



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Eighth periodic report submitted by Malawi under article 18  
of the Convention, due in 2019\***

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\* The present document is being issued without formal editing.



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## List of acronyms

Antenatal Care	ANC
Area Development Committees	ADCs
Association of Christian Educators in Malawi	ACEM
Child Care, Protection and Justice Act	CCPJA
Convention on the Elimination of Discrimination Against Women	CEDAW
Faith-Based Organisations	FBOs
Farm Input Subsidy Programme	FISP
Gender Based Violence	GBV
Gender Equality Act	GEA
Malawi Human Rights Commission	MHRC
Human Rights Commission Act	HRCA
Integrated Household Survey	IHS
International Labour Organisation	ILO
Joint Assessment Monitoring	JAM
Malawi Demographic Health Survey	MDHS
Malawi Growth and Development Strategy	MGDS III
Malawi Law Commission	MLC
Malawi Police Service	MPS
Marriage, Divorce and Family Relations Act	MDFRA
Maternal Mortality Ratio	MMR
Ministry of Education, Science and Technology	MoEST
Ministry of Gender, Children, Disability and Social Welfare	MoGCDSW
Ministry of Labour, Skills and Innovation	MoLSI
National Council for Higher Education	NCHE
National Employment and Labour policy	NELP
National Plan of Action	NPA
Paralegal Advisory Services Institute	PASI
Police Victim Supports Units	PSVUs
Prevention of Domestic Violence Act	PDVA
Social Cash Transfer Programme	SCTP
Southern African Development Community	SADC
Southern African Regional Police Chiefs Cooperation Organisation	SARPCCO
Technical Entrepreneurial and Vocational Education Training Authority	TEVETA

Technical, Entrepreneurial and Vocational Education Training	TEVET
United Nations High Commissioner for Refugees	UNHCR
United Nations Population Fund	UNFPA
Women and Law in Southern Africa	WILSA
Women Judges and Magistrate Association	WOJAM
Women Lawyers Association	WLA
Women Legal Resources Centre	WOLREC
World Food Programme	WFP
World Health Organisation	WHO

## I. Introduction

1. This is Malawi's Eighth Periodic Report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter referred to as "CEDAW" or the "Convention") 2015-2019. The Report has been prepared in accordance with Article 18 of CEDAW. The Report responds to Concluding Observations and Recommendations issued by the Committee after consideration of the Seventh Report: Progress made on implementation of CEDAW 2009-2014. The Report also gives an account of the progress made in implementing the provisions of the Convention during the period 2015-2019. The account of the progress made includes both the achievements and challenges encountered in the abovementioned implementation period.

2. The Report was compiled by the National Task Force on the Convention on the Elimination of All Forms of Discrimination Against Women. The Task Force is co-chaired by the Ministry of Justice and Constitutional Affairs and the Ministry of Gender, Children, Disability and Social Welfare (MoGCDSW). The membership of the Task Force comprises governance institutions, Government Ministries, Departments, Agencies (MDAs) and civil society organizations (CSOs). The list of members of the Task Force is attached hereto as Annex 1.

3. The Report is a product of an extensive public participation process; representing the views of various stakeholders working in the women rights' sector.

4. As a dualist State, CEDAW is not directly applicable in the courts of Malawi. However, the courts, civil society and other gender stakeholders frequently have recourse to the provisions of the CEDAW. Further, the Constitution under section 11 (2) provides that when interpreting the Constitution, courts shall, among other things, and where applicable, have regard to norms of public international law and comparable foreign case law. The reference to international treaties including the CEDAW is relevant in the development and evolution of Malawian jurisprudence.

5. The Government is highly committed to the cause for gender equality and the empowerment of women as evidenced by many policies and programmes which highlight gender as a cross-cutting issue. Through various policies and programmes, Malawi has demonstrated her commitment to work towards the reduction of gender-based inequalities and the promotion of gender equality in all areas.

6. The Committee is referred to Malawi's Core Document which provides a comprehensive narrative on the country's demographic, social and economic structure as well as the political, constitutional and legal order.

## II. Progress in Implementation of the Concluding Observations and Recommendations of the Seventh Periodic Report

### Data Collection and Analysis

7. Referring to the Committee's concluding observations (COBs) to develop a comprehensive data collection and analysis system, the system is yet to be established. However, the MoGCDSW has begun the process of developing a data management system.

8. Nonetheless, the development of policies and strategies by the gender machinery on areas covered by the Convention is informed by data which is disaggregated by, inter alia, age, sex, geographical area and social-economic background compiled by inter alia, the National Statistics Office, specific MDAs and CSOs such as the NGO Gender Coordination Network. Instances of recent disaggregated data informing policy development include the Malawi Population and Housing Census, 2018.

## National Human Rights Institution

9. According to section 11 of the Human Rights Commission Act (HRCA), the Malawi Human Rights Commission (MHRC) has the status of a national human rights institution independent of the authority or direction of any other body or person. It should be noted that what is being referred to is operational independence. In practice, the MHRC has enjoyed unlimited and full operational independence as it develops its own programme of work and has power under law to undertake “own motion” investigations without waiting for a complaint or referral. For instance, in 2019, the MHRC undertook an investigation into the circumstances surrounding the allegations of police officers raping women and girls in the rural area of Lilongwe called Msundwe. MHRC also decides on how to conduct its work, which includes how its resources are spent and how to conduct investigations. It is able to pursue matters without interference from another body. Furthermore, MHRC has the power to independently recruit management, professional, research, technical administrative and other staff to ensure successful performance of its functions.

10. The number of women Commissioners appointed to serve in MHRC has been in conformity with Gender Equality Act (GEA). The current composition of the MHRC is five women and four men.

## Part I

### Articles 1 and 2: Definition of discrimination and legislative framework

11. Since the submission of the last periodic report, a number of new laws have been enacted to ensure equality of men and women and to prohibit acts of discrimination. The following are some of the laws enacted:

(a) Marriage, Divorce and Family Relations Act (MDFRA): domesticates certain aspects of the Convention. It has revolutionised and consolidated the law on marriage and divorce. The Act makes provision for the eligibility and procedures for entering into a marriage, the grounds of divorce and regulates the relationship between spouses, unmarried couples, their welfare, maintenance and that of children. The Act recognizes civil marriages, customary marriages, religious marriages and marriages by repute or permanent cohabitation. It applies to all types of marriages and that all these marriages have equal legal status. Section 74 of the Act specifically deals with equitable distribution and re-allocation of property upon dissolution of marriage;

(b) HIV/AIDS (Prevention and Management) Act, 2018 provides for the prevention and management of HIV and AIDS. Section 6 of the Act proscribes discrimination on the basis of one's HIV status;

(c) Malawi Citizenship Amendment Act, 2019 provides for dual citizenship. The Act repeals the provision that restricted women from conferring citizenship on their foreign spouses;

(d) Customary Land Act, 2016 unlike previously, the Act specifically provides for the inclusion of women in the management of customary land. Section 5(2) (b) of the Act provides that membership of Land Committees, responsible for the management of customary land, be comprised of six persons, at least three of whom should be women; and

(e) The Anatomy (Amendment) Act, 2016 provides for the offence of desecration of human bodies or human tissue. The Act also enhances the penalty so as to make the commission of offences under the Act punitive and deterrent. The penalty was enhanced from imprisonment for ten years to imprisonment for life. The amendment was necessitated by the possession of bodies of deceased persons or human tissue suspected to be of persons with albinism.

12. Measures are also being taken to review and repeal laws that inadvertently foster discrimination. The Witchcraft Act is still under review by the Malawi Law Commission and it

is expected that the process will be completed in the 2020/2021 Financial Year. The review of the Malawi Citizenship Act was completed in 2019. Specific amendments were effected as outlined later in this Report. The Police Service Standing Orders are also under review with a view to aligning the Standing Orders with Constitution and the Police Act, 2010.

13. Other measures adopted to eliminate all forms of discrimination against women, include the adoption of the Malawi Growth and Development Strategy III (MGDS III) (2017-2022) which is an overarching medium-term policy to guide social and economic development. Gender equality as a cross-cutting issue has been mainstreamed into all the key result areas.

14. In addition, a Gender Equality Act Implementation and Monitoring Plan (2016-2020) was adopted. The goal of the plan is to provide gender equality, integration, influence, empowerment, dignity and opportunities for men and women in all functions of society. The plan focuses on five thematic areas namely: gender in education and training; gender in health services and sexual reproductive health rights; mainstreaming gender in development sectors; gender in governance and human rights; and capacity of the national gender machinery.

15. Some of the programmes undertaken by Government during the Reporting Period, include: Gender Equality and Women Empowerment which ran from 2012 to 2015; National Plan of Action against Gender Based Violence (2014-2020); Joint Sector Strategic Plan of the Gender, Children, Youth and Sports Sector Working Group (2013-2017); the National Strategy on Ending Child Marriages (2018-2020); and the continuation of the programme on Increasing Women Representation in Parliament and Local Government known as the “50:50 Campaign” which began in 2014.

16. In the period under review, the MoGCDSW, the Malawi Law Commission (MLC), the Malawi Human Rights Commission (MHRC) and various CSOs such as Women and Law in Southern Africa (WILSA), Women Legal Resources Centre (WOLREC), the Human Rights Resource Centre, Women Lawyers Association (WLA), Women Judges and Magistrate Association (WOJAM) periodically produced a wide range of legal literacy materials and conducted legal awareness workshops for the community on various existing laws prohibiting discrimination against women. For example, the MLC, in executing one of its core mandates, of public awareness on the laws of Malawi, has continuously developed and translated into main vernacular languages various literacy materials on the Prevention of Domestic Violence Act (PDVA), the MDFRA, GEA, the Childcare, Protection and Justice Act (CCJPA), the Deceased Estates (Wills, Inheritance and Protection Act) and the Trafficking in Persons Act (TIPA). The aforementioned bodies have also been training judicial officers, lawyers and law enforcement officials in various gender related laws.

17. With regard to the issue of decriminalising same sex relationships between women, the Government of Malawi, in 2018, commissioned the MHRC to undertake a public consultation with a view to soliciting views from Malawians on whether or not to remove from the Penal Code sections that criminalise same sex relationships. The consultation process is still underway.

18. Malawi Government continues to ensure that aspects of provisions of the Convention are incorporated into the national legal system through the enactment of various new pieces of legislation such as the MFRDA, 2015; TIPA, 2015 and the HIV and AIDS (Prevention and Management) Act, 2018.

### **Article 3: Appropriate measures to ensure full development and advancement of women**

19. Referring to the COBs recommendation to establish national machinery for the advancement of women and gender mainstreaming, the Government of Malawi adopted the National Gender Policy (NGP) in 2015 and is currently being implemented. The main purpose of the NGP is to strengthen gender mainstreaming and women empowerment at all levels in order to facilitate the attainment of gender equality. The broad policy goal is to reduce gender inequalities and enhance participation of women, men, girls and boys in socio-economic

development. Priority areas targeted by the NGP include: gender equality in education and training; health; agriculture, food security and nutrition; natural resources, environment and climate change; and governance and human rights.

20. The Government is strongly committed to strengthening the national gender machinery in accordance with the recommendation as evidenced by a directive that all MDAs should have a gender desk officer or focal point. In the process, Government will ensure that the national machinery is represented at the local level through the already existing decentralised structures such as Area Development Committees (ADCs). The MoGCDSW completed the recruitment of gender officers and these officers have been posted in all local government authorities (councils).

21. With regard to the production of the implementation and monitoring plan of the GEA, the same was completed. It was adopted and is now operational. The MoGCDSW, the MLC and the MHRC in partnership with CSOs, Faith-Based Organisations (FBOs) have been very key in disseminating the GEA through public awareness campaigns and public mass media. The MLC has particularly been instrumental in capacity building of police officers, social welfare officers, community development officers, health workers of various cadre and judicial officers, through training in various gender related laws.

22. With regard to the advancement of women in the political and the public sphere, the visibility of women in decision making positions remains dismal. Nevertheless, there has been an increase in female candidature in parliamentary seats. There were 309 female parliamentary candidates in the 2019 tripartite elections which was an increase from the 219 female candidates in the 2014 elections. There were 660 female candidates in 2019 for local government elections, an increase in comparison to 417 female candidates in 2014. There were also more independent female candidates i.e. about 24% for local government elections and almost 40% for parliamentary election. From 2014 to 2019, women representation in Parliament has increased from 32 women representing 16.7% in 2014 elections to 45 women in 2019 election representing 23.3%. Notably, 66 women have also made it into local government authorities, representing 14.5% compared to 12% in 2014. The improvement in women representation has been possible through the implementation of the 50:50 Campaign. Notwithstanding the improvement in the number of women who participated during the 2014 tripartite elections, there are still a number of factors that continue to negatively affect the gains made. Firstly, political institutions remain uncommitted to entrenching equality between the sexes within party structures. Secondly, little has been done to eliminate the underlying factors of subordination of women in the political field. Thirdly, the failure by Parliament to pass into law the electoral reform bills contributed in part. It should also be noted that since 2019, Parliament, for the first time in its history has a female Speaker.

23. With respect to economic development, Government continues to implement programmes aimed at reducing the population of women stuck in the cycle of poverty. Some of the programmes undertaken by the MoGCDSW, include: Training of Women in Economic Activities and Promotion of Women in Entrepreneurship Development. In addition, social protection programmes such as the Social Cash Transfer Programme (SCTP) (discussed in detail later in the Report) target ultra-poor women in order to alleviate economic hardships and improve their livelihood.

24. Notwithstanding the above challenges, there are a number of legislative measures in place to ensure the equality between men and women. The GEA, the PDVA, the HIV and AIDS (Prevention and Management) Act and TIPA demonstrate Government's commitment and efforts to advance the wellbeing of women in political, social, economic and cultural fields with a view to curb practices that undermine the position of women in society.

#### **Article 4: Special measures**

25. In addition to some of the special measures highlighted above, the Government implemented several initiatives in the area of gender responsive budgeting. These initiatives

include provision of gender responsive budgeting guidelines for the preparation of 2015/16 national budget which resulted in the development of a Strategic Roadmap with key actors in the gender responsive budgeting process. The Ministry of Local Government and Rural Development developed a comprehensive programme for building the capacity of 53 women councillors in gender responsive budgeting.

26. In order to meet policy objectives to ensure gender equality in education, the Government in partnership with stakeholders supports affirmative action in the provision of education at all levels. As reported in the Seventh Periodic Report, admission of students into Form 1, which is the entry level into the secondary education, continues to be based on gender equality. Furthermore, support is provided to the poor and disadvantaged female students in secondary schools through the provision of bursaries, the construction of girls' hostels in Community Day Secondary Schools and the continued implementation of the Re-Admission Policy which allows pregnant students to return to school after delivery.

27. In addition, the National Council for Higher Education (NCHE), when selecting students into various public universities utilise affirmative action to ensure that the number of women with university education increases.

28. The tables below show the enrolment levels of students into primary and secondary education and equity indicators for enrolment in primary and secondary education respectively.

Table 1  
**Access indicators**

	2017	2018
Total Primary Enrolment	5,073,721	5,187,634
Boys	2,513,876	2,565,344
Girls	2,559,845	2,622,290
Total Primary Public-School Enrolment	4,964,474	5,063,917
Boys	2,460,112	2,504,357
Girls	2,504,362	2,559,560
Total Primary Private School Enrolment	109,247	123,717
Boys	53,764	60,987
Girls	55,483	62,730
New Entrants into Primary (standard 1)	802,445	717,277
Boys	409,754	362,225
Girls	392,691	355,052
Total Secondary enrolment	372,885	387,569
Boys	194,537	201,635
Girls	178,348	185,934
Total TTC Enrolment (IPTE)	7,373	
Males	3,402	
Females	3,971	
Total Number of Primary Schools	6,065	6,194
Public	5,552	5,611
Private	513	583

	2017	2018
Total Number of Secondary Schools	1,469	
Public (Government and Religious)	824	830
Private	383	353
Open Day Secondary Schools	620	304
Gross Intake Rate Primary	147	123
Boys	144	122
Girls	145	124
Net Intake Rate Primary	92	84
Boys	89	82
Girls	95	86
Gross Enrolment Rate Primary	136	127
Boys	135	125
Girls	136	128
Net Enrolment Rate Primary (%)	98	90
Boys	87	87
Girls	89	92
Gross Enrolment Rate Secondary (%)	23.7	25
Boys	25.1	26
Girls	22.7	24
Net Enrolment Rate Secondary (%)	16.0	16
Boys	15.0	15
Girls	15.5	15

*Source:* Ministry of Education, Science and Technology.

**Table 2**  
**Equity Indicators**

	2017	2018
Gender Parity Index (GPI) for Primary Enrolment	1.01	1.0
Gender Parity Index (GPI) for Secondary Enrolment	0.90	0.92
Percentage of Special Needs Education Students (Primary)	2.9	3.35
Percentage of Special Needs Education Students (Secondary)	1.6	1.6

*Source:* Ministry of Education, Science and Technology.

### **Article 5: Modification of social and cultural patterns**

29. As stated in the 7<sup>th</sup> Periodic Report, prejudice and stereotyping remain a major challenge in Malawian society. There are numerous social, religious, traditional, customary and cultural practices that perpetuate the subjugation of women.

30. Nonetheless, the Government of Malawi continues to adopt both legislative and administrative measures to eradicate such prejudices.

*Harmful Practices*

31. The Child Care, Protection and Justice Act (CCPJA), the GEA and the HIV and AIDS (Prevention and Management) Act proscribe harmful practices. The HIV and AIDS (Prevention and Management) Act criminalises practicing a harmful practice. A harmful practice has been defined as any social, religious or cultural practice that puts a person at risk of HIV infection and re-infection or may accelerate progression of HIV into AIDS. Any person found guilty of the offence is liable to fine of K5, 000,000 (about US\$6,700) and imprisonment for 5 years. Women being the main victims of such harmful practices, the provision protects the welfare of women by deterring perpetrators from indulging in such practices and ultimately punishing those contravening the law, if found guilty.

32. In 2016, the Electronic Transactions and Cyber Security Act was passed. The Act has criminalised certain acts which perpetuate the subjugation of women. The acts that have been criminalised are: child pornography; cyber harassment; offensive communication; and cyber stalking.

33. Perpetrators of harmful cultural practices are being prosecuted. In November, 2016, there was a landmark case in which an HIV positive man was accused of having unprotected sex with over 100 newly bereaved widows in harmful cultural practice called “widow cleansing”. He was charged with indulging in harmful cultural practices and an attempt to commit the same offence contrary to section 5 sub-sections (1) and (2) of the GEA. He was sentenced to 24 months in prison with hard labour.

34. Referring to the COBs, the Government refutes the assertion that the harmful practice of FGM is practiced in certain communities in Malawi. The practice of FGM appears to be a new phenomenon to Malawi. Nevertheless, the Government is committed to conducting a thorough investigation in order to ascertain its existence and take appropriate legislative interventions by using existing laws referred to above or where the need arises, to effect amendments to legislation to address the issue.

*Violence Against Women*

35. His Excellency, the President of the Republic of Malawi has demonstrated strong commitment towards ending violence against women in Malawi by being the HeForShe Campaign champion. Furthermore, the Government has adopted measures to combat violence against women, which include using the Penal Code to prosecute perpetrators of violence against women with offences such as grievous bodily harm, common assault, wounding and other offences against the person. Law enforcement officers and prosecutors also use the provisions of the PVDA. The Malawi Police Service (MPS) investigates all cases reported to them. However, due to inadequate funding, state of the art technology in investigating these cases is lacking.

36. The Government has also developed and adopted the National Plan of Action against Gender Based Violence (GBV) (NPA) for the period between 2014 and 2020. The NPA is a statement of Government priority actions to deal with GBV in Malawi aimed at ensuring a coordinated approach, effective programming, enhancement of laws and policies towards GBV prevention and response. The NPA priority areas include: prevention of GBV by addressing root causes and promoting transformation of harmful social norms; promotion of an early referral system that identifies violence and thus reduces impact and continuation; and creation of an effective response mechanism supporting victims of GBV. Government is also implementing the multi-year programme called Spotlight Initiative with focus on eliminating violence against women and girls, including sexual and gender-based violence and harmful practices. To accelerate the achievement of gender equality, Government in 2018 launched the Barbershop Toolbox as a way of getting men involved and committed as partners in promoting gender equality. The Toolbox guides on how to engage men in achieving gender equality. It has provided opportunities for men and women to address gender equality together.

37. In the context of service delivery, the Government has established One Stop Centres aimed at assisting victims. The centres provide counselling, medical and psycho-social services. About 18 One Stop Centres are operational in all major hospitals and district hospitals. In addition, the MPS has also established Police Victim Supports Units (PSVUs) in almost all police formations in the Malawi within the Community Policing Services Branch. The PSVUs provide victims with emergency safety and protection as well as initial care and support to victims before being referred to the hospital or any relevant authorities. There are also Community Victim Support Units in rural and remote areas. Victims and relatives of victims can also use the toll-free Child Helpline number 116 to report cases of violence against children. The toll-free line is being run by the MoGCDSW in conjunction with an NGO, Youth Net and Counselling. MoGCDSW also runs another toll-free GBV Helpline number 5600.

38. In implementing the abovementioned measures, the Government partners and collaborates with development partners, CSOs and other partners. The partnerships have enhanced advocacy and awareness on violence against women through campaigns such as Ending Violence Against Women and Girls, Ndiulula (I Won't Be Silent) and Leken (Leave Me) which are jointly run by Government and CSOs.

39. Data from PSVUs for the years 2015 to 2017 is an indication that women are becoming more encouraged to report incidences of violence to law enforcement bodies. This is an indication that the public awareness campaigns undertaken by both state and various non-state actors are yielding positive results.

Table 3  
**Gender Based Violence Status 2015-2017**

<i>Year</i>	<i>Physical</i>	<i>Emotional</i>	<i>Sexual</i>	<i>Economical</i>	<i>Total</i>
<b>2015</b>	11000	823	1438	1245	14506
<b>2016</b>	9971	990	1960	1890	14811
<b>2017</b>	8975	7957	944	1488	19364
<b>TOTALS</b>	<b>29946</b>	<b>9770</b>	<b>4342</b>	<b>4623</b>	<b>48681</b>

*Source:* Malawi Police Service.

40. Referring to the COBs regarding marital rape, the Penal Code, does not criminalise the act. However, the MDFRA under section 62 states that a husband commits the offence of rape if he has sexual intercourse with the wife without her consent during the period the couple is on separation ordered by the court.

#### **Article 6: Suppression of the exploitation of women**

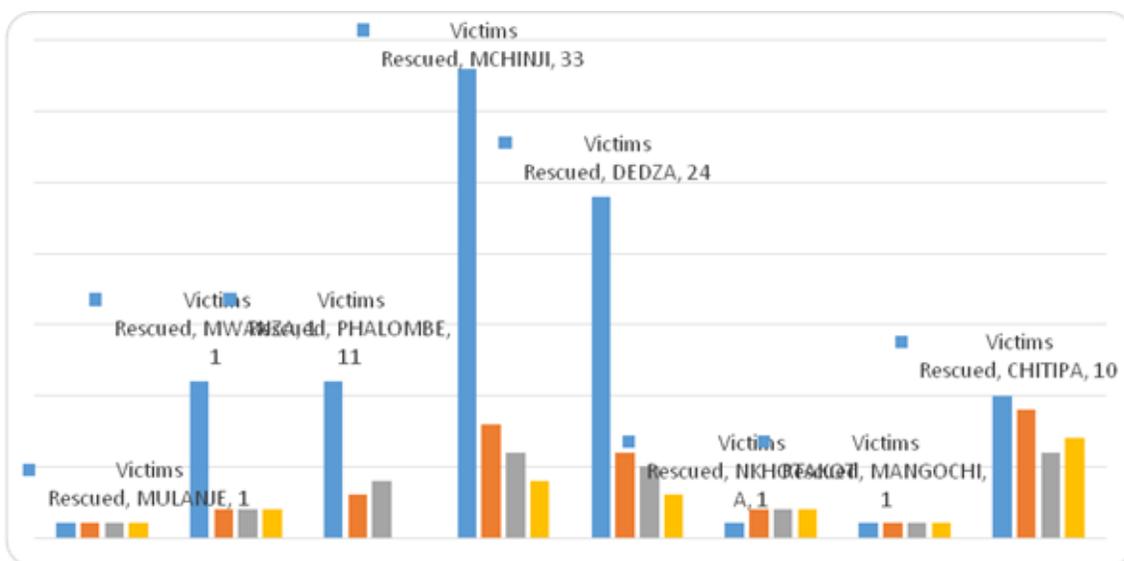
41. The Trafficking in Persons Act, (TIPA) was enacted in 2015. The TIPA makes provision for the prevention and elimination of trafficking in persons. To effectively implement provisions of the TIPA, in August 2017, a five-year National Plan of Action Against Trafficking in Persons was launched. The target is to reduce cases of trafficking in persons by 50% by the year 2022.

42. Implementation of the National Plan of Action Against Trafficking in Persons is underway. It is a comprehensive document with emphasis on various strategies on how to combat trafficking in persons. The strategies include: wide dissemination of the TIPA; public awareness-raising and capacity building for relevant professional groups; mechanisms for early identification, referral and support of victims of trafficking in persons; studying and addressing root causes of trafficking in women and girls and exploitation of prostitution. The Plan of Action also has a robust mechanism for monitoring and evaluation of the all the measures being implemented or deployed.

43. In order to prevent trafficking in persons, particularly, women and girls, security personnel are trained on early identification and response. The MPS has included anti-trafficking in its curricular at its training institutions at Limbe, Mtakataka, Mlangeni Police Training Schools, and Zomba Police College. In addition, in partnership with development partners such United Nations Office Drug and Crime and the Southern African Development Community (SADC), Government has been training magistrates, prosecutors, immigration officers, police investigators, police victim support officers, roadblock officers and community policing partners in anti-trafficking laws, victim identification and provision of assistance to potential victims of trafficking.

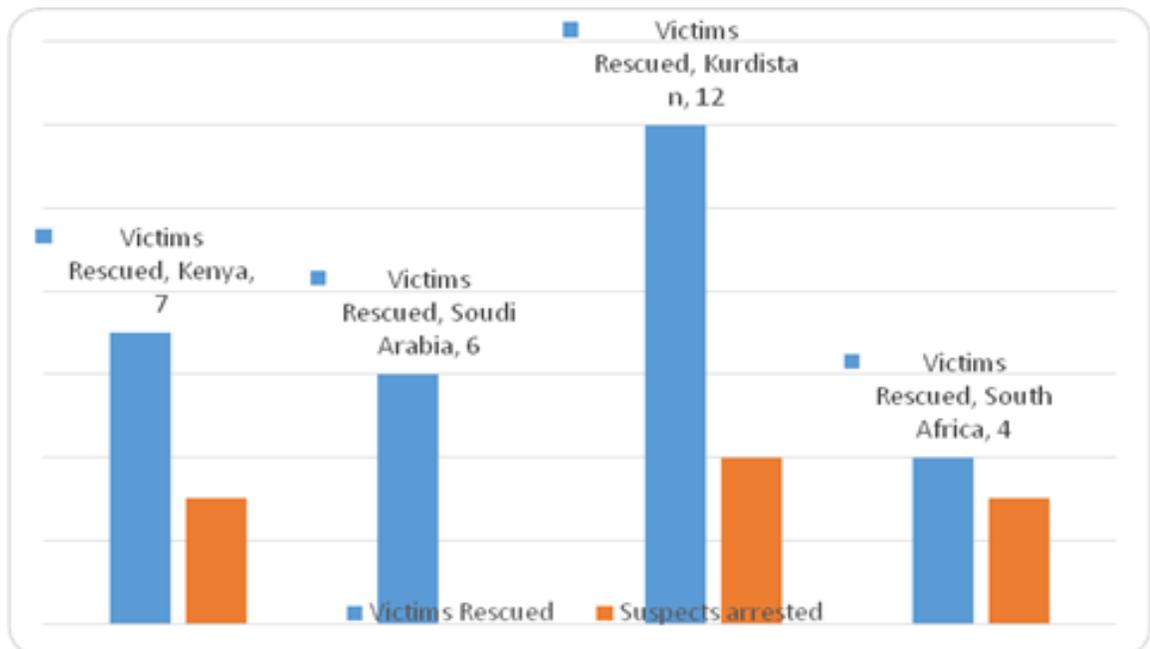
44. In terms of trafficking cases registered, the MPS in 2017 registered cases in the Districts of Mulanje, Mwanza, Phalombe, Mchinji, Nkhosha, Mangochi and Chitipa. The graphs below present a clear picture on the status.

Table 4  
**Statistics on Trafficked Persons Per Selected Districts**



Source: Malawi Police Service.

Table 5  
External Trafficking (2017)



Source: Malawi Police Service.

45. All victims rescued in Saudi Arabia and Kurdistan were women.

Table 6  
Trafficking in Persons Trends: 2013 to 2017 in Malawi:



Source: Malawi Police Service.

46. In 2018, the MPS reported anti-trafficking law enforcement data from 7 of the 34 district level police stations. In those police stations, 32 suspects were arrested for trafficking; 16 were prosecuted and 16 were convicted.

47. Tracking the perpetrators as well as rescuing victims is made possible with the help of cooperation and information exchange mechanisms established with neighbouring countries as well regional and international policing mechanisms. Malawi benefits from information sharing at the annual SADC Forum where member countries meet to share information on trafficking in persons. In addition, the Government continues to participate in the regional data collection tool of SADC by uploading information about trafficking in persons cases, victim and trafficker profiles. MPS also makes use of mechanisms such as the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) and INTERPOL. INTERPOL has played a very vital role in rescuing victims and arresting perpetrators beyond Africa.

48. On the provision of access to shelters and adequate legal, medical and psychosocial assistance, much is yet to be done due to resource constraints. However, the TIPFA provides for a Trafficking in Persons Fund which is designed to address the pooling of funding to ensure that all services required to assist victims of trafficking are available. The Plan of Action will operationalise the Fund which will in turn enable the establishment of more robust shelters providing medical and psychosocial assistance to trafficking survivors. Currently, the largest shelter in the country is run by Salvation Army in Mchinji District which borders Zambia in the Central Region. The Government, through the Social Welfare Office under the MoGCDSW is running a shelter in Rumphu District and Lilongwe City although these shelters also cater for victims of other offences.

#### *Prostitution*

49. Referring to the COBs on repealing discriminatory provisions, such as sections 180 and 184 of the Penal Code, in 2017, the High Court sitting as a Constitutional court in **Gwanda v S (Constitutional Cause No. 5 of 2015)**, declared section 184(1) (c) of the Penal Code unconstitutional. The provision criminalised loitering at odd hours without good reasons. The court held that the provision gave law enforcement officers very broad powers to determine cases where the provision could be applied. In addition, it disproportionately affected marginalised groups.

50. The declaration of this provision unconstitutional which was customarily used to arrest women in prostitution minimises their persecution.

51. With regard to eliminating discriminatory practices faced by women in prostitution, including when accessing health-care services; police officers in select police stations have been trained on how to work with women in prostitution by discouraging arrests and ensuring that women are safe when providing services to their customers. In addition, cooperating partners are assisting the Government in providing support services to women in prostitution. For instance, United Nations Population Fund (UNFPA) supports a group of women in commercial sex work called “Tidziwane” being implemented in Dedza District, where women share health advice and condoms.

52. The Government of Malawi recognises that more measures must be implemented to protect women in prostitution.

## **Part II**

### **Article 7: Equality in political and public life at national level**

53. In addition to paragraph 22 above, the special Law Commission on the Review of Electoral Laws sought to address the issue of increased participation and representation of women in politics. The special Law Commission recommended that additional 28 seats be introduced and reserved in the National Assembly to be competed for only by female candidates at the district level. However, these reforms were not passed into law. Nevertheless, the Government is fully committed to re-table the Bill and have it passed into law.

54. The Gender Profile, 2019 indicates that there are fewer women than men in decision-making positions (per grade) in the civil service, and oversight institutions. It has been indicated that women occupy 33 % of the positions at the head of public service level, and 8% at the deputy head level. In the non-decision-making positions, at the principal and senior officer level, the gender profiling statistics show that women hold 33 % and 30 % of the positions respectively.

55. Tables 7 and 8 show gender profiling in decision making positions and non-decision-making positions in the civil service and oversight institutions as of March 2019.

Table 7

**Gender profile in the decision-making positions (per grade)–Civil Service and oversight institutions March 2019**

<i>Grade</i>	<i>M</i>	<i>%</i>	<i>F</i>	<i>%</i>	<i>Total</i>
A. Head of Public Service Level	2	67	1	33	3
B. Deputy Head of Public Service Level	12	92	1	8	13
C. Principal Secretary level	22	59	15	41	37
D. Director Level	143	77	42	23	185
E. Deputy Director Level	375	72	147	28	522
F. Chief Officer Level	608	77	181	23	789
<b>Total</b>	<b>1162</b>	<b>75</b>	<b>387</b>	<b>25</b>	<b>1549</b>

*Source:* Department of Human Resource Management and Development.

Table 8

**Gender profile in the non-decision-making positions (per grade)–Civil Service and oversight institutions March 2019**

<i>Grade</i>	<i>M</i>	<i>%</i>	<i>F</i>	<i>%</i>	<i>Total</i>
G – Principal Officer Level	1050	70	448	30	1498
H – Senior Officer Level	1167	67	563	33	1730
I– Officer level	5563	66	2820	34	8383
J – Senior Assistant Officer Level	7520	64	4275	36	11795
K – Assistant Officer Level	15074	66	7792	34	22866
L – Senior Clerical Officer Level	30222	58	21628	42	51850
M – Clerical Officer Level	8669	60	5748	40	14417
N – Driver Level	2526	84	474	16	3000
O – Head Messenger/ Security Guard Level	2188	64	1245	36	3433

<i>Grade</i>	<i>M</i>	<i>%</i>	<i>F</i>	<i>%</i>	<i>Total</i>
P – Messenger/ Security Guard Level	4528	63	2614	37	7142
Q – Cook/Gardner Level	964	82	209	18	1173
R – Ground Labour Level	2056	79	532	21	2588
<b>Total</b>	<b>81527</b>	<b>63</b>	<b>48348</b>	<b>37</b>	<b>129875</b>

*Source:* Department of Human Resource Management and Development.

56. The underlying causes for limited women participation in political and public life are being addressed gradually through on-going public awareness campaigns undertaken by the MoGCDSW in partnership with various CSOs. Furthermore, the Government is committed to undertake legislative reforms to ensure the achievement of equality of participation in political and public life for women.

#### **Article 8: Equality in political and public life at international level**

57. Malawi stands with other countries on the international plane where she sends dignitaries to represent her. Both men and women have been designated as such in various capacities. The number of women is still lower than that of men. One of the major reasons behind the gender disparity is the lower number of women in public service and various crucial positions.

58. The prerogative to appoint dignitaries to represent Malawi at state level remains with the State President. The President being a Champion of the He4She campaign (a campaign that promotes gender equality), takes cognisance of gender equality when making appointments. During the reporting period, it was noted that out of 18 heads of foreign missions, 4 are women. Out of 11 deputy heads of foreign missions, 3 are women.

#### **Article 9: Equality under the law with respect to nationality**

59. In November, 2018, the Government through Parliament considered the Malawi Citizenship (Amendment) Bill which was passed into law and assented to by the President on 19<sup>th</sup> February, 2019. It was published in the Gazette as Act No. 11 of 2019. Before the amendment, section 9 of the Act stipulated that female citizens of Malawi who acquire 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 unless, before that anniversary, she has made a declaration in writing of her intention to retain citizenship of Malawi and renounces the citizenship of the other country. This provision was repealed. The amended Act now permits dual citizenship.

60. In 2015, Parliament passed the MDFRA which under section 48 (4) states that a spouse has the right to retain his or her nationality or citizenship during the subsistence of the marriage.

61. Prior to 2019 amendment of the Malawi Citizenship Act, the MLC had already commenced a programme to holistically and comprehensively review and reform the Malawi Citizenship Act with a view to modernisation of the law and aligning it with the Constitution. One of the issues under consideration in the review process was statelessness. The special Law Commission has since completed the process of review and the report containing findings and recommendations is awaiting publication and submission to Government for further action.

### Part III

#### Article 10: Education and training

62. The education system comprises four sub-sectors. These are:

(a) Basic Education which includes Early Childhood Development, Complementary Basic Education that targets out of school youth and Adult Literacy, and general Primary Education;

(b) Secondary Education which covers Secondary Schools and Open Distance Schools;

(c) Teacher Education which covers Primary and Secondary Teacher Training; and (d) Higher which includes Higher Education institutions (universities) as well as Technical, Entrepreneurial and Vocational Education Training (TEVET).

63. The MGDS III (2017-2022) recognises education and skills development as one of the key priority areas to ensure that Malawi has a conducive non-discriminatory policy and legal environment. The GEA reinforces the right to equal access to education and training, including non-discrimination between girls and boys and women and men in education standards, scholarships and other opportunities. Government is also implementing the Science, Technology, Engineering and Mathematics (STEM) Initiative to ensure integration of female students in disciplines that are traditionally male dominated. Other policies implemented during the reporting period to ensure equal access to education for females include: the National Education Policy; the 40:60 Recruitment Quota in Public Universities; the National Girls Education Strategy (2014-2018); National Education Sector Plan (2008-2017); the Education Sector Implementation Plan (2014-2018); National Girls Education Communication Strategy (2014-2017); and the Readmission Policy for Primary and Secondary Schools (2018).

#### *School Infrastructure*

##### Primary Education

64. The Malawi Population and Housing Census, 2018(the census), found that there were 41,765 permanent classrooms in use, 6,380 complete temporary classrooms in use and 13,189 classrooms requiring rehabilitation. Furthermore, the census revealed a requirement of about 27,113 extra classrooms for the entire primary education sub-sector. The number of permanent schools increased from 35,804 in 2013 to 41,765 in 2017, representing a growth of 16.6 %. Most of the schools have been constructed in the rural areas to address the shortage of schools in those areas. In addition, most schools in 2017 reported having basic sanitary facilities. 69% had boreholes as their main source of water followed by piped water (17 %). About 6 % of the schools reported to having no water. The Government will continue to strive to ensure that all schools have basic sanitary facilities.

##### Secondary Schools

65. The number of secondary schools, both public and private, has increased over the last five (5) years. Public secondary schools have increased from 981 in 2013 to 1,105 in 2017 representing a 13 percent increase. Similarly, private secondary schools have increased by 97, from an initial 209 schools in 2013 to 306 schools in 2017 representing a 46 percent increase.

66. The private sector and religious agencies under the Association of Christian Educators in Malawi (ACEM) run more girls-only secondary schools than Government. Out of the 28 girls-only secondary schools, Government owns one.

67. The Government has also been constructing Girls hostels in secondary schools; notably, Thumbwe and Machinga Secondary School Girls hostels were being constructed during the 2019/2020 Financial Year.

*Enrolment rates*

68. As shown in Table 1 above, the number of females enrolling into primary, secondary and teachers training colleges are generally higher than males and increasing. Government could attribute this trend to the implementation of policies stated in paragraphs 26, 27 and 61.

*Improving the Quality of Education*

69. The teacher to pupil ratio is decreasing. Figure 9 below shows the declining ratio between 2017 and 2018.

Table 9  
**Teacher-Pupil Ration in Primary and Secondary Schools**

	2017	2018
Pupil Teacher Ratio- Primary	71.3	66.8
Pupil Qualified Teacher Ratio- Primary	76.9	70.0
Pupil permanent classroom ratio- Primary	121.4	120.9
Pupil qualified Teacher Ratio (SqTR)- Secondary	45.4	41.0
Pupil qualified Teacher Ratio (SqTR)- Private Sec	61.2	27.6
Pupil permanent Classroom Ratio (PpCR)- Secondary	58.7	58.7

*Source:* Ministry of Education, Science and Technology.

70. In the 2018/2019 Financial Year, Government recruited 8,334 primary school teachers and promoted 15, 491 primary school teachers in various grades. In the same period, 500 secondary school teachers were recruited. The Government will continue to train more teachers in teacher training colleges and universities and recruit more of them to reduce the teacher-pupil ratio even further.

*Budget Allocation for the Education Sector*

71. In line with the MGDS III, education is a top spending priority of the Government. As shown in Table 10 below, the budget allocation towards the education sector has been steadily increasing between since 2014 to 2017. The Government continues to highly value the education sector as demonstrated by allocating 4.2 percent of the country's Gross Domestic Product (GDP) to the education sector in the 2017/18 Financial Year.

72. In the 2019/2020 Financial Year, the education sector was allocated K 172.8billion which was an increase from of 21.5% from the K142.2 billion allocated in the 2018/2019 Financial Year.

Table 10  
**Government Budget Allocation to the Education Sector**

Year	2014/15	2015/16	2016/17
Education-sector allocation minus Dev Part 1 (MK' billions)	119	163	179
GDP (MK' billions)	2,848	3,521	4,219
% of GDP spent on Education	4.2%	4.6%	4.2%

*Source:* Ministry of Education, Science and Technology.

Table 11  
**Education Budget Statistics**

	2017	2018
Education budget as a percentage of national budget	26	26
Primary education budget as a percentage of total education budget	61	65
Secondary education budget as a percentage of total education budget	15	12
Higher education	20.0	20

*Source:* Ministry of Education, Science and Technology.

#### *Retention of Girls in School*

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

#### *Sexual, Exploitation, Abuse and Sexual Harassment in Schools*

74. The MoEST, through the Teaching Service Commission ensures that teachers are sensitised about the laws on sexual abuse and harassment in schools. In addition to the GEA proscribing sexual harassment and any forms of abuse, the Government Teaching Service Regulations proscribe sexual harassment. Any teacher who is reported to have harassed or abused a female student is suspended immediately and is not allowed to teach until disciplinary proceedings are completed. In most of the cases where the disciplinary proceedings are completed, the teachers have been dismissed.

#### *Gender Parity*

75. As evident in Tables 1 and 2 above, Malawi has achieved gender parity with respect to primary and secondary school enrolments with girls slightly surpassing boys, an indication of improvement in attitudes towards girls' education. The gender parity also creates the picture that Malawi has succeeded in enrolling the majority of its primary school age group with an overall enrolment rate of 89% compared to 87% for boys. Whereas the overall enrolment rate into secondary schools is 15.5% compared to 15% for boys.

### **Article 11: Employment and work**

#### *Gender parity in the workplace*

76. The GEA mandates the Government to take active measures to ensure that employers have developed and are implementing appropriate policies and procedures in ensuring gender equality in the workplace.

77. Although it is noted in paragraph 53 that women employed in the public service are lower than the ideal, Government through the Department of Human Resources Management and Development continues to emphasise in its job adverts that female candidates are encouraged to apply. Furthermore, Government through the Ministry of Labour, Skills and Innovation (MoLSI) advises the private sector to employ females.

78. Government is currently implementing the Skills and Technical Education Programme with the overall objective of empowering the TEVET sector and its capacity to satisfy the needs of the economy through improvement of equitable and gender-balanced TEVET.

79. Below is data on the number of females working in various sectors in Malawi and employment data by nature of work, respectively.

Table 12  
**Employment Data by Sector**

<i>Population Aged 15-64 Years by Industry, Sex and Employment Status, 2018</i>						
<i>Industry</i>	<i>Employment Status</i>					
	<i>Total</i>	<i>Employer</i>	<i>Employee</i>	<i>Self Employed</i>	<i>Unpaid Family Worker</i>	<i>Other</i>
<i>Females</i>	2,686,957	23,004	199,082	1,959,458	435,880	69,533
Agriculture forestry and fishing	2,190,456	8,180	30,982	1,730,436	397,129	23,729
Mining and quarrying	3,050	191	933	1,518	161	247
Manufacturing	24,956	594	5,869	15,540	2,048	905
Electricity gas steam and air conditioning supply	963	45	621	225	31	41
Water supply; sewerage waste management and remediation activities	2,176	105	1,331	381	171	188
Construction	11,614	546	6,737	1,784	403	2,144
Wholesale and retail trade; repair of motor vehicles and motorcycles	35,151	468	3,484	27,079	3,070	1,050
Transportation and storage	2,081	104	1,279	513	67	118
Accommodation and food service activities	45,996	906	9,199	30,361	3,593	1,937
Information and communication	9,402	316	4,352	3,524	690	520
Financial and insurance activities	6,021	230	4,728	730	134	199
Real estate activities	5,342	648	3,318	788	229	359
Professional scientific and technical activities	4,778	291	3,821	486	41	139
Administrative and support service activities	4,790	161	4,106	314	83	126
Public administration and defence; compulsory social security	5,404	136	4,977	91	15	185
Education	41,154	2,236	35,995	1,649	318	956
Human health and social work activities	23,150	1,032	19,907	1,170	197	844
Arts entertainment and recreation	4,379	137	894	2,937	186	225

<i>Population Aged 15-64 Years by Industry, Sex and Employment Status, 2018</i>						
<i>Industry</i>	<i>Employment Status</i>					
	<i>Total</i>	<i>Employer</i>	<i>Employee</i>	<i>Self Employed</i>	<i>Unpaid Family Worker</i>	<i>Other</i>
<i>Females</i>	2,686,957	23,004	199,082	1,959,458	435,880	69,533
Other service activities	221,305	5,112	45,602	120,134	19,634	30,823
Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	39,664	1,374	9,140	17,961	7,234	3,955
Activities of extraterritorial organizations and bodies	5,125	192	1,807	1,837	446	843

*Source:* The Malawi Population Housing Census, 2018.

**Table 13**  
**Employment Data by Nature of Work**

<i>Population Aged 15-64 Years by Occupation, Urban/Rural Location and Sex, 2018</i>									
	<i>Malawi</i>			<i>Urban</i>			<i>Rural</i>		
	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>
Total	5,389,463	2,702,506	2,686,957	906,745	532,988	373,757	4,482,718	2,169,518	2,313,200
Managers	45,256	27,714	17,542	25,916	16,834	9,082	19,340	10,880	8,460
Professionals	192,902	118,911	73,991	83,500	49,374	34,126	109,402	69,537	39,865
Technicians and associate professionals	64,303	38,855	25,448	26,617	18,199	8,418	37,686	20,656	17,030
Clerical support workers	58,581	36,926	21,655	27,839	18,234	9,605	30,742	18,692	12,050
Service and sales workers	1,142,553	549,943	592,610	301,922	163,943	137,979	840,631	386,000	454,631
Skilled agricultural forestry and fishery workers	1,686,087	796,860	889,227	57,421	31,020	26,401	1,628,666	765,840	862,826
Craft and related trades workers	297,045	156,533	140,512	59,145	38,144	21,001	237,900	118,389	119,511
Plant and machine operators and assemblers	72,011	46,405	25,606	26,510	20,191	6,319	45,501	26,214	19,287

*Population Aged 15-64 Years by Occupation, Urban/Rural Location and Sex, 2018*

Elementary occupations	1,758,056	887,458	870,598	277,803	162,711	115,092	1,480,253	724,747	755,506
Armed forces occupations	72,669	42,901	29,768	20,072	14,338	5,734	52,597	28,563	24,034

Source: Malawi Population and Housing Census, 2018.

#### *Equal Pay of Equal Value*

80. Section 31(3) of the Constitution asserts that every person shall be entitled to fair wages and equal remuneration for work of equal value without distinction or discrimination of any kind, in particular on basis of gender, disability or race.

81. This provision has also been reflected in the Employment Act as well as in the Public Service Act. The provision is adhered to strictly. The Government has not received any formal complaints that this provision is being contravened.

#### *Monitoring Minimum Employment Standards*

82. The MoLSI, through the Labour Services Department is responsible for conducting inspections to ensure employers adhere to the minimum employment standards. The Labour Inspectorate has offices in all 28 districts of Malawi who carry out inspections at the district level. The Employment Act requires a minimum of two visits a year. However, low human and financial resources impede the strict adherence to this requirement. Instead visits are made once a year and in other workplaces, more than once in a year if a complaint has been lodged against the employer.

#### *International Cooperation*

83. The MoLSI maintains a close relationship with the International Labour Organisation (ILO) in implementing both national laws and international conventions. The ILO remains a crucial partner in providing both financial and technical assistance. For instance, the National Employment and Labour policy (NELP) was developed with both technical and financial assistance from the ILO.

### **Article 12: Health care**

#### *Maternal Mortality*

84. According to the Malawi Demographic Health Survey (MDHS) 2015-16, the maternal mortality ratio (MMR) in Malawi fell from 675 to 439 deaths per 100,000 live births between 2010 and the 2015/2016 Fiscal Year. The confidence interval for the 2015-16 MMR ranges from 348 to 531 deaths per 100,000 live births. Between 4 and 5 women aged between 15-49 died during pregnancy, childbirth, or within 42 days after childbirth.

85. The MDHS, 2015-16 also found that 95% of women aged 15- 49 receive antenatal care (ANC) from a skilled provider (doctor, clinical officer, medical assistant, nurse or midwife). The timing and quality of ANC are also important. One-quarter of women had their first ANC visit in the first trimester, as recommended. Half of women made four or more ANC visits.

86. The MDHS also established that nine in ten women took iron tablets during pregnancy. 90% of women's most recent births were protected against neonatal tetanus. Among women who received ANC for their most recent birth, 96% had foetal heartbeat checked; 93% had a blood sample taken; 83% had their blood pressure measured, and 32% had a urine sample taken.

87. More than 9 in 10 births occur in a health facility, primarily in public sector facilities. However, 7% of births occur at home. Women with no education and those in the poorest

households are more likely to deliver at home. Only 55% of births in 1992 were delivered in a health facility, compared to 91% in 2015-16. Overall, 90% of births are assisted by a skilled provider, the majority by nurses/midwives. Women in urban areas, with secondary or higher education, undergoing their first child birth, and living in the wealthiest households are most likely to receive delivery assistance from a skilled provider. Skilled assistance during delivery has dramatically increased from 55% in 1992 to 90% in 2015-16. Postnatal care helps prevent complications after childbirth. 42% of women aged 15- 49 receive a postnatal check within two days of delivery, while half did not have a postnatal check within 41 days of delivery. Six in ten newborns receive a postnatal check within two days of birth.

88. The improved care of women during pregnancy has contributed to the reduction in the MMR.

#### *Legalisation of Abortion*

89. The special Law Commission on the Review of the Law on Abortion commenced its work in 2013. The special Law Commission concluded its work in 2016 through the publication of the report which contained findings and recommendations, including proposed draft legislation. The special Law Commission recommended that a pregnancy may be terminated only where: the continued pregnancy will endanger the life of the pregnant woman; the termination of the pregnancy is necessary to prevent injury to the physical or mental health of the pregnant woman; the foetus is severely malformed so that its viability or compatibility with life is seriously affected and the pregnancy is a result of rape, incest or defilement. The Report is before Cabinet for its consideration. In the meantime, CSOs are advocating and lobbying Government for the speedy enactment of the recommendations.

#### *Reducing Teenage Pregnancies and Access to Contraceptives*

90. In an effort to reduce teenage pregnancies, Government in 2007 put together a set of youth friendly health services standards. The standards defined the minimum package to be offered to young people by level of care using the World Health Organisation (WHO) international standards as a guide. Consequently, Government started implementing a youth friendly health services programme. In spite of the interventions, the rate of pregnancy among teenage girls increased from 25% to 29%. Currently, Malawi is implementing a National Youth Friendly Health Services Strategy for the period 2015-2020. The aim of the Strategy is to address the rising pregnancy rates.

91. Government has made remarkable progress in ensuring the availability and accessibility of modern forms or methods of contraception and reproductive health services. According to the MDHS 2015-16, about 6 in 10 married women aged 15- 49 use a method of family planning- 58% use a modern method and 1% use a traditional method. Among the sexually active, unmarried women aged 15- 49 43% use modern method of family planning and 1% use a traditional method. Generally, the use of any method of family planning by married women has dramatically increased from 13% in 1992 to 59% in 2015. Similarly, the use of modern methods of family planning has increased from 7% to 58% during the same period.

#### *HIV/AIDS*

92. The HIV and AIDS (Prevention and Management) Act was assented on 1<sup>st</sup> February, 2018. The Act provides for the prevention and management of HIV and AIDS while at the same time ensuring the rights of persons living with HIV and AIDS. The Bill contained provisions which made it mandatory for select populations to undergo a test for HIV as a condition to access a benefit, particular employment. These provisions were deemed not compliant with national and international human rights standards and were therefore not included in the Act. It also establishes the National Aids Commission which oversees all issues regarding HIV/AIDS.

### Article 13: Economic and social security

#### *Social Protection Systems*

93. The Government through the MoGCDSW, with the assistance of development partners, put in place the Social Cash Transfer Programme (SCTP). It is an unconditional cash transfer programme targeting the ultra-poor, labour-constrained households in order to *inter alia*, alleviate extreme poverty in families. The SCTP began as a pilot in Mchinji District in 2006. Since 2009, the SCTP expanded to reach 18 out of 28 districts in Malawi. The SCTP experienced impressive growth beginning from 2012 to 2015. By December 2015, the SCTP had reached over 163,000 beneficiary households. According to the SCTP End-line Impact Evaluation Report of 2016, the SCTP registered positive effects. In 2018, the number of households reached by the SCTP was 276,000 which rose to 293, 737 households in 2020. During the same period, the number of children in households receiving support increased from 431,700 to 622,323. The SCTP mainly targeted female headed households, especially in the rural areas. It is undeniable that SCTP has so far achieved its primary objective of ensuring food security and improving consumption patterns among ultra-poor labour constrained households. SCTP has also positively affected school attendance by children across all age ranges, including positive impact on child health.

Table 14

#### **Social cash transfer Programme household heads and beneficiaries by gender (July 2015) Social cash transfer household and beneficiary characteristics**

<i>Beneficiaries</i>	<i>Percentage</i>	<i>Household head</i>	<i>Percentage</i>
Male	295,730	44.1	40,259 26.6
Female	374,752	55.9	111,057 73.4

*Source:* Ministry of Gender, Children, Disability and Social Welfare, 2015.

94. In addition, through the SCTP, women have been able to engage in income generating activities to support their families resulting in increased asset ownership and productivity.

95. Furthermore, the Farm Input Subsidy Programme (FISP), a social protection programme with the aim of improving food security and income of smallholder farmers by facilitating their access to improved agricultural inputs thereby improving the livelihood of women. The FISP commenced in 2005. It also targets female headed ultra-poor households by providing them with coupons which are used to purchase farm inputs at a subsidised price.

#### *Women's Access to Credit Facilities and Entrepreneurship*

96. There are a number of institutions in Malawi specialised in the provision of micro loans, particularly to women. Examples of these institutions include Microloan Foundation, Umunthu Finance, CUMO Microfinance Limited and National Association of Business Women (NABW).

97. The Integrated Household Survey (IHS) 4 of 2016 indicated that 64% of female headed households were more likely to borrow business start-up capital than male headed households (50%).

98. In recent years, women, particularly in the rural areas, are forming village savings and loans clubs at the community level. In these clubs, the membership is required to contribute a monthly sum. The monthly contributions form the pool of funds for the club from which any member of the club is allowed borrow. The loan is repaid at a very modest interest rate. The initiative has helped to reduce the economic dependence of women on men thereby increasing participation in decision-making and control over family resources.

99. The Technical Entrepreneurial and Vocational Education Training Authority (TEVETA), through its vocational schools, continue to train women in various skills including non-traditional skills such as carpentry, motor vehicle mechanics, electrical engineering, and metal fabrication. CSOs and individual initiatives are also playing a crucial role in supporting women in entrepreneurship. As Table 12 above shows the numbers of women self employed as well as engaging in non-traditional forms of work are substantial which is encouraging.

#### **Article 14: Rural women**

##### *Ownership of Customary Land*

100. In 2016, Parliament passed the Customary Land Act. It is the principal legislation dealing with the management and administration of customary land. It provides for the registration of customary land in the form of a customary estate. The most important aspect regarding the creation of a customary estate is that an individual regardless of gender will now be able to own land in his or her own right thereby guaranteeing security of tenure. The unique characteristic of a customary estate is that title in the land can be held for indefinite period. It is also inheritable and transmissible by will. With the creation of a customary estate, an individual can be registered as the owner of land from which leases and sub-leases will be created.

101. The Act also establishes Land Committees which, among others, has the responsibility to allocate land. These Committees comprise the Village Headman as chairperson and other six persons elected by and from within the community, at least three of whom should be women.

##### *Nutrition*

102. Both the National Multi-Sectoral Nutrition Policy and the National Nutrition Strategic Plan were adopted in 2018 for a period up to 2022. Under the National Multi-Sectoral Nutrition Policy, one of the priority areas is gender equality, equity protection, and participation for improved nutrition. This priority area is in realisation that gender inequality disproportionately affects women and children.

103. In addition, as mentioned in paragraphs 91 to 93, social protection programmes such as FISP and SCTP assist ultra-poor women mainly based in rural areas by providing them with income to enable them to afford to buy, as well as, be able to produce foodstuffs to meet nutrition requirements. These programmes deliberately focus on rural women upon realizing that it is this group of women that are disproportionately impacted by inadequate nutritional needs.

104. The Government has earmarked agriculture and productivity as one of the major development priorities in the MGDS III with a focus on increased empowerment of women, youth, persons with disabilities and vulnerable groups. Women have been prioritised in poverty eradication through agriculture productivity as they form the lowest wealth quartile, and about 70% are engaged in subsistence agriculture.

##### *Impact of natural disasters on women*

105. It has become a good practice to mainstream gender issues into policy development and implementation. The same is being done to all policies which are being implemented on disaster preparedness and relief. Notably, the National Disaster Risk Management Policy, 2015 is aligned with other existing gender policies.

106. In implementing the Policy, rural women are involved both at the district through ADCs and at the community level, through Mother Groups and faith groups.

## Part IV

### Article 15: Equality before the law

107. The Constitution of Malawi is founded upon the principle of equality. Section 12 specifically asserts that “all persons have equal status before the law,” and no institution or person is above the law. The Constitution entrenches this principle under section 20 by prohibiting all forms of discrimination. Section 41 of the Constitution further entrenches the right to recognition as a person before the law.

108. Section 24 of the Constitution guarantees women equal capacity identical to that of men in civil matters, including: matters of contracts; rights in property; custody, guardianship and care of children; and citizenship and nationality. In addition, the Constitution mandates the enactment of legislation to eliminate practices that promote discrimination in work, business and public affairs. The GEA, Deceased Estates (Wills, Inheritance and Protection) Act and the MDFRA have addressed those problems. To this end, in practice, women are capable of entering into various kinds of contracts, including for employment and commerce without discrimination. Consequently, they have equal rights as men to bring a matter before court enforcing rights.

#### *Access to Justice*

109. Ensuring access to justice continues to be a goal the Government strives to achieve. In that regard, steps have been taken to enhance the capacity of the Legal Aid Bureau to make the right to access to justice a reality. The Legal Aid Bureau set up a Legal Aid Fund pursuant to section 39 of the Legal Aid Act. In early 2018, a Legal Aid Bureau Office was set up in Zomba to ensure access to legal representation for people in the country’s eastern region. Plans are under way to open 5 more district offices in different regions of the country in the 2019 -2020 Financial Year. In the 2020 – 2021 Financial Year, the Bureau is expected to open 8 more district offices. During the 2015 to 2016 fiscal year, the Bureau handled 4663 criminal cases and 6039 civil cases. The Bureau also managed to provide legal aid clinics to 25 prisons across the country. As at May 2018, the Bureau had 13 lawyers and 19 paralegals.

110. The Judiciary also conducts mobile courts to ensure the right to access to justice is realised. The 2016 Judiciary Progress Report indicates that 28 mobile courts were held across the country with 397 inmates earmarked and first screened for eligibility for the mobile courts. From the 397 that appeared before the presiding magistrates, 236 were released from prison either through bail, acquittal, and discharge or ordered to perform community service. The mobile courts are directly reducing congestion in Malawi prisons. The Table below represents a summary on mobile court Statistics as read from the Report.

Table 15  
**Mobile Courts Statistics in 2016**

<i>Region and No. of mobile courts</i>	<i>Central 10 sessions</i>	<i>South 5 sessions</i>	<i>East 8 Sessions</i>	<i>North 5 sessions</i>	<i>Totals</i>
<i>Description</i>	<i>Number of cases</i>				<i>28</i>
Total Screened	90	117	111	91	409
Appearance at Camp courts	90	117	111	91	409
Unconditional Releases	0	0	0	0	0
Granted bail	29	40	33	60	162
Discharged	5	3	1	10	19
Remand warrants extended	30	65	51	13	159

<i>Region and No. of mobile courts</i>					<i>Totals</i>
	<i>Central 10 sessions</i>	<i>South 5 sessions</i>	<i>East 8 Sessions</i>	<i>North 5 sessions</i>	<i>28</i>
<i>Description</i>	<i>Number of cases</i>				
Ordered to pay a fine	3	1	6	1	11
Convicted to Community Service	7	0	4	0	11
Sentenced to other options	4	0	0	2	6
Acquittals	0	0	1	1	2
Withdrawals	4	0	0	0	4
Deportation	0	0	0	0	0
Imprisonment	8	8	3	3	22
<b>Totals</b>	<b>90</b>	<b>117</b>	<b>99</b>	<b>91</b>	<b>397</b>

*Source:* Malawi Judiciary.

111. As partners in development, several CSOs also continue to provide free legal aid services to women. Notably WLSA, WOLREC and WLA have been instrumental in the provision of free legal services to women. Furthermore, through the access to justice project under the Justice and Accountability (Chilungamo) Programme, the Paralegal Advisory Services Institute (PASI) recruited local volunteers as village mediators who support women who are victims of various offences including gender-based violence.

112. With regard to the enactment of legislation regulating the relationship between formal and customary justice mechanisms, this legislation has not been enacted. However, through civic education of traditional leaders and enactment of by-laws modelled after provisions of the Convention, customary judicial mechanisms are better compliant with the Convention.

#### *Older Women*

113. The MLC is currently reviewing the Witchcraft Act with a view to aligning it with the Constitution and international human rights standards. The law reform process is in its final stages. It is expected that the law reform process will be concluded in the Financial Year 2020/21.

114. The MPS, MoGCDSW and various CSOs continue to carry out civic and public awareness campaigns against the killing of older members of the community, in particular, women. A lot of suspects have been arrested and are currently being prosecuted on various charges ranging from murder, arson and malicious damage to property. Some have been convicted and are serving prison sentences of varying lengths.

#### *Refugee Women*

115. The Refugee Act will soon undergo review. It is expected that the review will address the deficiencies in the Act and ensure compliance with international standards, including: on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women.

116. With regard to provision of basic services for refugee women and girls, the Government with the help of development partners has been implementing Food and Non-Food distributions in main refugee camp at Dzaleka. As of May, 2018, food and basic amenities were being supplied to 34,398 asylum seekers and refugees at Dzaleka Refugee Camp. Out of that number, 16,774 were female.

Each refugee and asylum seeker were entitled to receive 13.5kg of maize, 1.5kgs of pulses, 1.5kgs of Corn Soy Blend (CSB) and 0.75kg of Vegetable oil every month. Children under two years also receive 3kg of CSB++ on top of the individual ration stated above. This ration size was recommended by Joint Assessment Monitoring (JAM) which is done by World Food Programme (WFP), United Nations High Commissioner for Refugees (UNHCR), Ministry of Homeland Security and development partners. The ration sizes were designed to ensure that each beneficiary attains 2100 Kcals per day in a month.

117. Other basic amenities other than food distributed include: soap, clothes, bucket, sleeping mats, kitchen sets, tarpaulin sheets, jerry canes, plastic plates (bowls), blankets and mosquito nets to almost everyone. Refugees and asylum seekers with special needs also received items to suit their needs such as wheelchairs, hearing aid; just to mention a few. Special attention was given to 250 separated and unaccompanied minors when distributing food and basic amenities.

#### **Article 16: Marriage and family law**

118. The enactment of the MDFRA explained in paragraph 11 provides a legislative response to guaranteeing the rights of spouses within the institution of marriage; distribution of property on dissolution of marriage; custody of children and guardianship and also guarantees that a spouse can maintain her citizenship and nationality. Additionally, the MLC concluded the Technical Review of the PDVA in 2016. One of the major recommendations is the broadening of the meaning of “domestic violence” which is limited to conduct of a criminal nature in the current Act.

#### *Optional Protocol and amendment to article 20(1) of the Convention*

119. Consultation processes with a view of considering the ratification of the Optional Protocol, and the acceptance of the amendment to article 20(1) of the Convention concerning the meetings of the Committee are ongoing.

#### *Beijing Declaration and Platform for Action*

120. Malawi continues to be guided by the Beijing Declaration and Platform for Action in its legislative and policy development and programming. This is evident from the number of legal reforms that have been put in place in the attainment of gender equality. The legal reforms culminated into the passing of various pieces of legislation such as the Deceased Estates (Wills, Inheritance and Protection) Act; the GEA; MDFRA, HIV/AIDS (Prevention and Management) Act; Customary Land Act; an Act amending the Constitution to raise the age of the child from 16 to 18; and amendments to various laws mentioned in this Report. All policies and programmes including those referred to in this Report were developed and are being implemented post adoption of the Beijing Declaration and Plan for Action, as such, have gender as a cross-cutting issue.

#### *2030 Agenda for Sustainable Development*

121. In order to achieve the goal of substantive gender equality in the process of implementing the 2030 Agenda for Sustainable Development, Malawi has embraced the principle of leaving no one behind in the development policies and execution of programmes. The 17 goals have been incorporated into the MGDS III. It is acknowledged that the 17 goals are inherent in the provisions of the Convention. Therefore, as Government implements the provisions of the Convention in its programming, it is at the same time contributing towards achieving the Sustainable Development Goals.

### **III. Factors and challenges affecting the fulfilment of obligations under the Convention**

122. Malawi continues to make slow but steady progress in the implementation of the Convention.

123. Significant challenges still remain in fully implementing the provisions of the Convention. The challenges include:

(a) weak implementation of laws and policies- while Malawi boasts of very progressive laws and policies, there remains a huge implementation gap;

(b) resource constraints- with competing interests for resources, programs under human rights have not always made it on the priority list. As such, this has affected progress in the implementation of human rights related programs;

(c) slow pace of institutional reforms- the new constitutional order in Malawi places radical human rights requirements on Government as the primary human rights defender. This has required state institutions to reform in line with the constitutional ideals. Such required reform has not been speedy enough and this has affected the pace of enjoyment and enforcement of human rights; and

(d) lack of public awareness of rights- despite progress in the general awareness of rights in Malawi there is still lack of awareness of rights.

### **IV. Conclusion**

124. The Government reiterates its commitment to ensuring that the equality of women and men is a reality and that practices of discrimination of any form which subjugate women are eliminated. Malawi looks forward to sharing more information on the progress made in implementing the COBs of the Seventh Periodic Report during the review.

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## Annex

### National task force members

**The following are the members of National Task Force on the Convention:**

1. Ministry of Justice and Constitutional Affairs (Chair)
  2. Ministry of Gender, Children, Disability and Social Welfare(Co-chair)
  3. Ministry of Homeland Security
  4. Ministry of Foreign Affairs and International Cooperation
  5. Ministry of Health and Population
  6. Ministry of Education, Science and Technology
  7. Ministry of Labour and Vocational Training
  8. Malawi Police Service
  9. Malawi Prisons Service
  10. Malawi Human Rights Commission
  11. Law Commission
  12. National Registration Bureau
  13. National Statistical Office
  14. The Office of the Ombudsman
  15. The Department of Immigration
  16. The Legal Aid Bureau
  17. Malawi Judiciary
  18. University of Malawi, Chancellor College Law School
  19. NGO Gender Coordination Network
  20. Paralegal Advisory Service (PASI)
  21. Centre for Human Rights Education Advice and Assistance (CHREAA)
  22. Centre for the Development of People (CEDEP)
  23. Plan International
  24. Women Lawyers Association of Malawi
  25. Women's Legal Resources Centre
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