



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

Seventy-fourth session

16 January–3 February 2017

Agenda item 4

Consideration of reports of States parties

### List of issues in relation to the report submitted by Malawi under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Addendum

### Replies of Malawi to the list of issues\*

[Date received: 29 January 2017]

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



## Introduction

1. The Government of Malawi is pleased to submit responses to the list of issues and questions by the CRC Committee in relation to Malawi's periodic report.

### Issue 1

**Please provide statistics, disaggregated by sex, age, nationality, ethnic and social background, rural or urban residence, on:**

(a) **The number of cases of the sale of children, child prostitution, child pornography and child sex tourism and information on the actions taken in those cases;**

(b) **The number of children who have received assistance for their physical and psychological rehabilitation and reintegration or have received compensation**

2. In the 2015 report, Police Victim Support Units (PVSU) reported that a total of 895 incidences of sexual abuse/violence against children, representing 37% of all violence cases against children reported at PVSUs. The highest number of sexual violence/abuse cases against children (37%) was reported in the Central Region, followed by the Southern Region (32%). The Eastern Region registered the least number of sexual violence/abuse cases against children. At the district level, Blantyre registered the highest number of sexual abuse cases against children reported at PVSUs (13%). This was seconded by Mzimba in the north (8%), and Lilongwe in the central region (7%), respectively. Likoma and Nkhatabay in the north of Malawi registered the least number of sexual abuse/violence cases against children nationally (one and two cases, respectively). The reports do not provide segregated data in terms of what forms of sexual abuse or violence against children were reported. As such, it is not clear whether Civil Society Education Coalition (CSEC) is part of the reported cases.

3. Some girls are recruited to Arab countries by employment agencies, where instead of the jobs they are promised, they are forced into prostitution and their passports are confiscated. Recently, 20 girls were reported stranded in Kuwait after they escaped from exploitative labour conditions. There is need to review the law to regulate the conduct of labour recruitment agencies.

4. The Government has had to intervene recently by banning all labour exports to the Middle East. The Minister of Labour travelled to Kuwait to investigate this and provided a stern warning that recruiting agencies which do not comply with Malawi's labour rules and regulations will be charged with human trafficking related offences.

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23	Males received specific psycho-social counselling
212	Females received specific psycho-social counselling
22	Males were supported to return to school
95	Females were supported to return to school
256	New child protection cases were registered and 47 cases formally resolved

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**The table below shows the statistics of sexually exploited children aged between 17–19 by NGO Theatre for a Change (2013–present)**

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87	Females were identified and took part in 87 Behaviour Change and Sexual and Reproductive Health workshops to support return to home and school
44	Males were identified and took part in 36 Behaviour Change and Sexual and Reproductive Health workshops to support return to home and school

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87	Females were identified and took part in 87 Behaviour Change and Sexual and Reproductive Health workshops to support return to home and school
18	Females received vocational skills training on completion of the workshops

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5. There is no exact number of children who received assistance but the principle is that children who in need physical or psychological rehabilitation and integration receive such support through the case management approach that the Government of Malawi is currently implementing in the one-stop centres, Police Community Victim Support units and Social Rehabilitation Centres.

## Issue 2

**Please provide information on the steps taken to develop a system of data collection and management for cases of the sale of children, child trafficking, child prostitution and child pornography, and on the investigation of such cases, including the prosecution and conviction of the persons responsible**

6. There are two critical data bases established in Malawi through Malawi Police and Ministry of Gender, Children Disability and Social Welfare. The Police record all criminal cases which include the issues highlighted above. In the Ministry of Gender, the Integrated Information Management System was created and it has 7 elements. It has child protection and gender based violence elements which include the indicators of trafficking and abuse of children. However, the system has not yet been fully developed but the component of child protection is being piloted in 10 districts. Further, Youth Net and Counselling (YONECO), an NGO, manages a National Helpline which receives and handles such cases. The helpline links the call to different service providers. The Ministry is also planning to streamline the National helpline by creating a National hub within the Ministry of Gender, Children, Disability establishment.

## Issue 3

**Please provide information on the steps taken to strengthen the referral and follow-up system within the existing child protection system**

7. The Government of Malawi, with support from the United Nations Children's Fund (UNICEF) developed a case management mechanism that, among other things, promotes comprehensive and professional handling of all cases of child abuse and exploitation. The arrangement allows social workers and other partners to record every stage of a case which include case intake, assessment, referral, follow and closure. In this regard a social worker is allowed to follow up or receive feedback on a referred case. This approach is being rolled out to more districts and other NGOs such as Action Aid, YONECO, have adopted the approach in their impact areas.

## Issue 4

**Please provide information on the human and financial resources available to the Ministry of Gender, Children and Social Welfare for its effective execution of the mandate related to the Optional Protocol. Please inform the Committee what steps are being taken to address the implementation gap referred to in paragraph 23 of the State party's report**

8. The Ministry of Gender has reviewed its establishment in such a way that it has created new offices at the district level. It will have social workers in all its critical departments of Social Welfare, Child Development, Gender Affairs and Disability. The officers will also be linked or placed in different service centres such as one stop centres, community Victim Support Units, boarder posts, hospitals and other such facilities. The Ministry has established a degree course for the social workers in the Southern Region,

specifically in Magomero, whom upon completion of the course will be placed at the established vacant posts.

## Issue 5

**Please provide information on any steps taken to disseminate widely the Optional Protocol and strengthen awareness-raising programmes, activities and training, especially among the judiciary, the police, prosecutors and investigators. Please explain what measures have been taken to strengthen the gender equality perspective among the communities, traditional leaders, families, authorities and personnel dealing with child victims**

9. The Government of Malawi in 2015 passed the Trafficking in Person Act. Different governmental departments, as well as civil society are conducting orientation session targeting judicial staff, police officers and prosecutors on the Act. They are further being oriented on other relevant documents such as the Convention on the Rights of the Child and two Optional Protocols as reference materials. The Malawi Human Rights Commission also organized a Child Rights Conference in 2016 which involved all stakeholders in child protection. A special session was held that reflected on the Convention on the Rights of the Child and its Optional Protocols and a recommendation was made to ensure continued dissemination of Convention and its Optional Protocols.

10. On 16th June and 30th July, 2016 Malawi Government joined the international community in commemorating the Day of African Child and observing the International Day for Trafficking in Persons respectively. Focus was given to existing policies and legislation to address child abuse and sale and exploitation of children. Special mention was made of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

## Issue 6

**Please inform the Committee on the steps taken to set up mechanisms to detect and identify children who are particularly at risk from the offences described in the Optional Protocol, such as migrant children, children in street situations, children with albinism, girls, child domestic workers and children from economically weak families**

11. The Ministry of Gender, Children Disability and Social Welfare in October 2016 requested support from the Southern African Development Community (SADC) secretariat which in response trained 50 officers from the Department of Immigration, Police and Social Welfare on victim identification, prosecution and other issues. The same has also been done by the International Organisation on Migration as well as United Nation Office of Drugs and Crime. The training helped the National coordination committee to recommend the inclusion of social workers in border posts for case management of victims of sexual abuse, trafficking and other irregular migrations.

## Issue 7

**Please provide the Committee with information on what specific measures have been taken to combat the sale or sexual exploitation of children, trafficking of children and traditional customs known as *kupimbira* and *kutomera* and indicate what measures have been taken to ensure that the penalties applied are proportionate to the gravity of the crimes and that those found responsible are efficiently prosecuted**

12. The government of Malawi in collaboration with its partners have translated the existing gender related two laws into vernacular languages of Chichewa and Tumbuka. Further, the English version has been simplified to a user friendly version. These translated and simplified versions have also been used in the development of community by-laws

which, among other things, are addressing the gender equality, harmful cultural practices and child marriages.

13. The government has embarked on awareness of the existing related legislation, further it has partnered with chiefs in the development of by-laws which are there to address harmful traditional practices.

14. Since 2014, Theatre for a Change, NGO, has conducted a number of legislative and interactive theatre performances with community members, local leaders and other NGOs. Topics and themes have included child protection, prevention of gender based violence (GBV) GBV reporting and gender equality.

15. They have also worked with the police to build listening clubs for the Nzotheke Interactive Radio Show which covers key topics to improve police interactions with female sex workers and sexually exploited children.

**Between 2015 and 2016, the following have taken place:**

140 stakeholders	Involved in 2 Legislative Theatre Performances
1 313 community members	Involved in 4 Interactive Theatre Performances in hot-spot areas
10 Radio shows	Average 114 Police officers attend listening clubs per show across the country

## **Issue 8**

**Please provide information on the measures taken to prevent child sex tourism, particularly in the resorts along Lake Malawi**

16. The Ministry of Gender, Children, Disability and Social Welfare has been training district officers on lake show districts on gender related laws, including the Child Care Protection and Justice Act. The law provides for the protection of children against undesirable practices that include sex tourism. Regular investigative trips in places of entertainment are conducted to ensure that children are not abused in sex tourism.

## **Issue 9**

**With reference to paragraphs 35 and 36 of the State party's report, please clarify whether the current legislation prohibits all acts and activities related to the sale of children, as defined in articles 2 and 3 of the Optional Protocol, in particular:**

**(a) The transfer of organs of a child for ritual purposes or for profit;**

17. The Trafficking in Persons Act outlaws the transfer of organs of a child for ritual purposes or for profit.

**(b) The engagement of a child in forced labour; and**

18. Forced child labour is included in the gazetted list of worst forms of child labour as a crime.

**(c) The sale or transfer of a child for purposes of illegal adoption**

19. The sale or transfer of children for purposes of illegal adoption is also a crime in the Trafficking in Persons Act. In view of this, Government has centralized all international adoptions.

## Issue 10

**Please clarify whether the legislation establishes the State party's extraterritorial jurisdiction over all the offences referred to in the Optional Protocol, especially when the alleged offender is a national of the State party or a person whose habitual residence is in its territory, or when the victim is a national of the State party. Please also provide information on whether the Optional Protocol may be used as a legal basis for the extradition of a person suspected of the offences covered by the Optional Protocol**

20. Section 3 of the Trafficking in Persons Act provides that it shall where the offence:
- (a) Is committed wholly or partially within Malawi;
  - (b) Is committed outside Malawi and the trafficked person is a citizen of Malawi;
  - (c) Is committed outside Malawi by a citizen of Malawi or a person who is resident in Malawi.

## Issue 11

**Please provide information on the measures taken by the State party to ensure that victims of the offences covered by the Optional Protocol are not stigmatized, have access to efficient, adequate and long-term programmes and support systems to facilitate their reintegration and their physical and mental rehabilitation**

21. The Government of Malawi through its social welfare services established Police Victim support units, Community Victim Support Units, One stop centres and National Rehabilitation centers which offer protection and rehabilitation services to all victims of violence and abuse. In one stop centres, focus is given to victims to ensure that they are not stigmatized. These structures have trained personnel who offer counselling and referral services. Plans are under way to establish rehabilitation centres in all the regions of the country for easy reintegration processes. In addition, Magomero College has had its curriculum reviewed to start offering long term and short terms courses on counselling. This will enable civil society benefit from the professional counselling courses and it help to improve service delivery.

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