done.

Recommendation n°98: *Repeal legislation that causes Malawian women to lose their citizenship when marrying a foreign national* (Recommended by Austria)

IRI: *not implemented*

CHRR response:

This has not yet been done! Section 9 of the Citizenship Act clearly discriminates against women on the basis of their marital status when it provides that a citizen of Malawi, being a woman, who acquires by marriage the citizenship of some country other than Malawi shall cease on the first anniversary of the date of that marriage to be a citizen of Malawi. This does not happen to male citizens of Malawi who acquire by marriage the citizenship of some other country other than Malawi. This differentiation cannot pass the limitation test under section 44(1) of the Constitution.

Recommendation n°104: *Take all necessary social, education and legal measures towards the complete elimination of female genital mutilation* (Recommended by Italy)

IRI: *not implemented*

+

Recommendation n°105: *Adopt legal measures to prohibit, sanction and effectively prevent the practice of female genital mutilation* (Recommended by Argentina)

IRI: *not implemented*

+



Recommendation n°106: *Recognize the equality of women and, if it is needed, reinforce the prohibition of female genital mutilation* (Recommended by Holy See)

IRI: *not implemented*

CHRR response:

This is not applicable in Malawi, unless further research is done!

Other

Recommendation n°5: *Comprehensively amend or repeal, as a matter of urgency, the Witchcraft Act* (Recommended by Ireland)

IRI: *not implemented*

CHRR response:

not yet

Recommendation n°6: *Continue to strengthen human rights institutions to ensure the continued promotion and protection of human rights, and raise public awareness around human rights issues nationwide* (Recommended by South Africa)

IRI: *partially implemented*

CHRR response:

The government is mainstreaming human rights in education, enhancing human rights advocacy especially on international days on human rights and gender and translating and dissemination of some human rights messages to the rural masses. The current government/leadership unlike its predecessor is giving good support to the human rights commission

Recommendation n°15: *Strengthen cooperation with regional and international human rights mechanisms, and avail itself of international technical assistance and support, as appropriate, by relevant bodies in order to mitigate the insufficiency of human and financial resources* (Recommended by Algeria)

IRI: *partially implemented*

CHRR response:

The government is now showing commitment to international human rights mechanisms i.e. submission of the ICPPR report and it will be submitting a state report before the African commission on human and peoples' rights (ACHPR). In April this year, government made the first appearance before the ACHPR.

Recommendation n°16: *Strengthen its cooperation with specialized agencies and programmes of the United Nations system, including the United Nations Population Fund, the United Nations Children's Fund, the Joint United Nations Programme on HIV-AIDS and the Office of the United Nations High Commissioner for Human Rights* (Recommended by Azerbaijan)

IRI: *fully implemented*

CHRR response:

The government is quite committed and is doing a lot of programmes with the UN agencies in the country

WVI response:

There has been increased collaboration Government and other CSOs evidenced by a number of initiatives on women and children's programmes. For instance, UNICEF has for the past two years to date been collaborating and supporting the Ministry of Gender, Children and Social Welfare in undertaking a national mapping exercise aimed at laying a good foundation for strengthening the child protection system in Malawi, building a case management system as part of the same, developing a Costed Implementation Plan of Action for the new law, Child Care, Protection and Justice Act (2010), supporting the development of rules, regulations and guidelines for the implementation of the same law - among other areas.

Recommendation n°62: *Strengthen Malawi's cooperation with the international community, in particular specialized agencies and programmes of the United Nations system, with a view to building capacity and obtaining technical assistance in crucial areas such as poverty eradication, education, health care and social security (Recommended by Malaysia)*

IRI: *fully implemented*

CHRR response:

the current leadership is seriously doing this

Recommendation n°92: *Consider revising its national legislation in order to prevent situations of statelessness (Recommended by Brazil)*

IRI: *not implemented*

CHRR response:

not yet



Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing recommendations and voluntary pledges

Stakeholders we contact are encouraged to use an Excel sheet we provide which includes all recommendations received and voluntary pledges taken by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.



UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for both recommendations received and voluntary pledges taken at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.

Uncommented recommendations

Hereby the recommendations which the MIA does not address:

rec. n°	Recommendation	SMR	Response	A	Issue
8	Continue efforts to implement the aims of the 2020 Development Plan	Libya	Accepted	2	Development
10	Continue to attach particular priority to the strengthening of national capacities, both legislative and institutional, in the area of human rights, with the support of the international community	Morocco	Accepted	2	Technical assistance
13	Consider continuing to work towards strengthening Government institutions	Zimbabwe	Accepted	3	Other
34	Continue efforts to promote access to justice, with a view to ensuring legal protection in the enjoyment of human rights by all citizens on an equal basis	Morocco	Accepted	2	Justice
35	Take measures to ensure for victims effective recourse against any act of torture, particularly those committed in detention centres	France	Accepted	4	Detention conditions, Torture and other CID treatment
49	Continue implementing programmes and measures aimed at guaranteeing educational and quality health-care services to all the population	Cuba	Accepted	2	Right to education, Right to health
50	Continue its efforts in the health sector to implement the 2020 Government vision, in order to reach the goal of free health care for all Malawians	Sudan	Accepted	2	Right to health
52	Focus on priorities set by the Government to strengthen human rights, especially agriculture and food security and the development of the green belt for irrigation and water, as well as education and technology	Libya	Accepted	4	Right to education, Right to food
65	Consider seeking assistance to build adequate capacity to develop and retain appropriate human resources to eradicate poverty	Zimbabwe	Accepted	3	Poverty, Technical assistance
93	Present the constitutive documents for the establishment of the Malawi Human Rights Commission to the International Coordination Committee of National Human Rights Institutions so that they can be disseminated and their status determined in accordance with the Paris Principles	Libya	Rejected	5	NHRI
94	Ensure that clear targets and indicators are developed with civil society in the next Growth and Development Strategy to protect and monitor human rights, particularly the rights of women and girls	Canada	Rejected	4	Civil society, Rights of the Child, Women's rights



97	Take further action towards gender equality, including a legal provision on the minimum age for marriage	Hungary	Rejected	4	Rights of the Child
99	In accordance with recommendations made by CEDAW, take all appropriate measures in order to eliminate all forms of discrimination against rural women and harmful traditional practices	Luxembourg	Rejected	4	Treaty bodies, Women's rights
100	Ensure that discriminatory laws are amended or repealed, adopt a comprehensive strategy to modify or eliminate negative cultural practices and stereotypes, and strengthen efforts to implement existing legislative measures regarding violence against women, including assistance and protection for victims	Slovenia	Rejected	4	Women's rights
101	Strengthen efforts to eliminate discrimination against girls and vulnerable groups such as children with disabilities and orphans	Bangladesh	Rejected	4	Disabilities, Rights of the Child, Women's rights
120	Adopt and implement measures to provide for independent media free from any intimidation and suppression, in accordance with its international obligations	Slovakia	Rejected	4	Freedom of the press
121	Introduce measures to ensure equal rights for women in the area of employment, in order to ensure equal pay for equal work and better enforcement of laws to protect women from discrimination	Ghana	Rejected	4	Women's rights
122	Intensify measures to address the problems of maternal mortality and unsafe abortions, reviewing punitive provisions regarding the latter	Austria	Rejected	4	Right to health, Women's rights
125	Adopt a comprehensive social security system and the HIV Bill	Hungary	Rejected	5	HIV - Aids

A= Action Category (see on [our website](#))

SMR = State making recommendation

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