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### **Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1**

#### **Malawi**

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

## I. Background and framework

### A. Scope of international obligations<sup>1</sup>

<i>Core universal human rights treaties<sup>2</sup></i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	11 June 1996	None	Individual complaints (art. 14): No
ICESCR	22 December 1993	None	-
ICCPR	22 December 1993	None	Inter-State complaints (art. 41): No
ICCPR-OP 1	11 June 1996		-
CEDAW	12 March 1987	None	-
CAT	11 June 1996	None	Inter-State complaints (art. 21): No Individual complaints (art. 22): No Inquiry procedure (art. 20): Yes
CRC	2 January 1991	None	-
OP-CRC-SC	7 October 2009	None	-
CRPD	27 August 2009	None	-

*Treaties to which Malawi is not a party: OP-ICESCR<sup>3</sup>, ICCPR-OP 2, OP-CEDAW, OP-CAT, OP-CRC-AC (signature only, 2000), ICRMW, CRPD-OP, CED.*

<i>Other main relevant international instruments</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	No
Rome Statute of the International Criminal Court	Yes
Palermo Protocol <sup>4</sup>	Yes
Refugees and stateless persons <sup>5</sup>	Yes, except the 1961 Convention
Geneva Conventions of 12 August 1949 and Additional Protocols thereto <sup>6</sup>	Yes
ILO fundamental conventions <sup>7</sup>	Yes
UNESCO Convention against Discrimination in Education	No

1. In 2010, the Committee on the Elimination of Discrimination against Women (CEDAW) encouraged Malawi to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), the International Convention for the Protection of All Persons from Enforced Disappearance (CED) and the Optional Protocol to the Convention (OP-CEDAW).<sup>8</sup>

2. In 2009, the Committee on the Rights of the Child (CRC) recommended that Malawi, inter alia, expedite the ratification of the Optional Protocol (OP-CRC-AC)<sup>9</sup> and consider ratifying the 1961 Convention on the Reduction of Statelessness.<sup>10</sup>

3. The United Nations High Commissioner for Refugees (UNHCR) noted that the domestic law on refugees dates from 1989 and is considered outdated. UNHCR observed that the law provides for procedures to determine refugee status, but lacks guidelines on the treatment of refugees. Legal gaps are filled through inconsistent practices, which are influenced by the nine reservations<sup>11</sup> made at the time that the 1951 Convention relating to the Status of Refugees was ratified.<sup>12</sup> In 2003, the Committee on the Elimination of Racial Discrimination (CERD) expressed concern at Malawi's reservations to the 1951 Refugee Convention which, in particular, reduce the protection offered to refugees in the areas of employment, access to property, right to association, education and social security. CERD encouraged Malawi to give priority to legislative reform which would withdraw those reservations.<sup>13</sup>

## **B. Constitutional and legislative framework**

4. In 2010, CEDAW urged Malawi to take immediate steps to ensure that the Convention is given full legal effect in its domestic laws.<sup>14</sup> The Committee furthermore expressed concern that statutory and customary laws which discriminate against women remain in force, and urged Malawi to ensure that discriminatory laws are amended or repealed, and that measures are taken to expedite the enactment of outstanding bills in this regard, in particular the Gender Equality Bill, the Deceased Estates (Wills, Inheritance and Protection) Bill, and the Marriage, Divorce and Family Relations Bill.<sup>15</sup>

5. In 2009, CRC urged Malawi to establish the definition of the child in accordance with the Convention<sup>16</sup> and to ensure integration of the principle of the best interest of the child in the Constitution.<sup>17</sup> It further recommended that Malawi continue and strengthen its efforts to ensure that this principle is appropriately integrated into all legal provisions, judicial and administrative decisions, as well as projects, programmes and services<sup>18</sup>

## **C. Institutional and human rights infrastructure**

6. In 2000, the Malawi Human Rights Commission was accredited with "A" status by the International Coordinating Committee of National Human Rights Institutions (ICC), and reconfirmed in 2007.<sup>19</sup>

7. In 2009, CRC, like CERD in 2003,<sup>20</sup> regretted the limited human and financial resources available to the Commission.<sup>21</sup>

## **D. Policy measures**

8. In 2009, CRC welcomed the adoption of the National Plan of Action for Orphans and Other Vulnerable Children (2005-2009). While noting that a comprehensive National Action Plan for Children (NAPC) has been drafted, CRC regretted that it had not yet been finalized and that there was no comprehensive Children's Policy.<sup>22</sup> CRC encouraged Malawi to finalize the NACP and recommended that a specific budget provision be made for its implementation and that an evaluation and monitoring mechanism be established to regularly assess progress achieved and identify any deficiencies.<sup>23</sup>

9. Concerned that Malawi often delegates responsibilities and duties relating to the provision of programmes and services for children to the civil society, CRC recommended

that Malawi exercise its responsibilities in cooperation with the civil society, rather than delegate them thereto.<sup>24</sup>

10. In 2005, Malawi adopted the Plan of Action for the first phase (2005-2009) of the World Programme for Human Rights Education with a focus on the national school system. The Malawi Human Rights Commission took concrete steps to implement human rights education and training programmes, in keeping with its current strategic plan (2006-2010) which includes, among its goals, enabling the people of Malawi – vulnerable groups in particular – to know, understand and freely exercise their human rights through human rights education and training.<sup>25</sup>

## II. Promotion and protection of human rights on the ground

### A. Cooperation with human rights mechanisms

#### 1. Cooperation with treaty bodies

<i>Treaty body<sup>26</sup></i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD		December 2003		Initial to sixth reports overdue since 1997. Review procedure on initial to fifth reports scheduled for 2007 postponed.
CESCR				Initial report overdue since 1994
HR Committee				Initial report overdue since 1995
CRC	2007	March 2009		Third to fifth combined report due in 2013.
OP-CRC- SC				Initial report due in November 2011.
CEDAW	2008	February 2010		Seventh report due in 2014.
CAT				Initial report overdue since 2000.
CRPD				Initial report due in 2011.

11. In 2003, CERD expressed concern that Malawi had not fulfilled its reporting requirements to the treaty bodies.<sup>27</sup> In view of requests for technical assistance from Malawi, and its plans to ensure training on the Convention and reporting to the Committee

is provided by the Office of the High Commissioner for Human Rights (OHCHR), CERD informed Malawi in August 2007 that it had extended the deadline for submission of its overdue reports to June 2008.<sup>28</sup> The review procedure has been postponed at the request of Malawi.<sup>29</sup>

## 2. Cooperation with special procedures

<i>Standing invitation issued</i>	No
<i>Latest visits or mission reports</i>	
<i>Visits agreed upon in principle</i>	
<i>Visits requested and not yet agreed upon</i>	SR on the right to food (requested in 2003; reiterated in 2010)
<i>Facilitation/cooperation during missions</i>	SR on adequate housing (requested in 2009)
<i>Follow-up to visits</i>	
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 3 communications were sent. The Government did not reply to any of those communications.
<i>Responses to questionnaires on thematic issues</i>	Malawi did not respond to any of the 23 questionnaires sent by special procedures mandate holders. <sup>30</sup>

## B. Implementation of international human rights obligations

### 1. Equality and non-discrimination

12. In 2010, CEDAW reiterated its concern about, inter alia, the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life and regretted the lack of a sustained and systematic strategy to modify or eliminate these.<sup>31</sup> The Committee recommended that Malawi adopt a comprehensive strategy to modify or eliminate negative cultural practices and stereotypes, and to put in place monitoring mechanisms to regularly assess the progress made towards achieving established goals.<sup>32</sup>

13. CEDAW also expressed concern about the multiple marriage regime and the discriminatory provisions in the laws governing marriage and family relations, and reiterated its concerns about the lack of clarity with respect to the minimum age for marriage.<sup>33</sup> It was further concerned that the High Court's interpretation of divorce laws, which do not take into account a woman's non-financial contribution, results in unequal property distribution during divorce.<sup>34</sup> Similarly, in 2009, CRC was concerned that current legislation on the minimum age for marriage was unclear,<sup>35</sup> and recommended that Malawi carry out legislative reform.<sup>36</sup>

14. CEDAW further expressed concern about the precarious situation of women in rural areas, who constitute the majority of women in the country, and who are disproportionately affected by the lack of adequate health services, education, land ownership and inheritance, economic opportunities and social benefits. It reiterated its concern about women's access to justice, and enforcement of their rights.<sup>37</sup> CEDAW urged Malawi to take all appropriate measures to eliminate all forms of discrimination against rural women and to eradicate harmful traditional practices. CEDAW also reiterated its recommendation that Malawi ensure that rural women participate in decision-making processes and have equal access to basic services and infrastructure.<sup>38</sup>

15. In 2009, CRC remained concerned that de facto societal discrimination persisted against girls and vulnerable groups, including children with disabilities and orphans,<sup>39</sup> and urged Malawi to strengthen its efforts to eradicate discriminatory laws.<sup>40</sup>

16. The United Nations Development Assistance Framework (UNDAF) Malawi (2008-2011) indicated that girls and women continue to face severe discrimination, and suffer the effects of poverty more than boys and men.<sup>41</sup>

17. CEDAW also reiterated its concern about the contradiction between the Constitution and the Citizenship and Immigration Acts, which stipulate that, upon marrying a non-Malawian man, a Malawian woman loses her nationality, and that a married woman is not allowed to migrate unless she is under the custody of her husband.<sup>42</sup> CEDAW urged Malawi to remove all discriminatory laws relating to nationality.<sup>43</sup>

18. UNHCR indicated that children born in Malawi to parents who are not of African race are explicitly excluded, under the Citizenship Act, from the right to acquire Malawian citizenship by birth.<sup>44</sup>

19. In May 2010, the United Nations High Commissioner for Human Rights stated that the detention, prosecution and sentencing to 14 years imprisonment with hard labour of a Malawian couple based on their sexual orientation, which was imposed by a court in application of the penal code, was discriminatory and set an alarming precedent.<sup>45</sup> On 29 May 2010, the Secretary-General applauded the decision announced by the President of Malawi to pardon the couple.<sup>46</sup>

## **2. Right to life, liberty and security of the person**

20. In 2010, CEDAW reiterated its concern about the high prevalence of violence against women and again expressed concern about the lack of adequate services and protection for victims.<sup>47</sup> It urged Malawi to, inter alia, strengthen efforts to implement existing legislative measures in that regard.<sup>48</sup>

21. In 2010, the ILO Committee of Experts on the Application of Conventions and Recommendations (ILO Committee of Experts) noted that a process for the development of legislation on trafficking had been initiated and expressed the hope that the new law would ensure that children are protected from trafficking for any reason, including economic and sexual exploitation.<sup>49</sup> In 2010, CEDAW reiterated its concern about the scope of trafficking and the extent to which girls and women are involved in sexual exploitation, including prostitution, and the limited statistical data relating to these issues.<sup>50</sup> It recommended, inter alia, that Malawi take the necessary legislative measures, including the effective prosecution and punishment of traffickers.<sup>51</sup> CRC had expressed similar concerns in 2009.<sup>52</sup>

22. In 2005, the Special Rapporteurs on the sale of children and trafficking in persons sent a joint communication regarding the alleged failure to adequately suppress and punish the trafficking of boys, sometimes as young as 9 years old, from Malawi into neighbouring countries, where they are economically exploited. The Government replied that it had forwarded the concerns transmitted to the appropriate authorities, and that it remained committed to fighting trafficking and child labour.<sup>53</sup>

23. The ILO Committee of Experts also noted that while the use, procurement or offering of persons under 18 years of age for the purposes of prostitution or pornography appeared to exist in Malawi, national legislation did not seem to prohibit this worst form of child labour. It urged Malawi to take measures, as a matter of urgency, to adopt national legislation in that regard.<sup>54</sup>

24. In 2009, CRC was concerned about the lack of data on the number of children involved in sexual exploitation, and the lack of reporting mechanisms available to victims, as well as the absence of awareness campaigns on the issue.<sup>55</sup> It therefore recommended

that Malawi develop and strengthen appropriate legislative measures to address the issue of sexual abuse and exploitation, and take appropriate measures to ensure prompt prosecution of perpetrators.<sup>56</sup>

25. CRC also regretted that violence against children persisted, and urged Malawi to actively implement existing legislation and strategies to ensure that perpetrators are brought to justice.<sup>57</sup> CRC urged Malawi to explicitly prohibit corporal punishment in all settings, by law, and that it intensify its awareness campaigns to promote the use of alternative forms of discipline, in a manner consistent with the child's human dignity.<sup>58</sup>

26. UNDAF Malawi (2008-2011) indicated that school environments in Malawi are generally unsafe, with cases of bullying, gender-based violence and abuse, and corporal punishment still frequently reported. Many cases also go unreported.<sup>59</sup>

27. CRC reiterated its concern about the increasing number of children living in the streets and the ongoing lack of specific policies and programmes to address the situation and assure their rights to, in particular, adequate housing, health care, nutrition and education. CRC was also concerned that some street children who need care and attention were accommodated in reformatory institutions intended for children in conflict with the law.<sup>60</sup> In that respect, CRC recommended that Malawi take urgent measures to remove street children from reformatory institutions, and provide all street children with adequate housing, nutrition, health care and educational opportunities. Furthermore, it recommended that street children be provided with appropriate recovery assistance, that social integration within their families and communities be promoted and that a study be undertaken on the scope and causes of the phenomenon of children living in the streets.<sup>61</sup>

### **3. Administration of justice**

28. In 2009, CRC remained concerned that the minimum age of criminal responsibility was far too low (7 years of age) and that the new legislation proposed an increase to 10 years, which is still too low. CRC was also concerned at the increasing rate of crime perpetrated by children, and the practice of detention "at the pleasure of the President."<sup>62</sup> It recommended as a matter of urgency that Malawi raise the age of criminal responsibility.<sup>63</sup> CRC also recommended, among other things, that Malawi implement alternative measures to deprivation of liberty, ensure that children in conflict with the law have access to free legal assistance and to an independent and effective complaints mechanism, and provide training on the Convention to all professionals working in the juvenile justice system.<sup>64</sup>

29. UNDAF Malawi (2008-2011) emphasized that without robust accountability systems, Malawi's chances of benefiting from international aid and private investment are weakened.<sup>65</sup>

### **4. Right to privacy, marriage and family life**

30. In 2009, CRC expressed concern that the National Registration Bill had not yet passed into law and that many children were still without proper proof of age and at risk of exploitation and abuse. CRC recommended that Malawi expedite the enactment of the bill as a matter of priority, and urged it to ensure the allocation of adequate financial, human and other resources to registration offices, as well as take measures to ensure that the population, particularly those in rural areas, have access to the registration offices.<sup>66</sup>

### **5. Freedom of movement**

31. UNHCR observed that the vast majority of persons in need of protection resides in the only designated refugee camp in the country. It also noted that outside the camp, refugees' freedom of movement was restricted as residence outside the camp was declared illegal by a High Court ruling, which overturned previous, more liberal decisions made by

the government committee established under the Refugees Act. Furthermore, high fees for business permits restrict refugees from establishing and carrying out business in other major cities in the country. Local immigration authorities have often rounded up refugees in rural and urban areas and returned them to the camp, claiming compliance with the High Court Ruling. Consequently, limited markets within the camp, high fees for work permits and the generally negative attitude of the local population mean that very few refugees attain some degree of self-reliance inside and outside the camp. This in turn has resulted in an unfavourable situation, whereby refugees depend largely on international relief aid.<sup>67</sup>

**6. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

32. CEDAW expressed concern at the low participation level of women at all levels of decision-making and the limited steps taken to address the underlying causes, including prevailing social and cultural attitudes. It urged Malawi to strengthen its efforts and accelerate the increase in the representation of women in the Government.<sup>68</sup>

33. The ILO Committee of Experts reiterated its hope that necessary measures would be taken to bring the Penal Code into conformity with the Abolition of Forced Labour Convention (No.105) with a view to prohibiting the use of forced or compulsory labour as punishment for holding or expressing political views opposed to the established political, social or economic system.<sup>69</sup>

34. In March 2010, the Working Group on Arbitrary Detention and the Special Rapporteurs on freedom of expression and on human rights defenders issued a joint communication regarding the alleged detention of the director and 2 staff members of a youth organization charged with “incitement to violence” reportedly following a media statement by their organization criticizing the Government.<sup>70</sup>

**7. Right to work and to just and favourable conditions of work**

35. In 2010, the ILO Committee of Experts reiterated serious concerns regarding the considerable number of children under 14 years of age working in Malawi. It noted that HIV/AIDS had orphaned many children and that there was an increased risk of those orphans being engaged in child labour.<sup>71</sup> The ILO Committee of Experts noted information received that 52.6 per cent of child labourers were often self-employed in the commercial agricultural sector. It urged Malawi to take the necessary measures to ensure that no person under 14 years of age is admitted to employment or work, in accordance with national legislation, and that the Constitution should be amended to raise the minimum age of a person who could be engaged in work that is likely to be harmful to 18 years.<sup>72</sup>

36. In 2009, CRC was concerned that, since education is not compulsory, a large number of children were working and that many children between the ages of 15 and 17 were engaged in work that is considered hazardous, especially in the tobacco and tea estate sectors.<sup>73</sup> CRC urged Malawi, inter alia, to expedite the launch of the National Plan of Action to Support the Child Labour Policy and ensure its effective implementation.<sup>74</sup>

37. In 2010, CEDAW again expressed concern at the direct and indirect discriminatory practices against women in both the public and private sectors with respect to recruitment, equal pay for work of equal value, maternity protection, as well as sexual harassment.<sup>75</sup> It called on Malawi to immediately introduce specific measures and an enforcement mechanism to ensure equal rights for women in the area of employment, including a legal guarantee of equal pay for equal work and work of equal value, and better enforcement of laws to protect women from discrimination on the ground of maternity.<sup>76</sup>



## 8. Right to social security and to an adequate standard of living

38. In 2009, CRC noted the difficulty encountered by children and families living in poverty to access basic social services and recommended that Malawi develop a global strategy to address the issues of poverty, social security, nutrition and health.<sup>77</sup> In particular, it recommended that Malawi seek assistance through international cooperation.<sup>78</sup>

39. World Food Programme (WFP) stated that food security in Malawi depended on the agriculture sector which accounts for about 40 per cent of gross domestic product and 80 per cent of the labour force. WFP stated that over the last decade, Malawi has faced food deficits and relied on food imports and food aid, with 22 per cent of the population unable to satisfy their minimum needs of 2,100 kcal per day.<sup>79</sup> The United Nations Country Team (UNCT) indicated that 40 per cent of the population lived under the poverty line.<sup>80</sup> UNCT stated that the consequences of high levels of chronic malnutrition (stunting) characterized Malawi and affected nearly 50 per cent of children under 5 years of age.<sup>81</sup>

40. CRC remained concerned about the state of health of children in Malawi, including the high level of malnutrition. It was deeply concerned about the limited access to and the poor quality of health-care facilities, and the critical shortage of health care personnel.<sup>82</sup>

41. CRC was also concerned about the lack of comprehensive disaggregated data on disabilities, the lack of inadequate financial resources at the disposal of the Ministry for People with Disabilities and the Elderly, and the lack of attention paid to children with mental illness.<sup>83</sup>

42. In 2010, CEDAW reiterated its concern about the high incidence of maternal mortality, in particular the number of deaths resulting from unsafe abortions.<sup>84</sup> CRC had expressed similar concerns in 2009.<sup>85</sup> CEDAW recommended that Malawi put in place measures to reduce maternal mortality by identifying and addressing causes of maternal deaths, and that it review the laws relating to abortion with a view to removing punitive provisions.<sup>86</sup> CRC similarly recommended the adoption of an effective and gender-sensitive strategy of education and awareness-raising for the general public, with a view to reducing the incidence of teenage pregnancies.<sup>87</sup>

43. UNAIDS estimated that 930,000 people (including children) in Malawi were living with HIV at the end of 2007.<sup>88</sup> UNAIDS also estimated that in 2007, 555,000 children were orphaned due to AIDS (up from 240,000 in 2001); most of those children lack adequate care, food and educational opportunities which are factors that expose them to the risk of abuse (e.g. child labour and child trafficking) and increases their vulnerability to HIV.<sup>89</sup> UNDAF considered that malnutrition was a significant obstacle to efforts to combat HIV. Indeed an estimated 25 to 50% of children admitted for nutrition rehabilitation are HIV positive.<sup>90</sup>

44. A 2009 United Nations Statistical Division source indicated that the percentage of people, 15 to 49 years old, living with HIV had decreased from 13.30 per cent in 2001 to 11.90 per cent in 2007.<sup>91</sup>

45. UNAIDS noted the poor access to services that would prevent mother-to-child transmission. In 2007, an estimated 32 per cent of HIV-positive pregnant women received anti-retroviral therapy to reduce the risk of mother-to-child transmission.<sup>92</sup> It also noted the limited provision of follow-up care for HIV-positive mothers who had recently given birth, which hindered prompt diagnosis and timely implementation of anti-retroviral therapy for children in need.<sup>93</sup>

46. In 2009, CRC expressed concern about the very low coverage of anti-retroviral treatment for the prevention of mother-to-child transmission and for children, the poor quality of the health-care system, the human capacity constraints of trained health-care workers and harmful traditional practices, which continue to increase vulnerability to HIV

infection.<sup>94</sup> CEDAW was also deeply concerned that some traditional healers are prescribing sexual intercourse with girls as a panacea for HIV infection, and recommended that Malawi prosecute those who prescribe such practices.<sup>95</sup>

47. In 2009, CRC also expressed concern at the practice of female genital mutilation (FGM) within some ethnic groups. CRC urged Malawi to, inter alia: (a) adopt legislative and other measures to prohibit harmful traditional practices affecting children; (b) ensure that legislation prohibiting harmful traditional practices provide for appropriate penal sanctions and that perpetrators of such acts are brought to justice; (c) strengthen awareness-raising and sensitization activities for practitioners, families, traditional or religious leaders and the general public by adopting a child rights approach.<sup>96</sup>

48. UN-HABITAT indicated that, with urbanization growth said to be 6.3 per cent, Malawi was one of the most rapidly urbanizing countries in Africa and that every five years, between 2010 and 2030, an average urban population of one million would be added to the cities and towns of Malawi. UN-HABITAT further indicated that about 90 per cent of Malawi's urban population lived under slum conditions.<sup>97</sup>

## **9. Right to education and to participate in the cultural life of the community**

49. A 2009 United Nations Statistical Division source indicated that in 2007, the total net enrolment ratio in primary education was 87.6 per cent.<sup>98</sup> In 2008, UNCT stated that the primary school completion rate was 32 per cent, Malawi had the lowest attainment scores in the region, and teacher/ pupil ratios were very high.<sup>99</sup> WFP indicated that the dropout rate was 16.1 per cent at the national level and that it was higher for girls than for boys. WFP stated that school-related costs, such as uniforms, as well as the high cost of sending children to school for households that depended on the income of working children, were the main causes for drop-outs, in addition to early marriage and pregnancy for girls.<sup>100</sup> In 2009, CRC recommended that primary education be compulsory and free of direct and indirect costs.<sup>101</sup>

50. CRC also remained concerned about ongoing gender and regional disparities, the low quality of education due, in particular, to the limited number of teachers and the high level of abuse and violence in schools.<sup>102</sup> In 2010, CEDAW again expressed concern about obstacles to quality education for girls, and the persistence of sexual abuse and harassment in schools.<sup>103</sup> In 2007, the ILO Committee of Experts reiterated an observation made previously, regarding the very high adult female illiteracy rate (71 per cent) and the low level of education, especially among rural women, as well as the discrimination they faced with regard to access to productive resources that would improve their working and living conditions.<sup>104</sup>

## **10. Migrants, refugees and asylum-seekers**

51. UNHCR indicated that since 1 March 2010 the country has been host to some 5,285 refugees and 6,150 asylum-seekers whose asylum applications are pending a decision. Out of the total population of 11,435, 53.6 per cent are male and 46.4 per cent are female.<sup>105</sup> UNHCR considered that the main challenge in this area was the lack of a favourable legal framework for the implementation of the rights of refugees in the country. It stated that the frustrations arising out of the protracted nature of the refugee situation in Malawi had created a generally negative attitude towards refugees and asylum-seekers. The situation has been compounded by the increased numbers of migrants who use asylum procedures to regularise their stay in the country on a temporary basis.<sup>106</sup>

52. UNHCR was also particularly concerned that despite ongoing training in refugee protection that has been provided to the relevant authorities, border officials have at times deported persons who claimed to be in need of international protection without allowing for an assessment of the merits of their asylum applications.<sup>107</sup>

**11. Internally displaced persons**

53. In 2010, the UN Resident Coordinator stated that a series of earthquakes of up to a magnitude of 6.0 that had hit the northern district of Karonga in 2009, had displaced some 30,000 people.<sup>108</sup>

**III. Achievements, best practices, challenges and constraints**

54. The 2008 Annual Report of the UN Resident Coordinator indicated that the country had made progress in most MDG indicators and that six of the goals were likely to be met by 2015. Malawi is one of a few developing countries projected to exceed the infant and child mortality targets by 2015. However, Malawi is unlikely to achieve the targets to promote gender equality and empowerment of women or to reduce the maternal mortality rate by three quarters.<sup>109</sup>

55. In 2010, the Secretary-General noted that in just a few years, Malawi had gone from food deficit to surplus, from importer to exporter. He stated that the country was showing the world that the Millennium Development Goals were within reach.<sup>110</sup>

56. UNHCR noted that Malawi has initiated a complete review of its refugee policies and refugee law. UNHCR viewed this as a positive step and a display of willingness on the part of Government to improve the human rights situation for persons seeking protection in the country.<sup>111</sup>

57. In 2009, CRC noted with concern the difficulties encountered by a high number of families to meet their parental responsibilities due to extreme poverty, particularly in rural areas, the precarious situation of single-parent households, child and grandparent-headed households due to the impact of HIV/AIDS and the rather limited services available.<sup>112</sup>

**IV. Key national priorities, initiatives and constraints**

N/A

**V. Capacity-building and technical assistance**

58. In 2010, CEDAW recommended that Malawi strengthen its cooperation with specialized agencies and programmes of the United Nations system, including the United Nations Population Fund, the United Nations Children's Fund, the Joint United Nations Programme on HIV/AIDS and the Office of the High Commissioner for Human Rights.<sup>113</sup>

59. In 2009, given the persistent widespread poverty and the inadequacy of basic services, as well as the lack of a comprehensive social security system that would ensure access to essential services for all children, CRC recommended that Malawi seek technical assistance from, among others, UNICEF, the World Bank and ILO.<sup>114</sup> With regard to the Committee's concern about the right to education, it was recommended that Malawi seek technical assistance from UNICEF and UNESCO.<sup>115</sup> Concerning economic exploitation of children, including child labour, CRC urged Malawi to seek technical assistance from ILO/IPEC and UNICEF.<sup>116</sup> On the phenomenon of children living in the streets, CRC recommended that technical assistance be sought from, among others, UNICEF.<sup>117</sup> In the context of juvenile justice, it was recommended that Malawi seek technical assistance and other cooperation from the United Nations Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.<sup>118</sup>

## Notes

<sup>1</sup> Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>

<sup>2</sup> The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities
CED	International Convention for the Protection of All Persons from Enforced Disappearance

<sup>3</sup> Adopted by the General Assembly in its resolution 63/117 of 10 December 2008. Article 17, paragraph 1, of OP-ICESCR states that “The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant”.

<sup>4</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

<sup>5</sup> 1951 Convention relating to the Status of Refugees and its 1967 Protocol; 1954 Convention relating to the status of Stateless Persons; and 1961 Convention on the Reduction of Statelessness.

<sup>6</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at [www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html](http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html).

<sup>7</sup> International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning the Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

- <sup>8</sup> CEDAW/C/MWI/CO/6, paras. 48 and 50.
- <sup>9</sup> CRC/C/MWI/CO/2, para. 79.
- <sup>10</sup> Ibid., para. 65 (d).
- <sup>11</sup> Reservations are made regarding articles 2, 7, 13, 15, 19, 22, 24, 28 and 34 of the 1951 Convention relating to the Status of Refugees.
- <sup>12</sup> UNHCR submission to the UPR on Malawi, p. 2.
- <sup>13</sup> CERD/C/63/CO/12, para. 9.
- <sup>14</sup> CEDAW/C/MWI/CO/6, para. 10-11.
- <sup>15</sup> Ibid., paras. 12-15.
- <sup>16</sup> CRC/C/MWI/CO/2, para. 27.
- <sup>17</sup> Ibid., para. 31.
- <sup>18</sup> Ibid., para. 31.
- <sup>19</sup> For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Human Rights Institutions (ICC), see A/HRC/13/45, Annex I.
- <sup>20</sup> CERD/C/63/CO/12, para. 12.
- <sup>21</sup> CRC/C/MWI/CO/2, para. 15.
- <sup>22</sup> Ibid., para. 12.
- <sup>23</sup> Ibid., para. 13.
- <sup>24</sup> Ibid., paras. 24- 25
- <sup>25</sup> See General Assembly resolution 59/113B and Human Rights Council resolutions 6/24, 10/3 and 12/4. See also letters from the High Commissioner for Human Rights dated 9 January 2006 and 10 December 2007 at <http://www2.ohchr.org/english/issues/education/training/Summary-national-initiatives2005-2009.htm>, and the response of the Malawi Human Rights Commission to the questionnaire of the Human Rights Council Advisory Committee on the issue of the draft United Nations declaration on human rights education and training, dated 24 December 2008, available at [http://www2.ohchr.org/english/bodies/hrcouncil/advisorycommittee/HR\\_education\\_training.htm](http://www2.ohchr.org/english/bodies/hrcouncil/advisorycommittee/HR_education_training.htm).
- <sup>26</sup> The following abbreviations have been used for this document:
- |       |                                                              |
|-------|--------------------------------------------------------------|
| CERD  | Committee on the Elimination of Racial Discrimination        |
| CEDAW | Committee on the Elimination of Discrimination against Women |
| CRC   | Committee on the Rights of the Child                         |
- <sup>27</sup> CERD/C/63/CO/12, para. 2.
- <sup>28</sup> Letter to the State party from the Chairperson of CERD, dated 24 August 2007.
- <sup>29</sup> See <http://www2.ohchr.org/english/bodies/cerd/cerds71.htm>.
- <sup>30</sup> The questionnaires referred to are those reflected in an official report by a special procedure mandate holder issued between 1 January 2006 and 30 June 2010. Responses counted for the purposes of this section are those received within the relevant deadlines, and referred to in the following documents: (a) E/CN.4/2006/62, para. 24, and E/CN.4/2006/67, para. 22; (b) A/HRC/4/23, para. 14; (c) A/HRC/4/24, para. 9; (d) A/HRC/4/29, para. 47; (e) A/HRC/4/31, para. 24; (f) A/HRC/4/35/Add.3, para. 7; (g) A/HRC/6/15, para. 7; (h) A/HRC/7/6, annex; (i) A/HRC/7/8, para. 35; (j) A/HRC/8/10, para.120, footnote 48; (k) A/62/301, paras. 27, 32, 38, 44 and 51; (l) A/HRC/10/16 and Corr.1, footnote 29; (m) A/HRC/11/6, annex; (n) A/HRC/11/8, para. 56; (o) A/HRC/11/9, para. 8, footnote 1; (p) A/HRC/12/21, para.2, footnote 1; (q) A/HRC/12/23, para. 12; (r) A/HRC/12/31, para. 1, footnote 2; (s) A/HRC/13/22/Add.4; (t) A/HRC/13/30, para. 49; (u) A/HRC/13/42, annex I; (v) A/HRC/14/25, para. 6, footnote 1; (w) A/HRC/14/31, para. 5, footnote 2.
- <sup>31</sup> CEDAW/C/MWI/CO/6, para. 20.
- <sup>32</sup> Ibid., para. 21.
- <sup>33</sup> Ibid., para. 42.
- <sup>34</sup> Ibid., para. 43.
- <sup>35</sup> CRC/C/MWI/CO/2, para. 26.
- <sup>36</sup> Ibid, para. 27.
- <sup>37</sup> CEDAW/C/MWI/CO/6, para. 40.
- <sup>38</sup> Ibid., para. 41.
- <sup>39</sup> CRC/C/MWI/CO/2, para. 28.
- <sup>40</sup> Ibid., para. 29.
- <sup>41</sup> UNDAF Malawi 2008-2011, p. 16, available at [http://www.undg.org/docs/8965/undaf\\_malawi\\_2008-2011.pdf](http://www.undg.org/docs/8965/undaf_malawi_2008-2011.pdf).

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- 43 Ibid., para. 29.
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- 45 Press release (HC/10/26), High Commissioner for Human Rights, 21 May 2010.
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- 49 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Worst Forms of Child Labour Convention (No. 182), 2010, Geneva, doc. No. (ILOLEX) 092010MWI182, 3rd para.
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- 61 Ibid., paras. 69 (a), (b), (d).
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