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COMMITTEE ON THE RIGHTS OF THE CHILD

Fiftieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding Observations of the Committee on the Rights of the Child: Malawi

1. The Committee considered the second periodic report of Malawi(CRC/C/MWI/2) at its 1372nd and 1373rd meetings (see CRC/C/SR.1372 and CRC/C/SR.1373), held on 13 January 2009, and adopted, at the 1398 meeting, held on 30th January 2009, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the second periodic report and commends the frank, analytical and self-critical nature of the report. The Committee is encouraged by the frank and constructive dialogue it had with the State party's high-level and multisectoral delegation. The Committee also appreciates the detailed written replies to its list of issues (CRC/C/MWI/Q/2/Add.1) which allowed a better understanding of the situation of children in the State party.

B. Follow-up measures and progress achieved by the State party

3. The Committee notes with appreciation the adoption of legislation, national policies and plans aimed at promoting and protecting the rights of the child, including:

   (a) Prevention of Domestic Violence Act (2006);

   (b) National Plan of Action for Orphans and Other Vulnerable Children (2005-2009); and

   (c) National Early Childhood Development Policy (2004).

4. The Committee also welcomes the ratification or accession to the following:

   (a) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime 2000, on 17 March 2005;

   (b) Rome Statute of the International Criminal Court, on 19 September 2002; and

   (c) Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, on 20 May 2005.

C. Factors and difficulties impeding the implementation of the Convention

5. The Committee acknowledges that widespread poverty and the HIV/AIDS pandemic confronting the State party had, and continue to have, a negative impact on the situation of children and hamper further progress in the effective implementation of the rights enshrined in the Convention.

D. Main areas of concern and recommendations

1. General measures of implementation (arts. 4, 42 and 44, paragraph 6 of the Convention)

The Committee's previous recommendations

6. The Committee welcomes efforts made by the State party to implement the Committee's concluding observations on the State party's initial report. Nevertheless, the Committee notes with regret that many of these recommendations, including on issues such as legislation, coordination, data collection, definition of the child, juvenile justice, and child labour have not been sufficiently addressed.

7. **The Committee urges the State party, taking into account General Comment No. 5 (CRC/GC/2003/5) on the general measures of implementation for the Convention on the Rights of the Child, to take all necessary measures to address those recommendations from the concluding observations of the initial report that have not yet been implemented or sufficiently implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations on the second periodic report.**

Legislation

8. The Committee notes with appreciation that the State party has undertaken a Constitutional Review process through the Malawi Law Commission which has been a highly participatory and very inclusive process. Furthermore, the Committee notes with interest the various legislative reforms aimed at harmonizing existing legislation with the provisions enshrined in the Convention on the Rights of the Child and other international instruments, including the Child (Care, Protection and Justice) Bill, the National Registration Bill, the Deceased Estates (Wills, Inheritance and Protection) Bill, the Marriage, Divorce and Family Relations Bill, the Revised Penal Code Bill, the Criminal Procedure and Evidence Bill and Education Act Review. However, the Committee strongly regrets that none of these proposed bills has been enacted into law due mainly to the political situation in the State party.

9. **The Committee reiterates its previous recommendation (CRC/C/15/Add.174, para. 7) to undertake all necessary steps to harmonize existing legislation, including the Constitution with the Convention on the Rights of the Child. The Committee urges the State party to take, as a matter of urgency, all appropriate measures to expedite the adoption of the above mentioned Bills, with priority to those affecting children, and ensure their compliance with the provisions of the Convention.**

Coordination

10. While noting the progress made by the Ministry of Women and Child Development to coordinate child rights related activities, including through the establishment of National Technical Working Groups and networks dealing with specific thematic areas, the Committee remains concerned that additional human and financial resources are required to ensure an effective coordination both at national and local levels. It is further concerned that competition among the working groups and networks may render coordination ineffective.

11. **The Committee recommends that the State party ensure that adequate human and financial resources are allocated both at national and local levels for the smooth operation and effective coordination of the National Technical Working Groups and networks and other activities related to the full implementation of the Convention.**

National Plan of Action

12. The Committee welcomes the adoption of the National Plan of Action for Orphans and Other Vulnerable Children in 2005. It also notes that a comprehensive National Action Plan for Children (NAPC) has been drafted; however the Committee regrets that the NAPC has not yet been finalized and that there is no comprehensive Children's Policy based on the Convention.

13. **The Committee encourages the State party to adopt a comprehensive Children's Policy and finalize the NAPC that address fully all the rights of the child enshrined in the Convention, and take into account the outcome document "A World Fit for Children" adopted by the United Nations General Assembly at its special session on children held in May 2002 and its mid-term review of 2007. The Committee also recommends that the State party provide a specific budget allocation for the implementation of the NAPC and the establishment of an evaluation and monitoring mechanism to regularly assess progress achieved and identify possible deficiencies. The Committee encourages the State party to also monitor the implementation of the "Call for Accelerated Action" adopted during the mid-term review of "Africa Fit for Children", held in Cairo in November 2007.**

Independent monitoring

14. The Committee appreciates the work undertaken by the Malawi Human Rights Commission through its Child Rights Unit and Children Thematic Committee in conducting investigations, carrying out research and providing legal advice on child rights issues. It also notes the increased number of child rights cases reported to the Malawi Human Rights Commission, showing an increased awareness of its existence and mandate. However, the Committee regrets the limited human and financial resources available to the Commission and that its recommendations are not considered and followed up adequately and in a timely manner.

15. **The Committee recommends that the State party ensure the ongoing independence of the Malawi Human Rights Commission in accordance with the Paris Principles and in particular increase its human and financial support in order to allow the Commission to carry out its mandate effectively. The Committee also recommends that the State party act on the recommendations of the Commission in a timely manner.**

Allocation of Resources

16. While noting the significant increase in budgetary allocation to the Ministry of Women and Child Development in the past year, the Committee is concerned that the Ministry's budgetary allocations had been steadily declining in the preceding five years.

17. **The Committee urges the State party to take into account the recommendations issued by the Committee following its day of general discussion held on 21 September 2007 on "Resources of the Rights of the Child – Responsibility of States". In light of article 4 of the Convention, the Committee also urges the State party to prioritize, increase and protect budgetary allocations for children at national and local levels, and in particular to ensure that the Ministry of Women and Child Development receives adequate financial and human resources to carry out its mandate relating to children.**

Data collection

18. While noting with appreciation the State party's indication that progress has been made in the domain of data collection for policy makers and planners covering all persons below the age of 18,

the Committee remains concerned at the lack of systematic disaggregation, with specific emphasis on those who are in need of special protection.

19. The Committee encourages the State party to continue to strengthen its data collection system with the support of its partners and to use this data as a basis for assessing progress achieved in the realization of child rights and to help design policies to implement the Convention. The State party should ensure that information collected contains up to date data that is disaggregated, among others, by sex, age and geographical areas on a wide-range of vulnerable groups including children living in poverty, orphans, children with disabilities, children living in the streets and working children. The Committee also recommends that the State party seek technical assistance from, inter alia, UNICEF.

Dissemination of the Convention and training

20. The Committee notes with appreciation the sensitization and awareness-raising campaigns which are aimed at disseminating the provisions of the Convention at community levels. However, the Committee is of the view that additional efforts should be made with regard to the dissemination of the Convention to all stakeholders, including children.

21. The Committee recommends that the State party strengthen its awareness-raising campaigns to ensure that the provisions of the Convention are widely known and understood by adults and children. It also recommends that human rights education be included in the official curriculum at all levels of education.

22. The Committee notes that training programmes on the provisions of the Convention have been conducted for teachers, school administrators and other professional groups working with and for children and that promotional materials and a child friendly version of the Convention have been developed. However, the Committee is concerned that awareness and knowledge of the Convention are quite low among policy makers, local government officials and traditional leaders, as noted by the State party.

23. The Committee recommends the reinforcement of adequate and systematic training of policy makers and local government officials as well as all professional groups working for and with children, including, law enforcement officials, teachers, health personnel, social workers, personnel of childcare institutions, traditional leaders and the media on the principles and provisions of the Convention.

Cooperation with civil society

24. The Committee welcomes the State party's collaboration with civil society in the promotion of the Convention and in the provision of programmes and services for children. However, the Committee is concerned that the State party delegates these responsibilities and duties to civil society organizations which may not have adequate support and resources.

25. The Committee reiterates the State party's primary obligations with regard to the implementation of the Convention and recommends that the State party exercise its responsibilities under the Convention in cooperation with civil society rather than delegate these responsibilities to them. The Committee recommends that the State party provide civil society organizations, including NGOs, with adequate financial and other resources to enable them to contribute to the implementation of the Convention.

2. Definition of the child (art. 1 of the Convention)

26. The Committee notes with concern that Constitutional provisions defining a child and in particular current legislation on minimum age for marriage remain unclear.

27. **The Committee urges the State party to ensure the swift adoption of the recommendations of the Constitutional Review process to establish the definition of the child in accordance with the Convention of the Rights of the Child. Furthermore, the Committee recommends that the State party take steps to adopt the proposed Marriage, Divorce and Family Relations Bill. The Committee also recommends that the State party carry out awareness-raising campaigns which involve traditional leaders to prevent the practice of early marriages.**

3. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

28. The Committee notes with appreciation the various policies and programmes aimed at addressing the issue of non-discrimination. The Committee also welcomes the Gender Equality Bill which proposes to abolish harmful gender related customary laws and practices, with specific reference to the girl child. However, the Committee continues to be concerned that de facto societal discrimination persists against girls and vulnerable groups of children, including children with disabilities and orphans.

29. **The Committee urges the State party to continue and strengthen its efforts to eradicate all discriminatory laws and expedite the adoption of the Gender Equality Bill. In particular, the Committee urges the State party to ensure that the practical application of its constitutional and legal provisions guaranteeing the principle of non-discrimination is in full compliance with article 2 of the Convention.**

Best Interests of the Child

30. While noting that the Law Commission Review recommended that the principle of the best interests of the child be included in the Constitution, the Committee reiterates its concern raised in its previous concluding observations (CRC/C/15/Add.174, para.25) that the principle of best interests of the child is not fully taken into account in domestic legislation, programmes and services for children.

31. **The Committee urges the State party to ensure the integration of the principle of the best interests of the child in the Constitution. The Committee further recommends that the State party continue and strengthen its efforts to ensure that the general principle of the best interests of the child is appropriately integrated in all legal provisions as well as in judicial and administrative decisions and in projects, programmes, and services that have an impact on children.**

Right to life, survival and development

32. The Committee welcomes the existence of several programmes and policies (National Plan of Action for Orphans and Other Vulnerable Children, Nutrition Rehabilitation Programme as well as Cash Transfer Pilot Programme) with the aim to provide greater support to children whose right to life, survival and development is threatened. Nevertheless, the Committee is concerned about the lack of coordination of all these different initiatives and the limited impact they have so far on the overall socio-economic situation of children. In particular, the Committee notes the difficulty for children and families living in poverty to access basic social services.

33. **The Committee recommends that the State party develop a global strategy to address the problems of poverty, social security, nutrition and health in order to ensure the full exercise by children of the right to life, survival and development, and, in particular to continue and strengthen its efforts to coordinate the policies, plans and programmes. The Committee further recommends that the State party seek assistance in this regard through international cooperation.**

Respect for the views of the child

34. The Committee notes with appreciation the plan to decentralize the National Child Parliament to District Assembly level with the aim to increasing child participation in the elaboration and implementation of policies and programmes concerning them. However, the Committee remains concerned that traditional and societal attitudes appear to limit children in freely expressing their views in schools, communities and within the family.

35. **The Committee recommends that the State party continue and strengthen efforts to implement article 12 of the Convention and promote respect for the views of the child in all matters that concern them in the family, school, other children's institutions and the community, taking into account the recommendations adopted by the Committee following its day of general discussion held on 15 September 2006 on "The Right of the child to be heard".**

4. Civil rights and freedoms (arts. 7, 8, 13-17, 19 and 37(a) of the Convention)

Birth registration

36. The Committee welcomes the information that a National Registration Bill shall make mandatory the registration of all births, deaths and marriages and that measures for its implementation are being put in place. Nevertheless, the Committee is concerned that the Bill has not yet been passed into law and in the meantime many children remain without proper proof of age and at risk of exploitation and abuse.

37. **The Committee recommends that the State party expedite the enactment of the National Registration Bill as a matter of priority and strengthen its efforts to ensure birth registration of all children. The Committee urges the State party to ensure allocation of adequate financial, human and other resources to registration offices and centres and to take measures to ensure easy access to registration by the population in all parts of the country, particularly in the rural areas. The Committee further urges the State party to provide for registration, including late registration, of births free of charge.**

Corporal punishment

38. The Committee welcomes the information that the Penal Code Amendment Bill as well as the Child (Care, Protection and Justice) Bill will explicitly abolish corporal punishment. While the Committee notes that the Ministry of Education and Vocational Training has attempted to enforce its ban on corporal punishment by authorizing District Education Managers in all districts to monitor corporal punishment in schools, enforcement still proves difficult.

39. **The Committee urges the State party to expedite the adoption of the Penal Code amendment and the Child (Care, Protection and Justice) Bill and explicitly prohibit by law corporal punishment in all settings, including in the family, schools, institutional settings, and implement those laws effectively. It also recommends that the State party intensify its awareness-raising campaigns in order to promote the use of alternative forms of discipline in a manner consistent with the child's human dignity and in accordance with the Convention, especially article 28, paragraph 2, taking**

into account the Committee's general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/C/GC/8, 2006).

Follow-up to the UN Study on Violence against Children

40. The Committee encourages the State party to prioritize elimination of all forms of violence against children. With reference to the United Nations Study on Violence against Children, the Committee recommends that the State party:

(a) Take all necessary measures to implement recommendations of the United Nations Study on violence against children (A/61/299), taking into account the outcome and recommendations of the Regional Consultations for East and Southern Africa (held in Johannesburg, South Africa from 18 to 20 July 2005). In particular, the Committee recommends that the State party pay particular attention to the following recommendations:

(i). Prohibit all forms of violence against children;

(ii). Provide recovery and social reintegration services;

(iii). Promote non-violent values and awareness-raising;

(iv). Enhance the capacity of all who work with and for children;

(v). Ensure accountability and end impunity; and

(vi). Address the gender dimension of violence against children.

(b) Use the recommendations of the Study as a tool for action in partnership with civil society and, in particular, with the involvement of children to ensure that all children are protected from all forms of physical, sexual and psychological violence and to gain momentum for concrete and time-bound actions to prevent and respond to such violence and abuse; and

(c) Seek technical cooperation in this respect from OHCHR, UNICEF and WHO, and other relevant agencies, inter alia, ILO, UNESCO, UNHCR, UNODC, as well as NGO partners.

5. Family environment and alternative care (arts. 5, 18(paras.1-2), 9-11, 19-21, 25, 27 (para.4) and 39 of the Convention)

Family environment

41. The Committee notes with concern the difficulties encountered by a high number of families in meeting their parental responsibilities due to extreme poverty, particularly in rural areas, the precarious situation of single parent households, child headed households and grandparent headed households due to the impact of HIV/AIDS, lack of protection of orphans' inheritance rights, and the very limited services available in the State party to support these families.

42. The Committee recommends, in light of article 18 of the Convention, that the State party:

(a) Strengthen its existing programmes at district and local level and ensure that these reach children in vulnerable families, particularly those affected by HIV/AIDS and families suffering from poverty;

(b) Provide psychosocial and financial support to extended families that care for children whose parents have died of AIDS;

(c) Develop at national, district and rural levels family education and awareness, including through training of parents, caregivers and traditional leaders;

(d) **Ensure the protection of property of orphans and their inheritance rights and in this regard enact the Deceased Estates (Wills, Inheritance and Protection) Bill.**

Children deprived of a family environment

43. While noting the adoption of the Children's Homes and Orphanages Rules and Regulations in 2005, the Committee remains concerned at the increasing number of orphanages and children's homes often operating without being registered and regulated by the government.

44. The Committee recommends that the State party

(a) **Strengthen its efforts to effectively implement the Children's Homes and Orphanages Rules and Regulations of 2005;**

(b) **Urgently develop an effective alternative care strategy and monitoring systems, taking into account the recommendations adopted by the Committee on 16 September 2005, following its day of general discussion on "Children without parental care";**

(c) **Promote and support family-type forms of alternative care for children deprived of parental care, including foster care in order to reduce the resort to residential care;**

(d) **Ensure the registration and regulation, including regular reviews and inspections, of all orphanages and children's homes;**

(e) **Provide training, including on the provisions of the Convention on the Rights of the Child, for care givers and personnel of alternative care institutions;**

(f) **Ensure the periodic review of placements in institutions in accordance with article 25 of the Convention; and**

(g) **Establish an independent complaints mechanism for children in alternative care institutions.**

Adoption

45. The Committee expresses its concern over legislation on adoption which is not in compliance with article 21 and other relevant provisions of the Convention.

46. The Committee recommends that the State party review and ensure that its legislation on adoption is in conformity with article 21 of the Convention. The Committee reiterates its previous recommendation (CRC/C/15/Add.174, para. 40) and in particular encourages the State party to ratify the 1993 Hague Convention on the Protection and Cooperation in Respect of Intercountry Adoption.

Violence, abuse and neglect

47. The Committee welcomes the adoption of the Prevention of Domestic Violence Act in May 2006. The Committee also notes with appreciation the adoption of National Strategy to Combat Gender Based Violence and the successful implementation of "Stop Child Abuse Campaign". Nevertheless, the Committee notes with regret that violence against children continues to take place in the home, in schools, in children's shelters and in the streets.

48. The Committee urges the State party to actively implement the Prevention of Domestic Violence Act and the National Strategy to Combat Gender Based Violence and ensure that perpetrators are brought to justice.

6. Basic health and welfare (arts. 6, 18 (para.3), 23, 24, 26, 27 (paras.1-3) of the Convention)

Children with disabilities

49. The Committee welcomes the State party's National Policy on Equalization of Opportunities for Persons with Disabilities with specific areas that promote the best interests of children with disabilities, including prevention, early identification and social protection. However, the Committee remains concerned at the lack of comprehensive disaggregated data on disabilities, that the Ministry for People with Disabilities and the Elderly does not receive adequate financial resources and at the lack of attention for children with mental illness.

50. **In light of the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's general comment No. 9 on the rights of children with disabilities (CRC/C/GC/9, 2006), the Committee recommends that the State party:**

(a) **Take all necessary measures to ensure the implementation of legislation providing protection for children with disabilities and consider adopting specific legislation on the issue;**

(b) **Ensure full participation of children with dasabilities in the planning, implementation and evaluation of programmes;**

(c) **Make every effort to provide programmes and services for all children with disabilities, including children with mental illness and ensure that such services receive adequate human and financial resources;**

(d) **Allocate adequate financial resources to the Ministry for People with Disabilities and the Elderly;**

(e) **Carry out awareness campaigns to sensitise the public about the rights and special needs of children with disabilities and encourage their inclusion in society;**

(f) **Provide training for professional staff working with children with disabilities, such as medical, paramedical and related personnel, teachers and social workers; and**

(g) **Consider ratifying the Convention on the Rights of Persons with Disabilities and its Optional Protocol.**

Health and health services

51. While welcoming the progress made by the State party in reducing infant and child mortality rates and the significant progress in increasing access to safe water and sanitation, the Committee remains concerned at the state of health of children in Malawi, including the very high level of malnutrition. The Committee is also deeply concerned at the limited access, poor quality of health care facilities and critical shortage of health care personnel.

52. **The Committee recommends that the State party take appropriate measures and actions to ensure that health care and relevant nutritional interventions are accessible and affordable and that health care centers have adequate human, financial and material resources. It further recommends that the State party strengthen the health system at all levels, in terms of provision of adequate personnel, essential drugs and medical supplies and accelerated training of health workers.**

Adolescent health

53. The Committee notes with appreciation the improvements made in the area of adolescent reproductive health and voluntary counselling and testing for HIV/AIDS. However, the Committee notes with concern the high levels of early pregnancy in the State party and unsafe abortions and STIs.

54. The Committee recommends that the State party, taking into account the Committee's general comment No.4 (CRC/GC/2003/4) on adolescent health and development in the context of the Convention on the Rights of the Child, increase its efforts to establish more child-friendly programmes and services in the area of adolescent health and to obtain valid data on adolescent health concerns through, inter alia, studies on this issue.

55. The Committee further recommends that the State party adopt 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.

Harmful traditional practices

56. The Committee welcomes the development of a Gender Equality Bill which aims at eliminating harmful traditional practices, including forced sexual intercourse with children during initiation ceremonies when they have reached puberty and the betrothal of young girls from poor families. The Committee is also concerned at the practice of female genital mutilation (FGM) in some ethnic groups.

57. The Committee urges the State party to:

(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 adopting a child rights approach in order to encourage the dissemination of a culture of respect for the child;

(d) Take concrete measures to eliminate harmful customs, cultural and traditional practices, among others, by engaging with community leaders;

(e) Take appropriate measures to eradicate FGM and other traditional practices harmful to the health, survival and development of children, especially girls; and

(f) Put in place reporting and complaints mechanisms that are freely accessible to all children without any discrimination and ensure the rehabilitation of victims.

HIV/AIDS

58. The Committee notes with appreciation the adoption of the National HIV/AIDS Policy in 2003, National HIV/AIDS Action Framework (2005-2009) and the introduction of an Emergency Human Resources Strategy to address the human resources constraints of health workers in 2006. It also notes that the State party is currently drafting a bill on HIV/AIDS. However, the Committee remains concerned at the very low coverage of antiretroviral treatment for the prevention of mother-to-child transmission and for children, the poor quality of the health care system as well as the human capacity constraints of trained health care workers. The Committee is further concerned that

harmful traditional practices, including early marriages, continue to increase vulnerability to HIV infection.

59. **The Committee urges the State party, while taking into account the Committee's general comment No.3 (CRC/GC/2003/3) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights, to take measures to continue to reduce HIV/AIDS in its territory, particularly with regard to children and adolescents and, inter alia:**

(a) **Expand coverage of antiretroviral treatment for the prevention of mother-to-child transmission and for children and provide pre and post-natal care to HIV positive mothers;**

(b) **Effectively implement the Emergency Human Resources Strategy to fill the vacancies in the health care system;**

(c) **Strengthen its HIV/AIDS awareness campaigns and ensure access to age-appropriate HIV/AIDS education and information which target children and adolescents, inside and outside schools, to equip them with the life skills to deal with and reduce their vulnerability to HIV and STIs;**

(d) **Strengthen, continue and develop policies and programmes to provide care and support for children infected or affected by HIV/AIDS, including through social transfer schemes to low income households that include one or more AIDS orphans;**

(e) **Continue activities aimed at reducing stigma and discrimination related to HIV/AIDS and provide awareness-raising on human rights within the context of HIV/AIDS; and**

(f) **Ensure a wide consultation on the draft law on HIV/AIDS in order to guarantee the protection of children's rights in accordance to the Convention.**

Standard of living

60. The Committee notes with appreciation the introduction of a social cash transfer scheme in 7 of the 28 districts of the State party that targets children living in extreme poverty and encourages school attendance. However, the Committee expresses deep concern at the persistent widespread poverty and inadequate basic services that prevent an increasing number of children in remote rural areas, children living in the streets, orphans and other vulnerable children from enjoying their right to an adequate standard of living in accordance with article 27 of the Convention. Furthermore, the Committee remains concerned at the lack of a comprehensive social security system that would ensure access to essential services for all children.

61. **The Committee recommends that the State party:**

(a) **Collect data disaggregated by, among others, age, sex and geographical location, and monitor regularly the situation of children living in poverty in order to develop adequate policies and programmes to assist them;**

(b) **Strengthen its efforts to provide material assistance and support to economically disadvantaged families and to guarantee the right of the children to an adequate standard of living particularly with regard to health, nutrition, education and housing;**

(c) **Ensure that the Malawi Growth and Development Strategy and all other programmes aimed at reducing poverty and improving the standard of living in the country give priority attention to the rights and needs of children;**

(d) **Develop and adopt a comprehensive Child Protection Strategy and expedite the adoption of the National Social Protection Policy to ensure sustained access of disadvantaged children and families to health and other basic services as well as sustainable livelihoods; and**

(e) Seek technical assistance in this regard from, among others, UNICEF, the World Bank and ILO.

7. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)

Education, including vocational training and guidance

62. The Committee notes the adoption of the National Education Sector Plan and the Policy for Investment Framework. The Committee also notes the efforts made by the State party in order to achieve MDG 2 (primary education for all) and MDG 3 (gender parity). It further welcomes the special attention given to Early Childhood Education as well as the introduction of a Re-entry Policy to ensure that pregnant children can go back to school and the decrease of drop-out rates. However, the Committee remains concerned that while primary school is free it is not compulsory, and there are persistent gender and regional disparities, low quality of education, particularly due to limited number of teachers and high level of abuse and violence in the schools.

63. The Committee recommends that the State party:

(a) Ensure that primary education is compulsory, free of direct and indirect costs and accessible to all children, including children living in rural and remote areas;

(b) Take all measures to ensure that children complete their eight-years primary school, taking concrete action to address the reasons behind non-completion of schooling, including cultural traditions and poverty;

(c) Expand early childhood education;

(d) Increase transition to secondary schools;

(e) Improve the quality of education through the improvement of the ratio of teachers to students in primary and secondary schools, ensuring at the same time that teachers are well-trained, fully qualified and well paid;

(f) Create and strengthen promotion of vocational education and training;

(g) Include human rights and child rights in the curricula of schools,

(h) Take into account the Committee's general comment No. 1 (CRC/GC/2001/1) on the aims of education; and

(i) Seek technical assistance from UNICEF and UNESCO.

8. Special protection measures (arts. 22, 38, 39, 40, 37(b) and (d), 30, 32-36 of the Convention)

Refugee children

64. While noting the information that the State party has established primary schools in refugee camps, and where there are no schools in the camps, children are allowed access to local schools, the Committee remains concerned at the lack of data on refugee children attending schools and accessing health care facilities, as noted in State party's report.

65. The Committee recommends that the State party:

(a) Collect comprehensive data on refugee and asylum seeking children disaggregated, by among others, sex and age;

(b) Allocate adequate resources to ensure refugee children greater access to education and health care facilities;

(c) Adopt regulations that provide for procedures that facilitate the entry of refugees and their family members in Malawi for family reunification;

(d) Consider ratifying the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness; and

(e) Continue pursuing international cooperation with the United Nations High Commissioner for Refugees.

Economic exploitation, including child labour

66. The Committee notes with appreciation that the ongoing legal reform process takes into account ILO Conventions 138 and 182 and that the State party has developed a National Plan of Action to Support the Child Labour Policy which will be launched in 2009. The Committee welcomes the development of a Law Enforcement Training Manual which targets the police, social welfare and child labour officers and magistrates. It further notes that a National Child Labour Database has been launched and is awaiting operationalization since there is no updated information and disaggregated data on economic exploitation of children considering the widespread poverty, high levels of migration and internal trafficking in the country. Nevertheless, the Committee notes with concern that, since education is not compulsory, a large number of children are working as their next best alternative. The Committee also expresses concern that many children between 15 and 17 years are engaged in work that is considered as hazardous, especially in the tobacco and tea estate sector which continues to be a major source of child labour.

67. The Committee urges that the State party:

(a) Expedite the launch of the National Plan of Action to Support the Child Labour Policy and ensure its effective implementation;

(b) Ensure that any legislation, policies and plans to prohibit child labour, particularly in its worst forms, also provide effective protection for children belonging to vulnerable groups, including children working in the tobacco and tea estates;

(c) Expedite the operalization of the National Child Labour Database and update the study on child labour conducted in 2002 to collect and analyze data, disaggregated by age, sex and geographical location of children involved in exploitative child labour in agriculture, industry and domestic service;

(d) Provide adequate human and financial resources to strengthen advocacy and awareness of child labour legislation, policies and programmes; and

(e) Seek technical assistance from ILO/IPEC and UNICEF.

Street Children

68. The Committee reiterates its concern at the increasing number of children living in the streets of the State party and the continued lack of specific policies and programmes to address the situation and assure the rights of these children, particularly to adequate housing, health, nutrition and education. In addition, the Committee is seriously concerned that some street children who need care and attention are accommodated in reformatory institutions meant for children who come in conflict with the law.

69. The Committee recommends that the State party:

(a) Take urgent measures to remove street children from reformatory institutions and provide all street children with adequate housing, nutrition, health care and educational opportunities including vocational and life skills training to support their full social development;

(b) Provide street children with appropriate recovery assistance and promote their social reintegration within their families and communities;

(c) Ensure full participation of children living in the streets in the planning, implementation and evaluation of programmes;

(d) Undertake a study on the scope and causes of the phenomenon of children living in the streets with the aim of developing a policy and strategies to reduce and prevent the phenomenon; and

(e) Collaborate with non-governmental organizations working with street children in the State party and seek technical assistance from, among others, UNICEF.

Sexual exploitation

70. The Committee is concerned at the lack of data on the number of children involved in sexual exploitation. It is further concerned at the lack of reporting mechanisms available to victims as well as the absence of awareness campaigns to educate children, parents and the society at large.

71. The Committee recommends that the State party:

(a) Develop and strengthen appropriate legislative measures to address the issues of sexual abuse and sexual exploitation;

(b) Take appropriate measures to ensure the prompt prosecution of perpetrators of sexual offences against children;

(c) Ensure that child victims of sexual exploitation or abuse have access to free, child sensitive complaints mechanisms and are not criminalized or penalized; and

(d) Continue to implement appropriate policies and programmes for the prevention, recovery and social reintegration of child victims, in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996, 2001 and 2008 World Congresses against Commercial Sexual Exploitation of Children as well as the outcome of other international conferences on this issue.

Sale, trafficking and abduction

72. The Committee expresses concern over reports that children have been trafficked abroad. The Committee expresses further concern at the lack of data or statistics on internal and cross border trafficking cases and the fact that perpetrators of trafficking of children are not brought to justice.

73. The Committee urges the State party to take all measures to ensure the protection of children from trafficking and to bring perpetrators to justice. The Committee further urges the State party to carry out awareness-raising activities in order to make both parents and children aware of the dangers of both internal and external trafficking.

Child Helplines

74. The Committee takes note of the existence of several child helplines in Malawi and the efforts of the State party to consolidate them into one. The Committee recommends that the State party ensure that the national child helpline is allocated a 3 to 4 digit telephone number, easy to

remember, operating 24 hours a day that is both toll-free for the child and the child helpline. The Committee further recommends that the State party ensure that the child helpline has an outreach component for the most vulnerable and marginalized children and that funds are allocated specifically for the provision of services in remote areas.

Juvenile justice

75. The Committee notes the information in the State party's report that the Child (Care, Protection and Justice) Bill proposed to replace the Children and Young Persons Act would improve the administration of juvenile justice. It also notes the introduction of diversion programmes in four districts where there are child-friendly courts and the fact that a board of visitors visit regularly remand centers and reformatory schools as well as juvenile detention centers. However, the Committee remains concerned at the current situation of the juvenile justice system. In particular, the Committee reiterates its previous concern that the minimum age of criminal responsibility, still set at seven years remains far too low. The Committee is also concerned that the new legislation proposes ten years which is still too low. It is further concerned at the increasing rate of crime perpetrated by children and that children in need of care and attention are kept in the same institutions as children in conflict with the law. It is also concerned at the practice of detention based upon the procedure of "at the pleasure of the President".

76. The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular the Committee recommends that the State party, while taking into account the Committee's general comment No. 10 on the administration of juvenile justice (CRC/C/GC/10, 2007):

(a) As a matter of urgency, raise the age of criminal responsibility in accordance with general comment No. 10, notably paragraphs 32 and 33;

(b) Implement alternative measures to deprivation of liberty such as mediation, probation and community services orders and extend diversion to the whole country;

(c) Make sure that children in need of care are not treated as children in conflict with the law;

(d) Ensure that cases involving children in conflict with the law are brought to trial as soon as possible;

(e) Ensure that all children in conflict with the law have access to free legal assistance and to an independent and effective complaints mechanism;

(f) Train all professionals working in the Juvenile Justice system on the Convention and other international standards;

(g) Ensure that deprivation of liberty is used as a sentence of last resort and for the shortest period possible;

(h) When a child is deprived of liberty (in pre-trial detention or after being sentenced), take all necessary measures to carry out this sentence in compliance with the Convention, in particular respect the following obligations: separation from adults, prohibition of ill-treatment, visitation rights, and access to independent complaint mechanisms;

(i) Review the procedure of detaining children "at the pleasure of the President" with the view to eliminating it and ensure that children are protected in accordance with the Convention; and

(j) Seek technical assistance and other cooperation from the United Nations Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.

Protection of witnesses and victims of crimes

77. The Committee also recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims and or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking and witnesses of such crimes, are provided with the protection required by the Convention and that it takes fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005).

9. Ratification of International Instruments

78. The Committee welcomes the information provided by the State party's delegation that a process is underway for the ratification of the Optional Protocols to the Convention on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict both signed in September 2000. The Committee is also of the opinion that the ratification of or accession to other international human rights instruments, would strengthen the efforts of the State party to meet its obligations in guaranteeing the full realization of rights of all children under its jurisdiction.

79. The Committee recommends that the State party expedite the ratification of the two Optional Protocols to the Convention. It further encourages the State party to ratify or accede to all core international human rights instruments and ensure prompt compliance, implementation and reporting requirements in order to promote and improve the overall protection of human rights.

10. Follow-up and dissemination

Follow-up

80. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented, inter alia by transmitting them to the members of the Cabinet, the National Assembly and to local Governments, when applicable, for appropriate consideration and further action.

Dissemination

81. The Committee further recommends that the second periodic report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available in the languages of the country, including (but not exclusively) through the Internet to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Convention, its implementation and monitoring.

11. Next report

82. The Committee invites the State party to submit its combined third, fourth and fifth periodic report by 31 October 2013. This report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Committee.

83. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the Common Core Document in the Harmonised Guidelines on Reporting, approved by the 5th Inter-Committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).