biUNITED NATIONS

CRC

Convention on the Rights of the Child

Distr.
GENERAL

CRC/C/MWI/2
17 July 2008

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

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

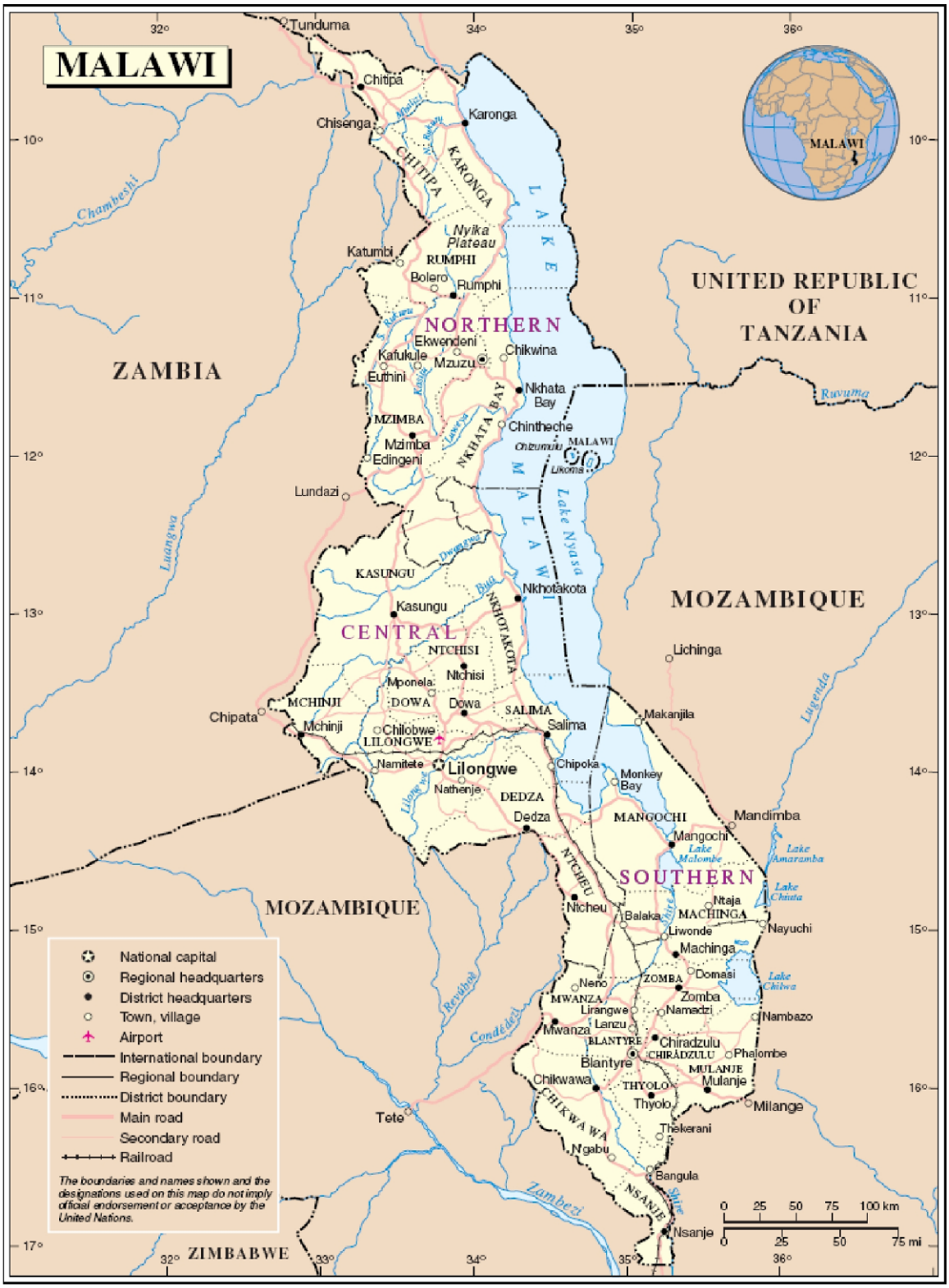
Initial periodic reports of States parties due in 1998

MALAWI*

[17 October 2007]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

GE.08-43169 (E) 190808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LAKE MALAWI
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Luangwa
Zambezi
Shire
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Condédezi
National capital
Regional headquarters
District headquarters
Town, village
Airport
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Regional boundary
District boundary
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ABBREVIATIONS AND ACRONYMS

AIDS	Acquired Immuno Deficiency Syndrome
ART	Anti-Retroviral Therapy
ARV	Anti-Retro-Viral
AU	African Union
CADECOM	Catholic Development Commission
CBCC	Community Based Child Care
CBO	Community Based Organization
CCPW	Community Child Protection Worker
CDSS	Community Day Secondary School
CHAM	Christian Health Association of Malawi
CHH	Child Headed Household
CIDA	Canadian International Development Agency
CRC	Convention on the Rights of the Child
CSCQBE	Civil Society Coalition for Quality Basic Education
CYP Act	Children and Young Persons Act
DALY	Disability Adjusted Life Years
DCP	Democracy Consolidation Programme
DFID	Department for International Development
DSWD	District Social Welfare Department
DSWO	District Social Welfare Office
ECCD	Early Childhood Care for Development
ECD	Early Childhood Development
EFA	Education For All
EHP	Essential Health Package
EPI	Expanded Programme of Immunization
FBO	Faith Based Organization
FEDOMA	Federation of Disability Organizations in Malawi
FPE	Free Primary Education Policy
HIV	Human Immuno Deficiency Virus
IEC	Information, Education and Communication
ILO	International Labour Organization
IMCI	Integrated Management of Childhood Illness
IOM	International Organization for Migration
MASAF	Malawi Social Action Fund
MDG	Millennium Development Goal
MDHS	Malawi Demographic Health Survey
MICS	Multiple Indicator Cluster Survey
MK	Malawi Kwacha
MPRS	Malawi Poverty Reduction Strategy 2002-2006
NAC	National AIDS Commission
NAF	National Action Framework
NAF	National HIV and AIDS Action Framework 2005-2009
NAP	National HIV and AIDS Policy
NER	Net Enrolment Ratio
NESP	National Education Sector Plan
NGO	Non-Governmental Organization

NPA	National Plan of Action
NRIS	National Registration and Identification System
NRU	Nutritional Rehabilitation Unit
NSF	National Strategic Framework on HIV and AIDS
NSO	National Statistical Office
NYCoM	National Youth Council of Malawi
ORT	Other Recurrent Transactions
OVC	Orphans and Vulnerable Children
PAS	Paralegal Advisory Service
PIF	Policy and Investment Framework (Education Sector)
PLWHA	People living with HIV and AIDS
PMTCT	Prevention of Mother to Child Transmission of HIV
POW	Joint Programme of Work 2004-2010
PTA	Parents and Teachers Association
SADC	Southern Africa Development Community
SMC	School Management Committee
SME	Small and Medium Enterprises
SSA	Sub-Saharan Africa
SSP	Social Support Project
STI	Sexually Transmitted Infection
TBA	Traditional Birth Attendants
TFD	Theatre for Development
TWG	Technical Working Group
UN	United Nations
UNDAF	United Nations Development Assistance Framework
UNGASS	United Nations General Assembly Special Session
UNICEF	United Nations Children's Fund
US$	United States Dollars
VCT	Voluntary Counselling and Testing
VRS	Vital Registration System
VSO	Volunteer Services Overseas
WFFC	World Fit for Children
WHO	World Health Organization

Introduction

1. This second State Party Report presents major changes that have taken place during the period of reporting. The report is premised upon the fact that unless the resources of the State, the community and families are all committed and combined, the rights set out for children in the CRC cannot be realized. Government officials provided inputs on questions of childhood and adolescence in this report. It is also noted that leading representatives of non-Governmental and international organizations were involved in the effort to make the rights of the child and adolescent a reality.

2. This report builds on the Initial State Party Report and where information has not changed from the previous report reference is made accordingly.

3. The Committee will appreciate that every effort has been made to submit a national report that goes beyond the administrative duty to submit but also presents a balanced and objective account of the realities of the situation of Malawian children as well as the harsh challenges faced by State and society in implementing the provisions of the CRC.

I. BACKGROUND

A. Socio-economic context

4. The current population of Malawi is estimated to be 12.3 million (51 percent female and 49 percent male). A large proportion of the population is under 20 years of age. The population growth rate is currently at 2 percent per annum.[1] Population projections for the years 1999 to 2008 estimate a steady increase in the population for the 0-14 and 15-19 years age groups and a decline in the 55+ age group (see Table 1 below). Further, estimates indicate a population of 16 million by 2015[2] and this rapid population growth is a key factor for the high and persistent poverty levels and wide spread environmental degradation in Malawi. The following are the determinants of population growth in Malawi:

(a) Fertility: Though there is a decline in fertility rates from 6.7 percent in 1992 to 6 percent in 2004, the current rates are still high;

(b) Mortality: Life expectancy stands at 37 years (MDHS 2004). Maternal mortality slightly improved from 1120/ 100,000 in 2000 to 984/ 100,000. Under-five mortality decreased from 189/ 1000 in 2000 to 133/ 1000 in 2004, while infant mortality has declined from 104/ 1000 in 2000 to 76/ 1000 in 2004. Data from the Multiple Indicator Cluster

[1] Malawi Demographic Health Survey (2004).

[2] National Statistical Office, Projected Population Based on the 1998 Malawi Population and Housing Census.

Survey (MICS) 2006 indicate that the infant mortality rate is estimated at 69 per thousand live births while the probability of dying under five mortality rate is estimated at approximately 118 per thousand live births;

(c) Migration: There has been an increase in rural-urban migration. Integrated Household Survey (IHS) 2005 showed that 17.2 percent household heads had internally migrated with 11 percent moving to urban areas. Migration has a considerable effect on poverty, the spread of HIV and the environment;

(d) Urbanization: The urban population growth rate of Malawi is 6.3 percent and this is one of the highest in the world. This has led to housing shortages, increase in crime, spread of HIV and high rates of unemployment.

Table 1

Population projections

	Percentage of the population									
Age Group	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
0-14	44	45.1	45.6	46	46.4	46.7	47	47.3	47.5	47.2
15-19	10.8	10.8	10.7	10.6	10.5	10.5	10.4	10.3	10.3	10.2
55+	6.3	5.7	5.2	4.7	4.5	4.3	4.2	4.1	4.0	4.0

Source: National Statistical Office, Projected Population Based on the 1998 Malawi Population and Housing Census.

This table contains projected information about mid year population by age group for the years 1999 to 2008.

B. Socio-economic indicators

5. The Malawi economy is characterized by severe and widespread poverty. More than half of the population (52 percent) live on less than a dollar per day (below the poverty line). About one in every five (22 percent) or as many as 2.7 million Malawians live in ultra poverty (cannot afford to meet the daily-recommended food requirements). This is more prevalent in the rural areas with the Southern region being worst hit followed by the Northern region. The manifestations of poverty include low income, food insecurity, high malnutrition and high incidence of preventable diseases.

6. Malawi successfully attained all the requirements necessary to reach the completion point of Highly Indebted Poor Countries. Subsequently almost 95 percent (about US$ 3 million) of all external debts have been cancelled. This is an important milestone, since additional financial resources will now be available for redirection into other pertinent socio-economic development programmes.

7. Malawi's economy remains predominantly agriculture based contributing to more than a third of the country's Gross Domestic Product (GDP) and to over 90 percent of export earnings. The service sector contributes 45.1 percent of the GDP. Malawi's economy remains weak and vulnerable to external shocks. The current inflation rate currently stands at 7.7 percent (urban inflation rate is 10.0 percent and the rural inflation rate is 6.4 percent).[3] Movements in Malawi's inflation rate have closely followed those of weather patterns, international fuel prices, money supply, and the exchange rate. The causes include fiscal slippages, high prices of essential commodities e.g. food and fuel; unaffordable levels of domestic debt stock which has exerted pressure on the country's monetary policy; and depreciation of the local currency. The currency depreciation was a direct consequence of switching from a fixed to a floating exchange rate regime. Further, due to poor physical infrastructure in transport, energy, and water, private sector investment particularly in manufacturing has been sluggish.

8. From 1995 to 1997 Malawi's government followed good economic policies; but in recent years the pace of reforms has slowed, expenditure control has weakened, and agricultural prospects have become mixed. Tobacco revenues declined in 2000 because of slumping prices, declining yields, and declining quality. This, together with volatile exchange rates, high annual inflation (30 percent in February 2001), and high real interest rates, resulted in slow growth: about 2 percent in 2000 and -1.5 percent in 2000. Since May 2004, the Government has been implementing some bold policies to curb fiscal spending and tackle corruption. Recent measures in expenditure control and right-sizing the Government have helped Malawi meet and exceed set macroeconomic targets. Following strong macroeconomic performance, a new Poverty Reduction and Growth Facility (PRGF) was approved in August 2005. The good performance provided for a gradual reduction in domestic debt and the domestic interest bill for the first year since the late 1990s. However, Malawi's economy still depends heavily on aid from international financial institutions and individual donors. Overall development assistance to Malawi totals about $400 million per year, excluding debt relief.[4]

II. GENERAL MEASURES OF IMPLEMENTATION

9. This chapter outlines the measures undertaken since the submission of the Initial State Party Report, as set out in articles 4, 42 and 44 paragraph 6, of the CRC, with reference to the concluding observations adopted by the Committee in relation to that Initial Report.

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[3] Malawi National Statistical Office, Consumer Price Index, June 2007 http://www.nso.malawi.net.

[4] The World Bank: Malawi Country Brief, April 2006. http://web.worldbank.org/WB SITE/EXTERNAL/COUNTRIES/AFRICAEXT/MALAWIEXTN/0,,menuP K:355882 ~pagePK:141132 ~piPK:141107~theSitePK:355870,00.html.

A. The Convention on the Rights of the Child and national laws

10. Since the submission of the Initial Report, various legislative reforms aimed at harmonizing existing legislation and customary laws with the CRC have been initiated, mainly by Government. In introducing legislative reforms and reviewing existing legislation, Government has made substantial use of the Law Commission although some legislative reforms have also been undertaken by the central Government through the Ministry of Justice. Where the legislative reforms have been undertaken by the Law Commission, once an area of the law has been reviewed, a report containing the Commission's findings and recommendations as well as a draft Bill is laid in Parliament. The draft Bill is also submitted to Cabinet where if the draft legislation is approved, it is then introduced to Parliament as a Government Bill. Although several of the legislative reforms discussed below have been laid in Parliament, the Bills have yet to be introduced in Parliament as Government Bills.[5]

Constitutional review

11. In 2004, Government approved the Law Commission's proposal to review the Constitution. The Constitutional Review process is now underway. The Ministry responsible for children, the Ministry of Women and Child Development (formerly Ministry of Gender, Child Welfare and Community Services and Ministry of Gender, Youth and Community Services) contributed substantially to the Constitutional Review process by preparing a comprehensive Position Paper that made several recommendations with regard to children. The Position Paper fully adopted the recommendations made by the Committee on the Initial State Party Report for Malawi. Most submissions in this paper were similar to those made by other stakeholders and have been addressed by the Law Commission. One of the areas highlighted as problematic is section 23 of the Constitution which sets out the age of a child. The Position Paper proposed that the age of majority be raised to eighteen years so as harmonize the provision with the CRC.

12. The Law Commission has also considered a submission regarding section 22 of the Constitution, which is unclear as to the absolute minimum age for marriage. Under subsection (6) of section 22, a person of eighteen years of age may enter into marriage without seeking the consent of his or her parents. In addition, under subsection (7) of section 22, persons aged between fifteen and eighteen years must obtain consent from parents before entering into marriage. Under subsection (8) of the same section, the State is obliged to "discourage" marriages where either party is under the age of fifteen years. This provision has led several commentators to state that there is no minimum age for marriage since where there is parental consent, a fifteen-year-old child may get married. In addition, where both parties or either one of them is under fifteen, the State can only discourage and has no powers to forbid the marriage. The submissions received by the Law Commission in this regard recommends that the minimum age for marriage should be raised to eighteen years so as to ensure that "children" as defined by

[5] Sections 9, 10 and 11 of the Law Commission Act.

the CRC do not enter into marriage. The Law Commission therefore recommended that in keeping with the CRC, the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples' Rights as well as the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, the minimum age for marriage with parental consent should be raised to eighteen years as above that age, a person ceases to be a child. Further, the Law Commission recommended that above the age of twenty-one years, marriage may be entered into without parental consent.

13. As noted earlier, the Constitutional Review process is ongoing. It is anticipated that a report containing the Commissions findings and recommendations as well as proposed legislative amendments to the Constitution shall be finalised in 2007.

Customary laws

14. Although no single review programme has been initiated to tackle customary laws that are inconsistent with the CRC, the Law Commission has in its review of other laws looked at certain statutory laws that codify customary law. In other instances, the Law Commission has recommended the repeal of harmful customary laws and practices in the course of developing new legislation. In its Gender-Related Law Reform Programme that was instituted in 2001, for example, it reviewed the statutory law on succession, which codified certain customary laws. The same Programme is also reviewing all laws relating to marriage and divorce including customary laws. The Programme also includes the development of a Gender Equality Bill that proposes to abolish certain harmful gender related customary laws and practices, with specific reference to the girl child.

Deceased estates (wills, inheritance and protection) bill

15. The Gender-Related Law Reform Programme also reviewed the Wills and Inheritance Act which led to a Report which incorporated a proposed Deceased Estates (Wills, Inheritance and Protection) Bill. This Bill specifically abolishes all customary laws involving succession. Of particular relevance to children in this reform is the abolition of discriminatory inheritance practices between the girl and boy child. Under the current law, upon marriage, a daughter inherits less than a son. The Law Commission considered this provision to be discriminatory, particularly as the law on marriage is currently flexible enough to permit even fifteen-year-old girls to enter into marriage. The only distinction in inheritance recommended by the Law Commission is that younger children should inherit a larger share of a deceased estate in keeping with the greater needs of a younger child. The Law Commission further recommended that the first call on distribution of a deceased estate should accrue to the "immediate family" defined as spouse and children. This will ensure that property rights of children are better protected as compared to the current system of inheritance based on customary laws which place competing claims on the deceased estate which severely limit the children's inheritance. The Law Commission's recommendations also extend to recognizing all children as beneficiaries of the estate of a deceased parent, regardless of the circumstances of their birth.

16. The Ministry of Women and Child Development has taken great strides in widely circulating these recommendations and lobbying Members of Parliament as well as members of Cabinet to ensure that the legislative reforms to the law of succession are enacted.

Marriage, divorce and family relations bill

17. The second phase in the Gender-Related Law Reform Programme, was the review of all laws relating to marriage and divorce. This phase has been completed and proposes the repeal of the Marriage Act, the African Marriage (Christian Rites) Registration Act, the Asiatics (Marriage, Divorce and Succession) Act, the Divorce Act, the Married Women Maintenance Act, and the Maintenance Orders (Enforcement) Act as well as customary laws relating to marriage and divorce. Instead it has recommended a new Bill entitled the Marriage, Divorce and Family Relations Bill. In addition to proposing the abolition of the practice of polygamy, research into which indicated that many children from polygamous families are left neglected or poorly provided for by their fathers, it addresses issues of maintenance with particular reference to children. The reform recognizes that parents sometimes wilfully neglect their children during the subsistence of marriage and not just after divorce or during separation. In this regard the Law Commission recommended specific provisions relating to the welfare of children both in terms of maintenance and in terms of giving the child (of a knowledgeable age) an opportunity to voice his or her wishes and feelings on issues relating to custody. Where one parent is out of the jurisdiction and is not making any maintenance payments for a child or spouse in the country, the Law Commission recommended strengthening the powers of courts to make orders on maintenance that are enforceable outside the jurisdiction so that children within the country are not left destitute. The report has been laid in Parliament.

It is this review that has proposed most of the amendments to the Constitution referred to in paragraph 12 above.

Development of a gender equality statute

18. The last phase in the Gender-Related Law Reform Programme is the development of a Gender Equality statute. This review addresses the issue of abolishing customary laws and traditional practices with detrimental effect. The proposed Bill aims to devote an entire part to eliminating customary laws that not only violate the rights of women, but also of children. These include such practices as forced sexual intercourse with young girls during initiation ceremonies upon reaching puberty. The Law Commission is expected to finalise the review by December 2007.

Penal Code

19. The Report on the review of the Penal Code, referred to in Paragraph 32 of the Initial State party Report, was completed in 2000 and has since been referred to Parliament.

Criminal Procedure and Evidence Code

20. In 2004 the Law Commission reviewed the Criminal Procedure and Evidence Code and developed, among other matters, new provisions on the protection of child witnesses. The Law Commission Report was laid in Parliament and presented to Cabinet in the same year.

The Employment Act

21. The Employment Act, which was enacted in 2000, provides for the protection of the fundamental rights and principles as outlined by the Constitution and by those treaties to which Malawi is bound by virtue of its membership of the International Labour Organization (ILO). These include the Labour Inspection Convention, the Minimum Wage Fixing Machinery (Agriculture) Convention, the Equal Remuneration Convention, the Discrimination (Employment and Occupation) Convention, and the Termination of Employment Convention. With regard to children, provisions furthering the Minimum Age Convention of 1973 were incorporated into the Act. By adopting the recommendations of this Convention Malawi marked a departure from its previous laws on the employment of children that had focused on the contractual capacity of children as distinct to offering them protection from hazardous forms of employment. The Employment Act effectively eliminates all forms of forced labour, abolishes child labour, sets up a minimum age for employment (14 years) and eliminates discrimination in respect of employment and occupation.

Drug trafficking bill

22. A drug trafficking Bill was drafted by the Ministry of Justice in December 2006. This Bill will help curb the rising wave of drug trafficking. The enactment of the Bill will be of great benefit to children, as it will make it more difficult for them to be exposed to drugs. The Bill has yet to be tabled in Parliament.

Education Act review

23. The Law Commission instituted a programme on the Review of Education Related Legislation in 2003. This review made significant amendments to the Education Act, particularly in proposing decentralization of schools to Local Government. The Law Commission is expected to finalize the review process by 2007.

The national registration bill

24. The National Registration Bill seeks to introduce registration of all births and deaths, and the issuance of identity cards to all Malawians of over 16 years of age as well as the official registration of all non-Malawians residing in the country. The Bill will also provide a legal base to establish a National Registration Bureau responsible for the development, coordination and implementation of a National Registration and Identification System (NRIS). The NRIS organs will reach down all the way to the village level where vital registration will take place. This Bill was drafted by the Ministry of Justice and has not yet been tabled in Parliament.

Child (Care, Protection and Justice) Bill

25. In a quest to develop a comprehensive code on children which will reflect the general principles of the CRC, the Children and Young Person’s Act has been reviewed. In 2001, the Law Commission embarked upon a review of this Act, in response to two submissions. The first submission came from the Parliamentary Caucus on Women and Children on the need to review

certain aspects of the law on affiliation and the second submission came from the Association of Human Rights and Freedoms with regard to the enforcement of the rights of children as enshrined in the CRC. The review process was finalized in 2005 and culminated in a report of the Law Commission's findings and recommendations and a proposed Bill entitled the Child (Care, Protection and Justice) Bill. This Bill is a comprehensive attempt to domesticate the CRC as it extends beyond issues of child justice to include matters pertaining to:

(a) Duties and responsibilities of parents towards their children;

(b) Determination of children in need of care and protection;

(c) Guardianship;

(d) Fosterage;

(e) Residential placements;

(f) Powers and duties of child justice courts in care and protection matters;

(g) Duties and functions of local authorities relating to child justice and protection; and

(h) Protection of children from undesirable practices.

The Report of the Law Commission has been laid in Parliament and presented to Cabinet.

B. The Convention and national policies

1. Multi-sectoral policies and programmes

26. In addition to the multi-sectoral policies and programmes referred to in the Initial Report (para. 35), and of particular relevance to the rights of the child, the Malawi Government has signed the Millennium Development Declaration adopted at the United Nations (UN) General Assembly in New York in September 2000, and has since ascribed to the United Nations Special Session on Children in 2004 and the World Fit for Children (WFFC) in 2005.

Millennium Development Goals

27. In Malawi, the Millennium Development Goals (MDGs) are to be achieved through the implementation of the Malawi Poverty Reduction Strategy (MPRS 2002-2006) and its successor, the Malawi Growth and Development Strategy (MGDS 2006/07-2010/11). The overriding philosophy of the MGDS is poverty reduction through economic growth and development. The MGDS identifies five broad strategic themes that define the direction the country intends to take in the next five years. Priority in the medium-term will be the achievement of sustainable economic growth, social protection of vulnerable people, social development, infrastructure development and rehabilitation, and provision of good governance.

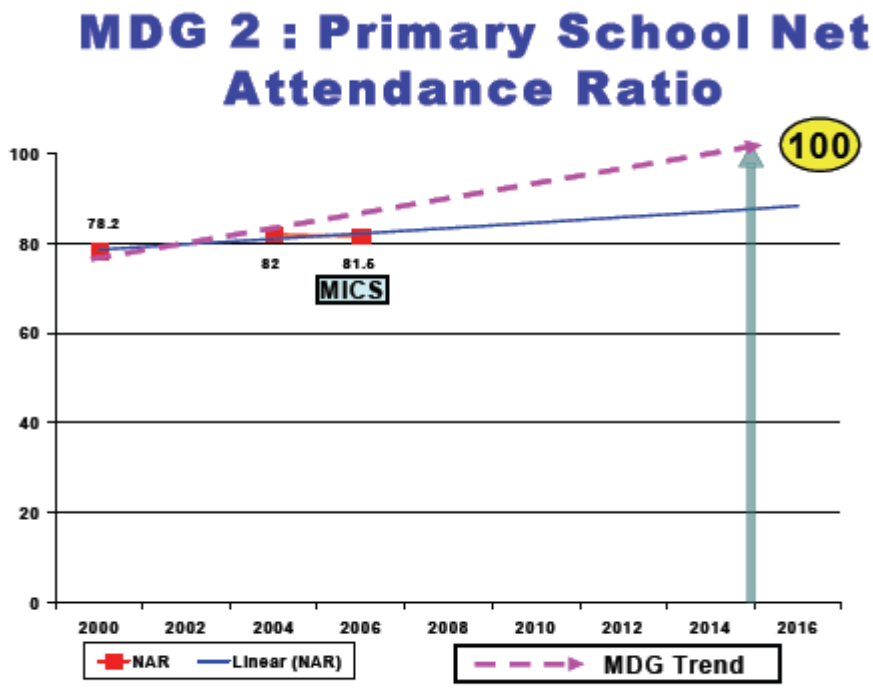
28. The purpose of the MGDS is to serve as a single reference document for policy makers in Government, the private sector, NGOs and cooperating partners on the Government's socio-economic development priorities.

29. Child rights issues across all sectors have been mainstreamed in the implementation strategies for all five thematic areas of the MGDS. The thematic area, social protection, in particular, covers the rights of children in dealing with education and health.

30. Various sectoral policies and programmes have enabled the country to achieve some successes in individual MDGs. As Table 2 below shows, in terms of the second goal on education, for example, substantial progress has been made in ensuring universal free primary education. In terms of the fourth goal, under-five mortality has fallen from 234/1000, live births in 1992 to 189/1000, in 2000.[6] A 2003 Millennium Goals Report[7] indicates that if this trend is maintained, there is a high probability of achieving this Goal by 2015. (See Table 3 below.)

Table 2

Primary school net attendance ratio in relation to MDG 2



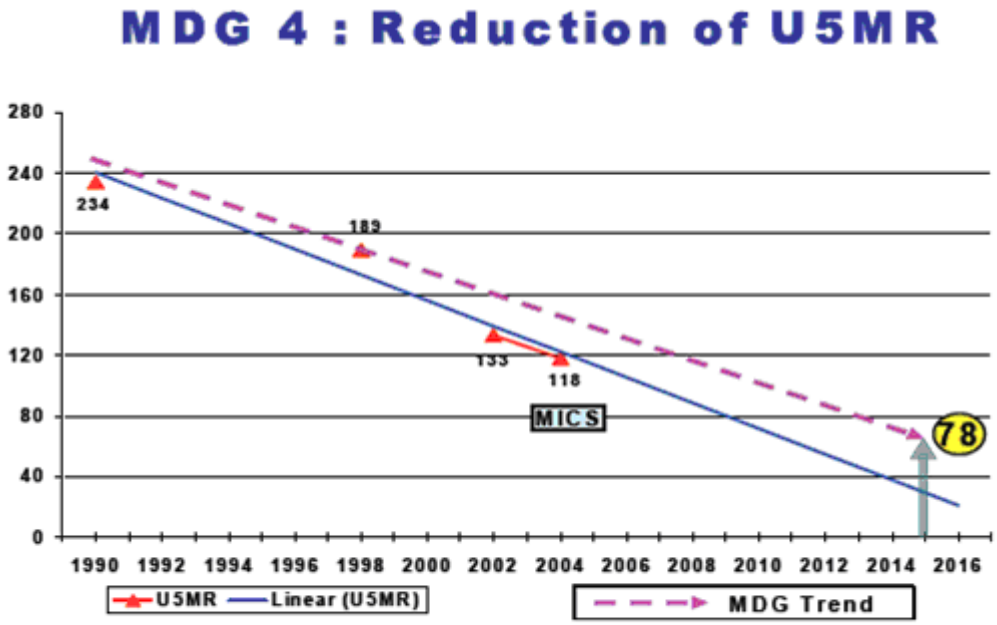
Source: Government of Malawi and UNICEF; Multiple Indicator Cluster Survey, 2006.

[6] Malawi Government and UNICEF; World Fit For Children, National Progress Report, December 2006.

[7] Malawi Government and UNDP; Millenium Development Goals Report, 2003.

Table 3

Eduction of under-five mortality rate in relation to MDG 4



Source: Government of Malawi and UNICEF; Multiple Indicator Cluster Survey, 2006.

World Fit for Children (WFFC)

31. In 2006 Malawi produced its National Progress Report on the achievement of the World Fit for Children (WFFC) - targets from 2002 to 2006. WFFC contributes to integrating community child care into development programmes. With an overall component of protection from abuse, exploitation, and sexual and gender violence, it addresses six of the MDGs namely:

1. Eradicate extreme poverty and hunger;
2. Achieve universal primary education;
3. Promote gender equality and empower women;
4. Reduce child mortality;
5. Improve maternal health; and
6. Combat HIV and AIDS, malaria and other diseases.

The Report cites considerable progress in the achievement of WFFC goals. This progress has been reached through:

(a) Utilizing a **community based approach** to reach rural communities which make up 90 per cent of the population so as to directly mobilise families and whole communities in enhancing participation;

(b) **Multi-sectoral collaboration** by working in a unified approach with partners in networks aimed at minimizing duplication of efforts and ensuring efficient use of resources;

(c) Highest level of **Government commitment** evidenced in part by the launch of the National Plan of Action for Orphans and Other Vulnerable Children (OVC) by the President in 2005;

(d) Concerted effort at ensuring **resource mobilisation** evidenced by the following:

(i) Increased Government budget allocations in social services;

(ii) Stringent fiscal controls on Government spending;

(iii) Sector wide approaches to programming;

(iv) Working with in bilateral agreements with foreign Governments for increased social budgets;

(v) Utilizing the media in awareness and advocacy campaigns aimed at supporting initiatives to fulfil WFFC targets;

(e) Other notable advocacy tools employed include commemoration events of international achievements such as the International Day of the African Child and World AIDS Day. Traditional chiefs have been involved and have played a vital role in achieving goals through targeted mobilisation campaigns.

2. Sectoral policies and programmes

National Early Childhood Development (ECD) Policy

32. The National Early Childhood Development Policy was formally launched in 2004. ECD is a comprehensive approach to a child's development from birth to eight years of age. The Policy states that children below the age of five are eligible for free programmes prioritizing physical, psychological, and development needs. It is aimed at promoting the cognitive, social, physical, and psychosocial well-being of the child. In terms of progress, the Policy has made significant efforts to improve access to ECD services especially for rural children who were not benefiting in the past. The Ministry of Women and Child Development has recorded that an important development in ECD delivery has been the establishment of Community Based Child Care (CBCC) Centres. CCBC Centres have increased from 1,165 in 2000 to 6,444 in 2006, a momentous achievement especially for children from rural communities.[8] Other notable achievements have been the capacity building of caregivers, CBCC parent committees,

[8] Ministry of Women and Child Development Annual Report, 2006.

proprietors of pre-schools, District Social Welfare Officers and Assistants, as well as the development of training and instruction material, both in English and the vernacular.

Education policy

33. The Ministry of Education and Vocational Training is currently in its second Education Plan, known as the Policy and Investment Framework (PIF). The initial PIF was a ten-year plan from 1995 to 2005. The implementation of free primary education (FPE) remains the most significant achievement of the initial PIF.

34. Currently a revised PIF covering the years 2000 to 2012 is operational. This PIF aims, amongst other issues, to address the challenges emanating from the introduction of the Free Primary Education Policy in 1994. Through the PIF, the Government aims at developing and providing quality basic education for every child in an effective partnership with relevant stakeholders. In order to operationalize the PIF, the Ministry developed a ten-year National Education Sector Plan (NESP) to be launched in 2007. The Plan provides specific targeted strategies for the various themes of the PIF in all education sectors from basic to tertiary, including vocational training.

Food security and nutrition policy

35. Government has developed various nutrition policies in response to the food security and nutrition crises that the nation has faced over the years. In 1990, the Office of the President and Cabinet OPC formulated the first Food Security and Nutrition Policy. This was followed by a National Nutrition Action Plan in 1996. The Plan and Policy are currently being reviewed for efficiency and it is anticipated that they will be revised and new, more effective plans will be considered for the years to come. The current Policy faces a great challenge since the nutrition status of children in Malawi is not registering substantial improvement. In 1992, 48 per cent of under-fives were stunted, 22 per cent were underweight[9] compared to 49 per cent who were stunted in 2004 and 25 per cent who were underweight in the same year.[10] These statistics, however, do not correlate with the impact of nutrition intervention which shows some improvements. The Malawi Demographic Health Survey (MDHS) 2004 shows that 53 per cent of children underwent exclusive breast-feeding compared to 45 per cent in MDHS 2000. Nonetheless, there is still much room for improvement in the form of an integrated nutrition intervention package such as the existing Accelerated Child Survival Programme for the country to improve its child nutrition status.

National Health Plan programme of work and National Health Plan policy (Essential Health Package (EHP))

36. The Government, in accordance with global protocols and agreements, realizes that access to quality health care is a fundamental human right and an integral right of the child. In 1999, to

[9] Malawi Demographic Health Survey, 2000.

[10] Malawi Demographic Health Survey, 2004.

substantially improve the overall management of the health sector, the Ministry of Health and Population decided to move away from a project (and capital development planning) approach to health development, towards a Sector-Wide Approach (SWAp). This was done within the context of its fourth National Health Plan (1999-2004), the objectives of which make specific reference to children in an attempt to raise the health status of all Malawians. The formulation of the Malawi Health SWAp enabled the Ministry of Health and Population along with collaborating partners to come up with a commonly agreed Joint Programme of Work (POW) 2004-2010. The priorities of this POW revolve around the provision of an Essential Health Package (EHP). The Ministry has made commendable strides in the application of the SWAp in its operations. By bringing together Government, donors and other stakeholders in the health sector, the SWAp has created a context for specific packages and policies that deliver changes at all levels of the health sector, including packages aimed at ensuring the survival and development of children.

37. The EHP addresses the major causes of morbidity and mortality that mainly affect the poor and most vulnerable groups in society. To ensure maximum benefit for everyone, but especially the poor, Government decided that the EHP will be provided free of charge at the point of delivery at all public health facilities.

38. Apart from the general health-care framework referred to above, the Ministry of Health and Population has several specific policies and programmes related to children including the Integrated Management of Childhood Illness (IMCI), HIV and AIDS (Anti-Retroviral Therapy (ART) in paediatrics), Maternal and Neonatal Health Programme, Expanded Programme on Immunization (EPI), Prevention of Mother to Child Transmission (PMCT) of HIV, Provision of Nutrition Services (facility and community-based services, such as nutrition and treatment of malnourished children), Health Education Programme, and Reproductive Health Programme. These interventions have made substantial impact, with both the 2000 and 2004 MDHS recording the following achievements for children in the health sector:

(a) Consistent average of 80 per cent immunization coverage for all antigens for over five years;

(b) Improvement on child health indicators;

(c) Improved access to maternal health care services.

Further, according to MICS 2005, overall, 71 per cent of children aged between 12-23 months have received all the recommended vaccines and only 2.5 per cent have received none. The percentage of children who have had all eight recommended vaccinations by their first birthday has increased from 62 per cent in the last two years compared to 51 per cent in MDHS 2004.

IMCI approach policy for accelerated child survival and development in Malawi

39. Malawi adopted an IMCI strategy in 1998 and started implementation in 1999. There was, however, no policy to guide implementation, which made it difficult to coordinate activities at all

levels. To address this gap, the Ministry of Health in collaboration with the Ministry of Women and Child Development coordinated the development of an IMCI policy with an accelerated child survival and development programme, to guide implementation, provide guidance and mobilise resources.

40. The IMCI policy seeks to attain MDG 4 of reducing childhood mortality by two thirds by the year 2015. It was developed in the context of the Malawi Growth and Development Strategy (MGDS), the Human Rights based Approach to Programming (HRAP), the Essential Health Package (EHP) and Sector Wide Approach (SWAp).

41. The policy covers the main areas addressed by IMCI namely: effective case management, pre-service training, health systems support, promotion of family and community key child care practices. The policy also addresses cross cutting issues such as management, financing and human resources, research, communication, monitoring and evaluation of activities at all levels.

42. The IMCI policy therefore underscores the importance of investing in children as an investment in human capital, which is necessary for sustainable development. This Policy was launched in 2006 and to date accelerated child survival and development village action plans have been developed in six districts. Collaboration between and contributions from various sectors is needed to It has to be born in mind that to meet the needs of the child for survival, growth and development.

The National AIDS Commission, national HIV/AIDS policy, National Strategic Framework (NSF) on HIV/AIDS

43. The Government of Malawi established the National AIDS Commission (NAC) in July 2001 to respond to the HIV and AIDS pandemic in the country. The objectives of NAC are to coordinate a multi-sectoral national response; provide technical and financial support to implementing agencies; mobilise resources to support the various initiatives and AIDS prevention, care, and impact mitigation. NAC provides leadership in strategic planning, policy guidance, epidemiological surveillance, research, and monitoring and evaluation. Activities implemented by the National AIDS Commission follow the National HIV/AIDS Strategic Framework (NSF) 2000-2004, which contributes to the National Health Plan and is part of the Government strategy of poverty reduction. The overall goal of the NSF is to reduce the incidence of HIV and other sexually transmitted infections and to improve the life of those infected and affected by HIV and AIDS. In 2003 NAC developed both an implementation plan for the NSF and a National AIDS Policy (NAP) which incorporates most of the current international policy principles and lays down the administrative and legal framework for all programmes and interventions “to reduce infections and vulnerability, to improve provision of treatment, care and support for people living with HIV and AIDS (PLWHA) and to mitigate the socio-economic impacts of the epidemic”. Upon the expiry of the NSF, a National HIV and AIDS Action Framework (NAF) 2005-2009 is anticipated to continue driving the timely and effective national HIV and AIDS response for the next five years. The NAF also incorporates elements of OVC care under its impact mitigation.

National Plan of Action for Orphans and Other Vulnerable Children (OVC)

44. The National Plan of Action (NPA) for Orphans and Other Vulnerable Children, developed by the Ministry of Women and Child Development, is a strategic response to ensure that the rights of OVC are fully met through mitigating the effects of HIV and AIDS. The NPA was launched in 2005 by the President on the Day of the African Child, which demonstrates the Government of Malawi's commitment to implement the United Nations General Assembly Special Session (UNGASS) goals on HIV and AIDS for OVC. The NPA also attempts to translate some of the MDGs into reality. The six strategic areas of the NPA are:

(a) Improve access for OVC to essential quality services in education, health, nutrition, water and sanitation, and birth registration with increased support from social safety nets;

(b) Strengthen the capacity of families and communities to care for OVC;

(c) Provide the legal framework and coordination to protect the most vulnerable children;

(d) Build the technical, institutional and human resource capacity of key OVC service providers;

(e) Raise awareness at all levels to create a supportive environment for children and families affected by poverty and HIV and AIDS;

(f) Monitoring and evaluation.

So far the NPA has been quite effective, with some minor problems being registered with Community Based Organizations (CBOs), which still need some capacity building and training so that their efforts are better coordinated.

The National Youth Policy

45. The National Youth Policy (1995) was developed with the awareness that nearly half of the population is aged below twenty-five years. Its aim was to establish formally and clearly the identity status of the Malawian youth as a distinct sector of Government policy. Its ultimate goal is to develop the full potential of youth and promote their active participation in national development. The Policy therefore seeks to create a direction for youth activities to empower them to face social, cultural, economic and political challenges. The specific problem areas identified in the Policy as areas in which the youth are particularly vulnerable and thus should be involved in at the decision-making level are:

(a) Inadequate vocational training;

(b) Homelessness;

(c) Unemployment and underemployment;

(d) Sexual harassment;

(e) Health related issues such as HIV and AIDS and STIs;

(f) Unlicensed entertainment;

(g) Teenage pregnancy and early marriage;

(h) Crime and general youth deviance;

(i) Marginalization;

(j) Youth non-involvement in decision-making;

(k) Smoking, drug, alcohol abuse;

(l) Lack of recreational facilities.

46. The implementation of the objectives of the National Youth Policy are overseen by the National Youth Council of Malawi (NYCoM). The NYCoM is a statutory institution crucial to youth development. However, the responsibility for youth affairs and the actual drafting of policies remains with the Ministry of Youth, Sports and Culture. In December 2006 the Ministry of Youth, Sports and Culture completed a review of the National Youth Policy in order to capture contemporary issues. The review process, which is supposed to take place every five years, is yet to benefit from the views of all stakeholders and the new policy is therefore still in draft form. Amongst the additions made to the existing Policy are some new priority areas, i.e. health and nutrition, science, technology, the environment, social services, as well as an emphasis on the correlating responsibilities that attach themselves to the exercise of the rights of the youth.

47. To further enhance monitoring and evaluation of the implementation of the National Youth Policy, NYCoM will establish a Monitoring and Evaluation system for the Policy at national level, and report quarterly to the Ministry of Youth, Sports and Culture and all other stakeholders. In order for NYCoM to carry out this function, the Policy recognizes the need to strengthen its capacity. This should include creating a special Monitoring and Evaluation (M&E) Department within NYCoM with adequate and appropriate staff.

3. Programmes and projects

48. The various child-centred projects remain largely as indicated in the Initial State Party Report (paragraph 43). Recent relevant projects include:

Social protection scheme

49. Social Protection is gaining momentum in Malawi and is specifically recognized as the second theme in the MGDS. There are Government plans underway to develop a Social Protection Policy and Programme in 2007. The Government recognized that in order to develop a comprehensive programme, important lessons on existing social protection programmes needed to be drawn. Consequently, the Government under leadership of the Department of Poverty and Disaster Management Affairs, together with the Ministry of Women and Child Development, piloted a social cash transfer scheme for ultra-poor labour-incapacitated

households in Mchinji district through the District Assembly. To date, the cash transfer scheme has benefited 1,200 households with a monthly cash transfer of an average of MK 1,700. The volume of the transfer depends on the household size and the number of school-going children. The impact of the transfers on the well-being of the household members, especially on the children, has been significant. Children's general hygiene and sanitation has improved; with increased school attendance and improved access to more nutritious food and health services. A key component of the National Social Protection Programme will be a scheme to support 10 per cent of the poorest households in Malawi. Projections indicate that in ten years time, through this scheme, as many as 250,000 households may benefit. Currently the pilot project on the scheme is being scaled out to six additional districts to learn lessons on methodology and impact in different geographical settings.

Child protection

50. In 2005 the Ministry of Women and Child Development developed the "Stop Harming and Exploiting Children" project, which it has been implementing, together with other partners, with significant success. It aims at creating a protective environment for children, with emphasis on the most vulnerable, through protection, prevention and rehabilitation. More awareness has led to more reporting of cases of child abuse. The Ministry is currently in the process of developing a National Policy on Child Protection, which will assist in the regulation and standardization, as the implementation is being done with various partners.

4. Mechanisms for policy coordination

51. The mandate for the coordination of activities relating to children's rights lies with the Ministry of Women and Child Development. In the past, coordination was not always effectively facilitated due to capacity limitations within the Ministry. Since the submission of the Initial State Party Report, however, notable progress has been made towards an effective coordination at various levels. The Department of Child Development in the Ministry of Women and Child Development coordinates child protection and child rights programmes. To facilitate coordination, the Ministry has set up technical working groups. Key functional technical working groups include: Child Protection, Early Childhood Development, OVC and Integrated Community Management of Childhood Illnesses. There are plans towards minimizing the numbers of these technical working groups. These technical working groups report to one Steering Committee on Children for policy and strategic direction. For specific assignments, networks have also been formed out of technical working groups to handle specific thematic areas. Notable examples of networks are: child trafficking, children on the street, and child labour. Each network is composed of Government Departments, UN agencies and national and international NGOs.

52. The roles of the different players in the network are coordinated by the Ministry of Women and Child Development and are by and large well-defined, with each member playing a role best suited to its portfolio. The Ministry of Labour, for instance, notably provides vocational training to the youth and formulates policy on the elimination of child labour.

53. In order to avoid duplication of efforts at national level between Child Protection units in the Malawi Human Rights Commission, the Ministries and other stakeholders in the network, the Child Rights Unit in the Human Rights Commission works in close collaboration with similar

departments within the Ministry of Women and Child Development, the Ministry of Labour, the Ministry of Education, the Ministry of Youth, Sports and Culture, the Ministry of Health and Population and within the Malawi Police Service. Further, the Constitutional mandate of the Malawi Human Rights Commission ensures that the Commission concentrates on the protection and investigation of violations of rights, which is a distinct function. In areas of overlap, the Commission refers matters to appropriate networks within the technical working groups referred to in paragraph 51 above.

54. Data collection on child rights issues has also been a challenge. The Malawi Human Rights Commission is currently attempting to fill the data gap by coordinating various stakeholders to collect data on various vulnerable groups. Again, these efforts will be run in close connection with the Ministry of Women and Child Development so as to avoid any duplication of efforts.

55. Although the Ministry has tried to overcome its own financial limitations in coordinating activities by making use of the networks, the effective capacity of the Ministry is still constrained. The Malawi Government's Treasury's recurrent budget especially for Other Recurrent Transactions (ORT) to the Ministry of Women and Child Development has been steadily declining for the past five financial years. The overall recurrent budget declined from MK 412 million in 2002/03 to MK 173 million in 2005/06. ORT funding declined from MK 312 million in 2002/03 to MK 73 million in 2005/06. For the 2006/07 financial year, the Ministry was advised that its recurrent funding ceiling has been pegged at MK 207 million and ORT at MK 81 million.

56. Budgetary allocation for children's programmes at local Government level is one challenge affecting the implementation of the CRC. It is not known how much of the budgetary allocation at local Government level is actually allocated to children. It is further highly unlikely that, where it is known, the allocation issued for children is utilized correctly due to the limited knowledge of child rights issues at local Government level. Although the Ministry of Women and Child Development has made strident efforts at disseminating the CRC and at sensitizing and training various stakeholders on it, some district Government officials still display low levels of knowledge on the CRC.

57. There are, however, other challenges facing the coordination of child rights activities. For instance, the competition especially among committees set up under various sectors at the local level; result in duplication due to their reluctance to working together. Additionally, child rights are a relatively novel phenomenon in Malawi and most sectors and communities fail to appreciate the significance and urgency of issues pertaining to them.

5. Collection of data for monitoring and evaluation

58. The various sectors dealing with children each have separate databanks, which have contributed to an increase on statistics on children for policy makers and planners.

59. Data on school enrolment is readily available as the Ministry of Education and Vocational Training established the Education Management Information System (EMIS) that captures data on enrolment and other indicators.

60. The Ministry of Local Government maintains a databank that covers all aspects of health, education, and social welfare, to name a few. It is complemented by District socio-economic profiles that outline programmes implemented at district level.

61. Working jointly with Ministry of Economic Planning and Development, the Ministry of Local Government is synchronizing and aligning various Monitoring and Evaluation systems by sector.

62. Police under the Ministry of Home Affairs are setting up a database on child-related cases and child victims of crime from district up to national level.

63. The Ministry of Health and Population maintains a Health Information Management System that covers a broad spectrum of indicators and which includes children.

64. In 2002 and 2003, the Ministry of Labour initiated the Malawi Child Labour Survey to evaluate the breadth of the problem of child labour and to provide data on the category of children in special need of protection. The resulting Child Labour Report, published in 2004, was intended to raise awareness of child labour issues and to promote the campaign against its practice. It also served as the basis for the formulation of appropriate intervention programmes in conjunction with other Ministries, bodies, and international development partners. The Child Labour estimates that out of 3.8 million children of ages 5 to 17, about 1.2 million (29 per cent) are engaged in economic activities whilst 2 million are engaged in no-economic activities (51 per cent). The Multiple Indicator Cluster Survey (MICS) 2006 further indicates that out of 40,826 children surveyed, 28.8 per cent are currently working, paid or unpaid, inside the home and outside the home.

65. In limited cases specific data is being collected on the availability of safe drinking water and the level of sanitation for children and this is usually only where effective CBOs, Faith Based Organizations (FBOs) and NGOs exist. Such data is thus not comprehensive and usually only valuable for a small area of operation of the concerned organization.

66. The Multiple Indicator Cluster Survey (MICS) 2006, a household survey programme developed by UNICEF to assist countries in filling data gaps for human development and the situation of women and children was completed and launched in February 2007. MICS has produced internationally estimates of social indicators such as MDG indicators and some WFFC indicators.

67. In general there has been little improvement on structures that facilitate systematic collection of data incorporating all areas covered by the CRC and covering all children below the age of eighteen years, with specific emphasis on those who are in need of special protection. Due to limited capacity at national and district level, there is no comprehensive gender disaggregated data for certain categories of children i.e. special needs by sex, street children by sex, age by sex, out of school by sex. Very few indicators are currently used to monitor and evaluate progress achieved through implementation of the CRC or to assess the impact of policies on children, apart from the MICS. The Ministry of Women and Child Development is consistently working towards improving data collection structures and to this end, that a study has been commissioned to establish baseline data on specific areas like the Children in need of Special Protection.

68. The Ministry of Economic Planning and Development has employed Monitoring and Evaluation Officers, posted at national and district level, responsible for setting up databanks that will include disaggregated data.

69. To ensure systematic gathering of socio-economic data on children, the Malawi Government through the National Statistical Office (NSO) created a database called Malawi Socio-Economic Database (MASEDA), which is available on CD - ROM and on the Internet.

70. In 2006 NSO in collaboration with UNICEF and other partners completed a Multiple Indicator Cluster Survey (MICS). MICS' main objective was to obtain statistically valid estimates at district level on a number of social development indicators related to the MGDS, the MDGs and the goals of WFFC. With information on 20 of the 48 MDG indicators, it is the largest single source of data in Malawi for MDG monitoring. It focussed on those areas that concern the well being of children and women. This Survey covered all districts and set the baseline for tracking progress on some of the CRC indicators at district level. MICS also provides disaggregated data by sex, geographical area, age groups, education status, etc.

The OVC registration system

71. The lack of data on OVC made planning and implementation of OVC interventions difficult. Thus, in July 2006, the Ministry of Women and Child Development instituted an OVC Registration System, which goes beyond recording the numbers of OVC in every district. It identifies orphans and other vulnerable children and then considers their situation with reference to various indicators, which include the education attainment, enrolment and school dropout, survival rates, level of care being received by the OVC and mapping out the care givers. It also disaggregates by age group and sex. The OVC Registration Scheme should result in a comprehensive national database for OVC statistics. So far, the exercise has been completed in two districts, Ntchisi and Neno. There are some challenges in collecting the data: the mechanism has only been established for rural households. There is no specific modality in place yet for registering OVC in urban areas. The Ministry of Women and Child Development is adapting the registration system while expanding to all districts, learning from the initial registration exercise in some selected districts.

72. Once the National Registration Bill becomes enacted it will help bridge the basic gap of recording vital statistics for children and provide data on birth and death.

Challenges and constraints

73. The following are major challenges being experienced in data collection:

(a) Inadequate capacity by some sectors at district level to utilize and interpret data on children;

(b) In some cases sectors update databanks without necessarily undertaking enough research on what is precisely being implemented on the ground;

(c) Inadequate participation by some sectors at district level in updating the databank;

(d) Some District Assemblies do not have the human resources to facilitate effective coordination of programmes;

(e) Data collection is also difficult at district level due to inadequate data collection tools;

(f) Inconsistent indicators developed by the various sectors dealing with children also affects the reliability of data collected.

6. Monitoring mechanisms

74. The Human Rights Commission is the institution that is responsible for monitoring of children's rights and policies in accordance with the Paris Principles.[11] The institution has the competence to monitor and evaluate the progress in the implementation of the CRC at national and, if appropriate, at local level. It also has the mandate to receive and investigate complaints of violations of child rights in a child-sensitive manner and address them effectively.

75. Some effort has been made in conducting awareness-raising campaigns about the Malawi Human Rights Commission and its Child Rights Unit. This did indeed result an improvement on monitoring child rights issues. The number of child rights cases reported to the Human Rights Commission increased from 16 in 2002, to 28 in 2003, 50 in 2004, 61 in 2005 and to 111 in 2006, showing an increased awareness on its existence and mandate.[12]

76. However, the absence of effective data collection systems and the limited financial resources available to the Malawi Human Rights Commission have negatively impacted progress on the monitoring of child rights issues. The Human Rights Commission has not yet strengthened its partnership with other stakeholders and no consistent monitoring systems have yet been developed.

Table 4

Ministry of Women and Child Development ORT funding allocation since 2002

Financial Year	Approved Budget (Million) Kwacha	Recurrent Ceiling in Malawi	Approved ORT Ceiling in Malawi (Million) Kwacha	Approved ORT Ceiling in Real Terms (Million) in Malawi (Million) Kwacha
2002/03	412		312	312
2003/04	231		120	109.53
2004/05	229		100	82.04
2005/06	173		73	51.78
2006/07	207		81	49.3

[11] General Assembly Resolution 48/134.

[12] Malawi Human Rights Commission Annual Report 2002, 2003, 2004, 2005 and 2006.

Table 5

Ministry of Women and Child Development funding trends

Notes:

Series 1 shows the levels of approved funding allocation to the Ministry in nominal terms.

Series 2 shows the minimum funding estimates that the Ministry ideally requires for meaningful impact on the ground.

Series 3 shows the actual purchasing power value of the approved ORT funding allocation to the Ministry compared to prices of 2002. This is the real value of goods and services that the approved funding can actually support at constant prices of 2002. This means that the MK 81 million ORT earmarked for the Ministry for the 2006/07 financial year can only purchase MK 49.3 million worth of goods and services at 2002 prices. To maintain the same activity and expenditure levels of 2002, the Ministry would require an extra MK 263 millions ORT allocation and therefore the total required allocation is MK 344 million.

All figures are in millions and are quoted in Malawi Kwacha.

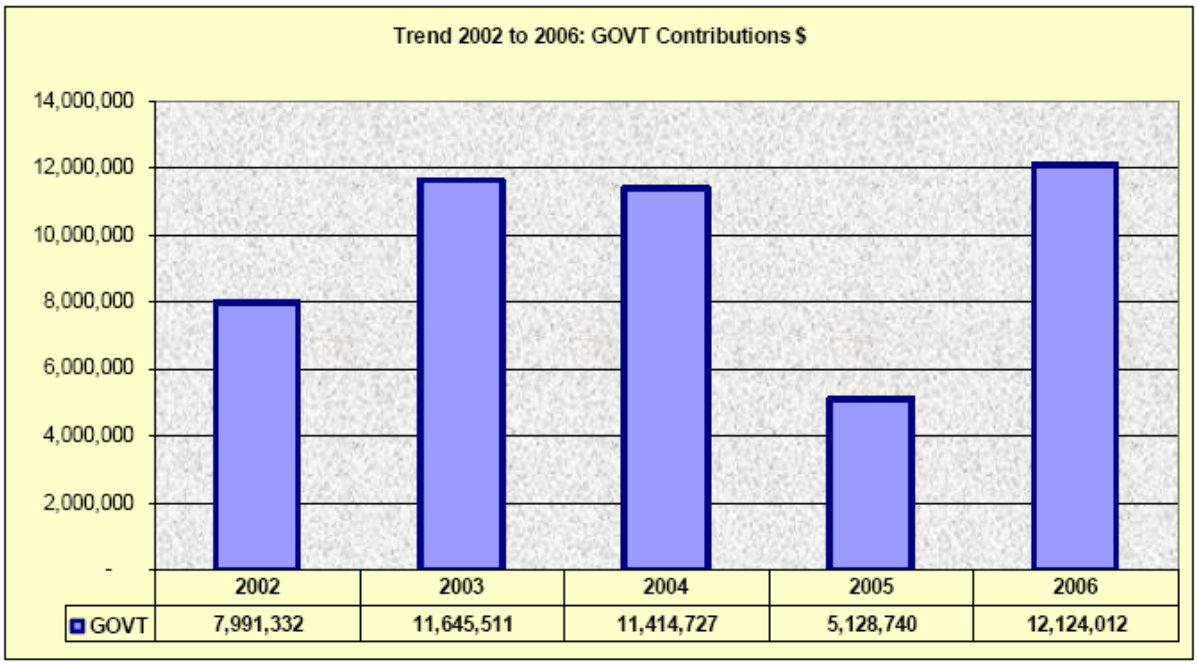
Source for Tables 4 and 5: UNICEF WFFC Progress Report for Malawi December 2006.

7. Allocation of resources

77. As indicated in Tables 4 and 5 above and Table 6 below, the Malawi Government's Treasury recurrent budgetary allocation to the Ministry of Women and Child Development has been steadily declining for the past five financial years. The Ministry of Women and Child Development is struggling to implement various policies due to financial constraints. Moreover national inflation, which currently stands at 7 percent (urban inflation rate is 10.0 percent and

rural inflation rate is 6.4 percent)[13] steadily reduces the purchasing power of each yearly budgetary allocation even further. However, within sectoral budgets certain Ministries try to prioritize children. In light of Articles 2, 3, and 6 of the CRC, Malawi has made some effort to fulfil the provisions of Article 4 of the CRC by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, especially those belonging to economically and geographically disadvantaged groups. The Ministries of Health and Population, Education and Vocational Training, Women and Child Development which are officially recognized as being in large measure directly involved in children issues, do allocate reasonable amounts of resources to child related programmes.

Table 6: Government Funding for the Ministry of Women and Child Development



Currency quoted in US $
Source: Government of Malawi and UNICEF WFFC Progress Report for Malawi December 2006

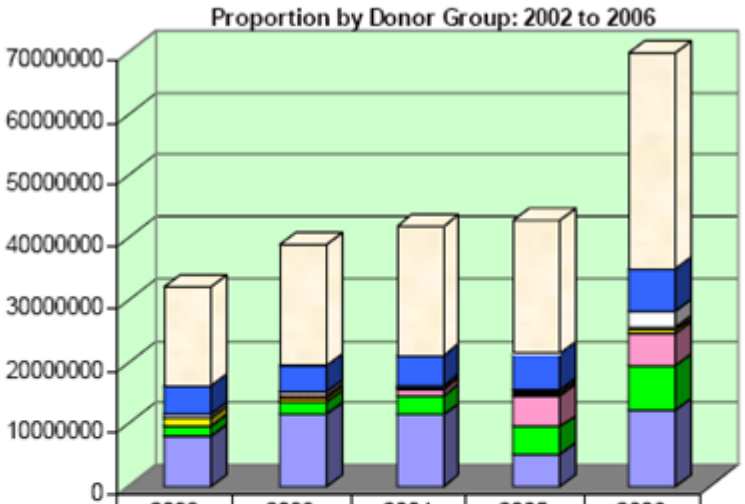
78. It should be pointed out that at local government level, all districts receive financial allocations from both Government and other development partners for child rights programmes. However, quantifying the actual budgetary allocation for children is difficult as child issues are often integrated in other policies and programmes. Allocations for children are indirectly included, for example, in the overall allocation for food security, health and education. The danger of this approach is that child rights are often perceived to be cross-cutting and therefore not prioritized separately, assuming that they will be prioritized within sectoral programmes. This, unfortunately however, is not always the case.

[13] Malawi National Statistical Office, Consumer Price Index, June 2007, http://www.nso.malawi.net.

79. The challenges faced in optimal resource allocation include lack of knowledge and orientation among policy makers on child rights issues, especially on the principle of first call for children when budgeting. To date there has not been any deliberative effort to create this awareness. Consequently child rights are not prioritized as much as they should. Due to challenges in the coordination of child issues, quantifying the amount of resources targeting children, including direct funding from donors, remains difficult. Table 5 below nonetheless tries to chart donor funding for interventions targeting children in the Ministry of Women and Child Development.

Table 7

Donor Funding for Childrens' Activities



	2002	2003	2004	2005	2006
All Donor Types	16105788	19404233	20953397	21464527	34924862
RR	4477291	4287865.1	4956234.3	5965345.1	6834079.9
GP	579578.21	709094.92	101447.65	339030.78	2564000
UN	0	214935.13	12796.88	257208.26	446563.3
NGO	1544847	558407.63	476011.95	254428.43	517037.44
THEMATIC	0	77464.4	913584.92	5192204.2	5240968.4
NATCOM	1512740.5	1910954.4	3078594	4327570	7198200.7
GOVT	7991331.7	11645511	11414727	5128740.3	12124012

Notes:

RR = Regular Resources, GP = General Pool, UN = United Nations, NGO = Non-Governmental Organizations, NATCOM = National Committees for UNICEF, Govt = Government Currency quoted in US $.

Source: Government of Malawi and UNICEF WFFC Progress Report for Malawi, December 2006.

8. Dissemination of the Convention

80. There has been a concerted effort by the Ministry of Women and Child Development, through the District Social Welfare Office, and various NGOs to disseminate the CRC translated into the two major national languages, Chichewa and Tumbuka. There are also plans to incorporate elements of the CRC into the schools' curricula.

81. With assistance from multilateral donors the Inter-Ministerial Committee on Human Rights' Democracy Consolidation Programme (DCP) set up under the Office of the President and cabinet coordinates a major dissemination process of the rights of the child. DCP dissemination campaigns cover all districts through community based educators as well as through radio and television programmes. Other stakeholders supplement these efforts with newspaper articles and Theatre for Development (TFD) campaigns. These campaigns have empowered community based educators and human rights clubs to conduct awareness campaigns on human rights as well as specific child rights.

82. There are also continuing efforts towards the reinforcement of adequate and systematic training and sensitization of professional groups working with and for children, such as judges, lawyers, law enforcement personnel, social workers, teachers, school administrators, caregivers of CBCC centres and community child protection workers, but also the District Assemblies and village chiefs. Every effort is made to ensure that these groups are well acquainted and familiarized with the rights of the child. Where possible, activities of this nature are factored into major events such as the commemoration of the Day of the African Child.

83. Although there has been substantial effort in sensitizing the public at national and district level on issues pertaining to child rights generally, not much has been done to improve awareness on the CRC *per se*. The design and implementation of the sensitization campaigns undertaken by various institutions focus on the rights but do not make direct reference to the CRC.

84. However, there are still challenges to the distribution of CRC-related documentation, especially the Initial State Party Report and the comments and recommendations of the Committee due to lack of resources.

85. Despite all these challenges, it should be emphasized that there is definitely an increase in the awareness of child rights evidenced by an increase in cases reported to the Human Rights Commission (see above) and other relevant institutions, notably by rural communities.

III. DEFINITION OF THE CHILD

86. Two legislative reforms have proposed harmonizing the minimum age of what constitutes a child with the CRC. A proposal under the ongoing Constitutional Review wants to redefine the child as a person under the age of eighteen years. The proposed Child (Care, Protection and Justice) Bill also defines a child as any person below the age of eighteen years (see paragraph 25 above).

Ages for competencies in national laws

Age of criminal responsibility

87. There has been a proposal to raise the age of criminal responsibility from seven to ten in the proposed amendment of the Penal Code (see paragraph 19 above).

Age of marriage

88. The proposed Marriage, Divorce and Family Relations Bill raises the minimum age for marriage to eighteen years. This recommendation is mirrored in the current Constitutional Review process which also recommends the minimum age for marriage with consent to be raised to eighteen years and the minimum age for marriage without parental consent to twenty-one years. The proposed amendment to the Penal Code complements these recommendations by raising the age of defilement from thirteen years to sixteen years.

Minimum age for access to employment

89. The Employment Act (2000) and Labour Relations Act (1996) both prohibit child labour in compliance with the relevant ILO Convention. The minimum age for employment is 14 years.

IV. GENERAL PRINCIPLES

90. This chapter provides relevant information on existing or planned legislative, administrative and other measures and monitors the progress and difficulties encountered in the implementation of the general principles of the CRC.

A. Non-discrimination (art. 2)

Constitutional provisions

91. There has been no proposed amendment to the anti-discrimination provision in section 20 of the Constitution.

Other legal provisions

92. In order to ensure that other legislation conforms to the Constitutional provision against discrimination, certain legislative reforms are being undertaken by the Law Commission. The development of a Gender Equality Statute is also underway. It anticipates that once enacted, this statute will facilitate the implementation of the goals of the National Platform of Action on Gender and Development.

Policies and programmes

93. The following are specific policies and programmes actively promoting non-discrimination:

(a) The National Gender Policy promoting equal participation for girls, boys, men and women to advance poverty eradication through sustainable and equitable approaches;

(b) The National Policy on Orphans and other Vulnerable Children (OVC) which is facilitating support for care, protection and development of OVC in a coordinated manner in order to provide them with an environment in which they realize their full rights and potentials;

(c) The National Policy on Early Childhood Development which is guided by the principles of non-discrimination and promotes inclusive education (children with special needs, orphans (defined as a child who has lost one or both parents because of death and is under the age of 18 years, National OVC Policy, 2003)), boys and girls, urban and rural children;

(d) The National HIV/AIDS Policy which among other things aims at improving the provision of treatment, care and support to PLWHA. The Policy also makes provision for strategies to end stigmatization of PLWHA and promote their participation in all spheres of life;

(e) The Education Policy Investment Framework (PIF), which is the national education strategic framework, ensures the promotion of educational equity by making school an inclusive environment supportive of the needs of boys and girls as well as children with special needs and severe disabilities;

(f) The Ministry of Education and Vocational Training takes deliberate efforts to include girls in all its programmes to ensure at least 40 percent girl participation;

(g) The Ministry of Education and Vocational Training is also implementing an Accelerated Girls' Education Programme where school infrastructure is to be improved with sufficient sanitary facilities to make it girl child-friendly;

(h) The Ministry of Education and Vocational Training is in addition making deliberate effort to ensure a 50-50 selection rate for girls and boys in secondary schools;

(i) Positive discrimination or affirmative action is being done in allocating secondary bursaries to needy pupils. The ratio is currently 4-1 in favour of girls to bridge the gap by encouraging girl enrolment;

(j) The re-admission programme for young mothers is implemented to ensure completion of education;

(k) Government plans to build hostels for girls in Community Day Secondary Schools to protect girls from abuse. The lack of boarding facilities at these schools compels girls to rent accommodation in insecure and generally unsuitable accommodation where they are vulnerable to abuse. This is an interim measure aimed at protecting girls in existing boarding schools whilst awaiting the implementation of the plan to phase out boarding schools altogether;

(l) School management structures namely School Management Committees (SMCs) and Parents and Teachers Associations (PTAs) have been empowered to involve females, especially girls and young mothers, to be included in management processes;

(m) The comprehensive National Plan of Action for Orphans and other Vulnerable Children (NPA for OVC) seeks to reinforce the Government's continued commitment to mitigating the effects of poverty and HIV and AIDS on OVC while promoting the rights of all children. The effect of the special measures provided for OVC is to bridge the extreme gap

between OVC and their counterparts so as to enable them to participate equally in society. These special measures include bursaries, for example, which the Ministry of Women and Child Development provides to OVC for their participation in secondary school;

(n) The Ministry of Women and Child Development has also seen to it that CCBC centres are being established within various communities across the country to promote ECD for all children, without discrimination, and particularly including orphans and other vulnerable children who would otherwise not benefit.

94. The country has within the reporting period evidenced fundamental growth of players that support Government policies with programmes that are fostering equality and ensuring equitable access to important resources. Some of these players assisting Government include international and local NGOs, CBOs and FBOs which have been instrumental in the implementation of the following:

(a) The Gender Support Project (GSP) undertaken by the Canadian Government, which bridges inequalities between boys and girls in various sectors, most notably in education and health;

(b) Girls Ambassadors Scholarship Programme promoting girl child education by paying school fees for promising girls;

(c) Rehabilitation of Children with Disabilities Programme aimed at empowering children with special needs by providing them with facilities such as hearing aids, wheel chairs and providing psycho-social support so as to enable them to participate equally with others and to take advantage of all opportunities;

(d) Orphan Care Support aimed at empowering orphans and decreasing the gap with other children;

(e) Street children programmes aimed at social rehabilitation and reintegration of children living on the streets, including through schooling, vocational skill building and psycho-social support.

Measures on Declaration and Programme of Action

95. The State Party has not undertaken any specific measures or programmes to follow up on the Declaration and Programme of Action adopted by the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. However, the Country Wide Public Inquiry on the Prevalence of Human Rights Violations of Discrimination, Violence and Related Intolerance in Malawi conducted between 2001 and 2002 did attempt to address the concerns raised in the Declaration.

Progress and constraints

96. The development of a Gender Equality statute aims, amongst other things, to eliminate detrimental cultural practices. This proposed statute augurs well for the protection of children, especially the girl child, from cultural practices that are discriminatory and harmful to the physical and psychological development of the child. Whilst this is an achievement in terms of

the elimination of discrimination on the grounds of sex, a lot still needs to be done to eliminate discrimination on grounds of disability as the cultural mindset to reject such children remains deep rooted and prevalent.

B. Best interests of the child (art. 3)

Constitutional provisions

97. The Law Commission is considering the recommendations of the Constitutional Position Paper submitted by the Ministry of Women and Child Development in contribution to the Constitutional Review process, which substantively integrates the principle of the best interests of the child in section 23 of the Constitution.

98. Previously, in 1998, the Law Commission, in its Technical Review of the Constitution, made recommendations giving every child the right to maintenance from his or her natural parents, whether married, unmarried or divorced, and from their guardians, particularly including orphans, children with disabilities and other children in situations of disadvantage. This recommendation has not been enacted.

Other legal provisions

99. The Child (Care, Protection and Justice) Bill is the most comprehensive attempt at integrating the principle of the best interests of the child in legislation. One example is the comprehensive integration of diversion into the Bill where a child comes into contact with the law for primarily first time and minor offences.

100. The proposed Marriage, Divorce and Family Relations Bill has made provision for the filing of maintenance suits even during the subsistence of marriage. The enactment of this Bill will guarantee that the rights of the child are mainstreamed in the family law framework by obliging parents to provide for all the necessaries of life, including shelter and accommodation. The proposed Bill gives either children or any next of kin or close relative to the child, as well as any party to the marriage, the right to apply for a maintenance order in cases of child neglect during the subsistence of marriage. Further, the Bill also integrates the principle of the best interests of the child by providing that where a party to a marriage neglects to maintain the other party or the needs of a child to such an extent that their health, safety, security, nutrition and education is adversely affected, this will constitute notifiable family misconduct. Notifiable family misconduct places any of the parties, children, next of kin or relatives under obligation to report the matter to the Minister of Women and Child Development. Maintenance can also be claimed under such circumstances.

Policies and programmes

101. The National Juvenile Justice Forum (NJJF), headed by the judiciary, runs programmes that actively promote the best interests of the child. The objective of the NJJF is to perform advocacy for reform, networking, documentation and coordination functions. It has regional branches in Blantyre, Lilongwe, Zomba and Mzuzu. The NJJF has been involved in the development of proper criteria for diversion, and appropriate national diversion options as an alternative to detention of children as well in the development and institutionalization of national monitoring systems that produce reliable data and valid research to benefit stakeholders and key

decision-makers. The most notable achievement of the NJJF is the implementation of diversion for minor offences as part of restorative justice which ensures that a child in conflict with the law is viewed and treated as a child and not an offender. It prevents the child from being criminalized by the community and reinforces the protection of a child so the child is not imprisoned. Whilst awaiting the enactment of the Child (Care, Protection and Justice) Bill which specifically provides for diversion, it is already being promoted as best practice at police level. The current legislative framework on child justice does not prohibit the use of diversion, hence its use on the ground. Furthermore, at court level, the NJJF is lobbying the Chief Justice to issue a practice direction on diversion. Once this becomes effective children in conflict with the law will be diverted back into the community where trained community child protection workers jointly with communities will closely monitor the reformation process of these children. One regional Juvenile Justice Forum (Blantyre) has already printed and disseminated a practice guide on diversion.

102. The "Stop Harming and Exploiting Children" project, coordinated by the Ministry of Women and Child Development, has contributed to an increased awareness and application of the principle of the best interests of the child by creating a protective environment for all children. One of the activities under this project is the protection of children already exposed to situations that might harm their physical, intellectual, emotional and psychological development by establishing child-friendly courtrooms for children in conflict with the law. The major achievement of this activity is the establishment of two Child Justice Courts in Blantyre and Zomba between December 2005 and May 2006, with support from NJJF. Although under the current legislation, the Children and Young Persons Act expressly provides that children should be tried separately from adults in special sessions in which the court sits as a juvenile court with less formality and restricted access, this has not always been done in practice. The Children and Young Persons Act requires that existing courts be used as children courts on an ad hoc basis. This makes it difficult for inadequately-trained court personnel to psychologically make the transition to operating in a child-friendly manner. Under the "Stop Harming and Exploiting Children" project the child-friendly courts have been equipped with cameras to offer services to child victims of abuse and court personnel have been trained. The project is bridging the gap in child justice whilst awaiting the enactment of the Child (Care, Protection and Justice) Bill, which makes provision for a separate justice system for children.

103. In places where the project has not established separate child-friendly courts, the Chief Justice issued a practice direction requiring senior Magistrates to preside over cases involving children. This direction complements an earlier one, which requires the Chief Resident Magistrate to preside over child abuse cases so as to ensure emphasis on the best interests of the child and reasonable sentences for offenders.

104. The Malawi Police Service has established 34 Victim Support and Child Protection Units at district level to offer child-friendly services to both child victims and children in conflict with the law. In the provision of these services, the police manning these units have been trained to ensure that the best interests are paramount.

105. Government as well as donor community stakeholders have made deliberative efforts to sensitize the media on how to report on cases involving children without prejudicing the best interests of the child. This includes responsible reporting that does not to expose the names of

victims of child abuse. Further, Government has worked with the media to introduce a culture of openness in discussing child abuse and protection. This has resulted in increased reporting of child abuse cases by the media and to the appropriate authorities.

106. The Children and Young Persons Act provides for a Board of Visitors that are, inter alia, allowed to visit children in prisons in order to accelerate the hearing of their cases and where possible to assist in getting the children out of prison into reformatory schools. The Board currently visits the prisons four times a year and ensures that the principle of the best interests of the child is complied with as far as possible.

107. The principle of the best interests of the child is also emphasized in community dialogue programmes and by Child Protection Workers employed by the Ministry of Women and Child Development. These work in the community and ensure that its members are also aware of the importance of the application of the principle in decisions of daily life.

C. Right to life, survival and development (art. 6)

Constitutional provisions

108. The Constitutional Position Paper submitted by the Ministry of Women and Child Development to the Law Commission in contribution to the Constitutional Review process supports the refinement of the right to life, survival and development of the child in the Constitution. The Law Commission is considering this submission.

Other legal provisions

109. The Child (Care, Protection and Justice) Bill makes significant improvement to the enhancement of the right to life, survival and development of the child. The Bill does this by making extensive provision for: children in need of care and protection, fosterage, guardianship, support for children by local authorities, and protection of children from undesirable practices, amongst others.

Policies and programmes

110. There are currently various programmes and policies that support the right of the child to life, survival and development. These programmes and policies, most of which have been discussed in detail elsewhere in this report, are:

(a) Early Childhood Development Policy;

(b) Orphans and other Vulnerable Children Policy;

(c) National Plan of Action for Orphan and other Vulnerable Children;

(d) Community Integrated Management of Childhood Illness (C-IMCI) Policy;

(e) Accelerated Childhood Survival Programme;

(f) Prevention of Mother To Child Transmission (PMTCT);

(g) School Feeding;

(h) Nutrition Rehabilitation Units and Therapeutic Feeding;

(i) Community Based Child Care Centres.

111. Government also opened one social rehabilitation centre for children on the street, for victims of abuse, violation, exploitation and trafficking as a temporary shelter where they are given daily meals and are sent to school. Two more will start operating early 2007.

112. Under the Social Cash Transfer pilot programme in Mchinji (see pargraph 49 above), the ultra-poor labour-incapacitated households are identified by the community social protection committee members themselves. Most households are headed by grandmothers, children or chronically ill parents, who now receive a monthly grant to meet their basis needs and their rights to survival, growth and development. Extra incentives are also provided through the programme to enable the children of these households to go to school.

Progress and constraints

113. During the reporting period, both the State and bilateral and multilateral donors have committed themselves to reinforce efforts to provide greater protection and support to children whose right to life, survival and development are unduly threatened by difficult socio-economic realities as shown above. Whilst these interventions have undoubtedly made an impact, the lack of disaggregated data on the socio-economic indicators makes it difficult to assess the extent of improvement.

D. Respect of the views of the child (art. 12)

Constitutional provisions

114. The Constitutional Position Paper submitted by the Ministry of Women and Child Development to the Law Commission in contribution to the Constitutional Review process supports the respect for the views of the child in the Constitution. To include child participation in the reviewed Constitution, the Position Paper of the Ministry of Women and Child Development recommends that section 23 of the Constitution should include the following proposed subsection: “Every child has the right to know of decisions affecting him or her, to express an opinion, and have that opinion taken into account, taking into consideration the age and maturity of the child and nature of the decision”. The Law Commission is considering these submissions in its recommendations in the Constitutional Review process.

Other legal provisions

115. The Child (Care, Protection and Justice) Bill enhances existing provisions on the rights of children in conflict with the law to be heard with the assistance of legal representation provided at state expense where necessary.

Policies and programmes

116. The concept of the National Child Parliament has grown since the Initial Report. Plans are currently underway to have it decentralized to District Assembly level. The concept of the National Child Parliament is aimed at making Parliament and Assemblies more efficient in listening to children's voices and at increasing child participation. Plans are also underway to link the National Child Parliament to the National Parliament and District Assemblies and identify child ambassadors in Parliament and Assemblies to stand for children's issues. Within the Child Parliament members are nominated to represent children in various national and international meetings, such as the World Children Summit, which is held annually in Taiwan and the Young General Assembly that was held in Malawi in 2005.

117. Several Ministries stimulate the participation of children through youth clubs. The Department of Youth in the Ministry of Youth, Sports and Culture has several programmes for the youth, which include a project called Meeting Development and Participation Rights of Adolescent Boys and Girls. This project particularly aims at increasing the participation of girls who are encouraged to join clubs or form their own clubs so as to benefit from youth programmes. The Ministry of Education and Vocational Training encourages the establishment of school clubs, like "Edzi Toto" ("No to AIDS) Clubs, which encourage life skills for children to become more assertive and able to raise their voice as part of the strategy to combat HIV and AIDS. It also plans to make child rights clubs at primary school a priority.

118. The Ministry of Health trains youth in the community to conduct peer education on reproductive health. It has also developed youth-friendly health services in collaboration with children.

Progress and constraints

119. The importance attached to the Child Parliament and the improvement in the quality of child representatives in conjunction with the various other child and youth stakeholders have been instrumental in increasing public awareness on the participatory rights of children by incorporating them in intensive multi-channel efforts and continued lobbying with national leadership.

120. Children's issues are multi-sectoral and various Ministries incorporate different awareness programmes, including at local level and in traditional communities, in their various programmes. There is however still no single national communication initiative aimed at developing a strategic and harmonized approach to increase public awareness of the participatory rights of children so as to change traditional values. One key contributor to this gap is the absence of a Comprehensive National Action Plan for Children (NAPC) that gives a clear authority to one national body that can be accountable to all child-related issues. This was one of the key WFFC recommendations to which Malawi had responded by starting to draft a 10-year NAPC. Unfortunately the process of finalizing it was delayed due to a shifting of interest of key partners and donors towards OVC. Currently, the Government with support from UNICEF is trying to revive the NAPC through a participatory process of reviewing the first draft and making the necessary adjustments that take developments into account.

121. Although District Assemblies at Local Government level are supposed to play a role in child issues and are therefore best suited to deal with programmes aimed at changing mindsets on child participation at this level, their operations are severely constrained by several factors, such as lack of sufficient training of personnel on child rights issues, failure of Government to hold Local Government elections and low budgetary allocation. The Ministry of Local Government has noted these problems and strategies are continually being developed to overcome them.

V. CIVIL RIGHTS AND FREEDOMS

122. This chapter provides information on the status of the Malawian child's enjoyment of his or her civil rights and freedoms with a focus on changes in the enjoyment of those rights since the Initial Report.

A. Name, nationality and preservation of identity (art. 7)

Constitutional provisions

123. The Constitutional Position Paper submitted by the Ministry of Women and Child Development to the Law Commission in contribution to the Constitutional Review process calls for the Constitutional recognition of vital registration. The Law Commission is considering these recommendations.

Other legal provisions

124. Once enacted, the National Registration Bill shall make mandatory, the registration of all births, deaths and marriages. It also makes provision for identity cards for Malawians aged 16 years and above and resident foreigners. The national registration programme will benefit children through the system of birth registration, which will facilitate data collection, precision in designing policies and programmes concerning children and allocation of resources to child issues.

125. Measures for the implementation of the registration system are being put in place in advance of the enactment of the Bill. This includes the creation and establishment of structures for registering children at district and village level as well as orientation and training. In eight districts, pilot birth registration is being carried out in advance of the enactment of the Bill. Upon successful completion the process will be rolled out throughout the country. Plans are that registers be introduced as soon as the National Registration Bill becomes law. Once the Bill is enacted, birth registration shall become accessible, compulsory and free.

Constraints

126. As was reported in paragraph 115 of the Initial State Party Report, some children are given names in keeping with the circumstances surrounding their birth. At times, these names could be considered derogatory, and are still being given. Some institutions such as the Malawi Human Rights Commission, Ministry of Education and Vocational Training and Ministry of Women and Child Development are raising awareness on the possibility for children with derogatory names to legally change their names. Some work is also being done by both the Ministry and the Commission, to sensitive communities against this practice.

B. Freedom of expression (art. 13) and child's access to appropriate information (art. 17)

Constitutional provisions

127. The Constitutional Position Paper submitted by the Ministry of Women and Child Development to the Malawi Law Commission in contribution to the Constitutional Review process calls specifically for the recognition of the right of children to freedom of expression.

Other legal provisions

128. The Child (Care, Protection and Justice) Bill enhances existing provisions on the right of children to freedom of expression by recognizing the expressed wishes of the child in custody matters and in electing whether or not to have legal representation in all matters involving children.

Progress

129. Various NGOs have intensified their support to schools, in providing activities and programmes aimed at encouraging pupils to freely express themselves.

C. Freedom of thought, conscience and religion (art. 14), freedom of association and peaceful assembly (art. 15), protection of privacy (art. 16), access to appropriate information (art. 17)

130. Apart from the Constitutional Review process which may make appropriate recommendations to the enlargement of the captioned rights so as to specifically address the particular needs of children, no change has been recorded on the enjoyment of these rights since the Initial State Party Report in the period of reporting (Paragraphs 133-149 of Initial State Party Report).

Policies and programmes

131. Children are enabled to participate in the cultural life of their choice through programmes such as one initiated by the National Library, which encourages mothers to come to the library with their children. The Library stocks and distributes children books and books for youth on various issues, including cultural issues. The National Library is also setting up mobile libraries to reach the rural population.

132. The National Initiative for Civic Education has resource centres at district level and rural libraries to improve access to information for all, including children.

133. For children that live close to museums, the Museum of Malawi also runs various children's activities aimed at enriching their cultural lives.

D. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

Constitutional provisions

134. The Constitutional provisions remain the same, as recorded in Paragraphs 150-154 of the Initial State Party Report.

Other legal provisions

135. The Penal Code Amendment Bill abolishes corporal punishment as does the Child (Care, Protection and Justice) Bill which once enacted shall repeal the Children and Young Persons Act which currently still allows for corporal punishment. The Child (Care, Protection and Justice) Bill goes further to prohibit the imprisonment of children.

Constraints

136. Whilst 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 as teachers do not readily report one another and pupils are too scared to come forward with information.

VI. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

137. This chapter discusses the legislation, policies, programmes and the overall situation in terms of the family environment and alternative care available to the children in Malawi in relation to articles 5, 9, 10, 18, 19, 25, 27 (a) and 39 of the CRC.

138. According to the Malawi Demographic Health Survey (MDHS) 2004, men head most households in Malawi (75 percent). This proportion has not significantly changed since 1992 (75 percent) and 2000 (73 percent). Female-headed households are more common in rural parts of the country (26 percent) than in urban areas (17 percent). Since most children live in rural areas and poverty is more acute there than in urban areas, it is likely that most children have difficulties in accessing resources necessary for their proper upbringing and development. For children in female-headed households this may be aggravated by the fact that most women do not have control over and access to productive resources. The average household size in the country remains 4.4 persons. The household size is slightly larger in rural areas than urban areas.

A. Parental guidance and parental responsibility (art. 5), recovery of maintenance for the child (art 27, para. 4)

Constitutional provisions

139. There have been no proposed reforms to the Constitutional provisions recorded in the Initial State Party Report.

Other legal provisions

140. The Marriage, Divorce and Family Relations Bill is the result of a comprehensive review of the following pieces of legislation:

(a) Marriage Act (Cap 25:01);

(b) The African Marriage (Christian Rites) Registration Act (Cap 25:02);

(c) The Asiatics (Marriage, Divorce and Succession) Act (Cap 25:03);

(d) The Divorce Act (Cap 25:04);

(e) The Married Women Maintenance Act (Cap 25:05);

(f) The Affiliation Act (Cap 25:04);

(g) Maintenance Orders (Enforcement) Act (Cap 26:04).

141. The cumulative effect of the proposed Bill is that maintenance may be claimed during the subsistence of marriage as well as following divorce, judicial separation or nullity of marriage. The Bill clearly spells out the duties of and responsibilities for parents. Maintenance of a single pregnant woman may be claimed from either the father himself or parents or guardian of the father if the father is a child. The Bill also makes provision for the enforcement of maintenance orders. The court can enforce maintenance orders made in or outside Malawi (court orders for maintenance made in Malawi have extraterritorial effect).

142. Once enacted, the Child (Care, Protection and Justice) Bill will assist in promoting higher levels of involvement of fathers in bringing up their children through its improved determination of parentage procedures as well maintenance mechanisms.

143. The proposed Child (Care, Protection and Justice) Bill repeals the Affiliation Act and the proposed Marriage, Divorce and Family Relations Bill repeals the Divorce Act, amongst other laws. The Ministry of Women has plans to train the judiciary on these Bills after they have been enacted, to ensure the recovery of children’s maintenance allowance. Some of the training and awareness campaigns have already started in terms of the Child (Care, Protection and Justice) Bill and are set to continue until after the Bill is passed.

144. Recovering child maintenance through the courts occurs mainly in urban and remains a challenge in rural settings where poverty is highest. Efforts to increase access to justice in the rural areas have been scaled up with the introduction of a new Legal Aid Bill laid before Parliament in 2006. With better civic education, more people in rural areas will be able to avail themselves of legal assistance and assess maintenance through the courts.

Policies and programmes

145. There have been no substantial changes in the situation on parental guidance since the Initial State Party Report (Paragraphs 159 to 166) other than that there are more NGOs and civil society groups, both community based and national, working towards increased awareness on parental guidance, especially in view of the HIV and AIDS pandemic.

146. Formal Government programmes and policies that have been designed to support parents and guardians in child care and protection, include:

(a) The National Programme on OVC;

(b) The National Plan of Action for OVC;

(c) Family and Community Welfare Programme;

(d) Reformation and reintegration programmes under Juvenile Justice system;

(e) C-IMCI and its 17 key care practices;

(f) The National Early Childhood Programme.

147. The Ministry of Women and Child Development through its policy on Early Childhood Development is promoting community-based child care. It encourages the establishment of Community Based Child Care Centres, which provide care, support and stimulation for children up to the age of six. It also promotes sessions for parents on early child care and stimulation, actively involving fathers as well.

148. Under the Education support programme, school fees for needy children are paid for. Guidelines on education support for OVC have been developed. Initially the activity was run from central level but modalities are being put in place to decentralize the activity to Assembly level.

149. There are various school-feeding programmes that help increase attendance and enrolment rates, but at the same time support parents and guardians in child rearing.

150. Other programmes such as the Social Cash Transfer Scheme, Livelihood Programmes and Farm Subsidies support parents and guardians in increasing their standard of living and thereby help them bringing up their children.

B. Contact with parents (art. 9)

Constitutional provisions

151. There have been no proposed reforms to the Constitutional provisions recorded in Paragraph 174 the Initial State Party Report.

Other legal provisions

152. The Child (Care, Protection and Justice) Bill has extensively provided for child care and protection by the family. The Bill clearly spells out the duties and responsibilities of parents and makes provision for maintenance and the enforcement of maintenance orders.

C. Family reunification (art. 10)

Legal provisions

153. Family reunification is not a significant problem in Malawi. There have been no fundamental changes to the legislative framework in terms of refugees and family reunification since the Initial State Party Report (paragraphs 181 and 182).

154. In terms of juvenile justice, the proposed Child (Care, Protection and Justice) Bill attempts as far as possible to deal with children in conflict with the law within the family setting and their reformation process will be monitored by specially trained probation officers. This is done through diversion and the prohibition of imprisonment as well as by settling on detention for children at reformatory centres only as a last resort.

155. An Adoption (Amendment) Bill developed simultaneously with the Child (Care, Protection and Justice) Bill also encourages post-adoption family reunification unless it can be shown on reasonable grounds that such family contact will not be in the best interests of the child or another person involved.

D. Alternative care (art. 20) and adoption (art. 21)

Legal provisions

156. The Government recognizes the extended family system and community based organizations in the provision of care and support to OVC through the national OVC policy, which emphasizes that institutional care should be the last resort. Considering the diminishing strength of the extended family system and general inability of the community to cope with the increase of orphans and other children deprived of their family environment, the Ministry of Women and Child Development does provide services such as the Foster Care Scheme and adoption so as to provide a substitute family environment for these children. In the absence of a legislative framework, however, this is only done at policy level.

157. In cases where parents and guardians are unable to take care of the child, the new Child (Care, Protection and Justice) Bill makes provision for alternative care. District Assemblies will be granted responsibility to safeguard and promote the welfare of children in the areas of their jurisdiction. In addition, for the first time, foster homes have received legal recognition.

158. Through the review process of the Children and Young Persons Act, the Adoption Act was also reviewed and an Amendment Bill proposed. The proposed amendments seek to promote the best interests of the child in the following areas:

(i) Prohibition of intercountry adoptions - as it was the Law Commission's view that the Adoption Act prohibits intercountry adoptions, the Amendment Bill provides that where the best interests of the child would best be served by an inter-country adoption, such adoption should be permitted on the stringent conditions set out in the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. These safeguards are intended to protect the child from abduction, sale or trafficking.

(ii) Devolution of property on adoption - the Amendment Bill reverses the current situation where if an adoptive parent dies intestate, the adopted child has no right to the deceased estate. This position is detrimental to the best interests of the child and inconsistent with section 23 of the Constitution which requires that all children be treated equally regardless of the circumstances of their birth.

(iii) Jurisdiction over adoption matters - the Amendment Bill places jurisdiction over adoption matters on the child justice courts established under the Child (Care, Protection and Justice) Bill, which shall be specialized courts on child issues.

159. In 2005, Malawi developed Standard Minimum Rules and Regulations for the Establishment and Running of Children Homes and Orphanages in Malawi, referred to as the Children Homes and Orphanages Rules and Regulations (2005). These are, meant to strengthen the role of the Ministry in registering and inspecting children homes and orphanages to maintain appropriate standards for the care, protection and support of OVC. The Regulations clearly spell out the procedures for the establishment of an orphanage, its management and staffing conditions. The have particular provisions on health and medical care procedures, the buildings, beddings and clothing, education and vocational skills training. Moreover, they specifically point out that the child shall be allowed to maintain links with its communities in terms of language and customs and that it shall not be admitted in a home or orphanage outside the area of his ethnic group. Management should further respect the original religion. Family visits are encouraged and a child is supposed to stay as short a time as possible in the orphanage.

E. Protection of children from abuse and neglect (art. 19)

160. Reported cases of sexual abuse and exploitation of women and children have continued to soar to unprecedented heights throughout the reporting period. The number of cases of defilement and serious assaults on children by parents, guardians, relatives and domestic workers has posed challenges for the protection, well-being, survival and development of children.

161. A Research Paper commissioned by the Law Commission in preparation for an upcoming review programme on human trafficking cites that illicit transfer of children has also recently become highly problematic. Malawi is mainly a country of origin for trafficking victims to the Northern Hemisphere and sometimes South Africa to feed the sex industry, and to Mozambique to work in estates and as domestic servants.

162. According to the Law Commission Research Paper, internally, children are trafficked from one region to another to feed the tourist sex industry along the lake shore areas of Chilumba, Nkhata Bay, Nkhotakota, Monkey Bay, Salima and Mangochi, and to feed the labour market on tobacco and tea estates in Kasungu, Salima, Thyolo, Mulanje and Chikwawa. These children are

trafficked from places as far south as Chikwawa and Nsanje and are forced to live in servitude, miles away from home subjected to the most deplorable living and working conditions. (Detailed information on trafficking is provided in Chapter VIII, Special Protection Measures, Part G).

Legal provisions

Human trafficking

163. In terms of child trafficking or illicit transfer of children, Malawi has not enacted any provisions on human trafficking since the Initial State Party Report. Existing provisions in various pieces of legislation including the Constitution have been relied on, though not always successfully, to combat trafficking. Malawi has however been involved in various activities aimed at sensitising immigration officers, police officers, prosecutors and other relevant stakeholders of the human trafficking phenomenon. The various activities have been largely undertaken with the assistance of the International Organization for Migration (IOM), the International Labour Office (ILO) and other local and international NGOs and development partners. Further, these efforts have earned the country the prestigious Tier One Status, bestowed by the United States Government in the United States State Department's Annual Report on Human Trafficking for the past two years. Tier One Status takes into account the extent of the problem and the successes that Government has had in curbing trafficking.

164. Section 19 of the Constitution specifically guarantees the inviolability of human dignity and prohibits cruel, inhuman and degrading treatment or torture. The Constitution further enshrines personal liberty in section 18, and section 27 prohibits slavery and servitude. Section 27 also forbids any form of forced, tied or bonded labour.

165. It is an offence under section 136 of the Penal Code to take an unmarried girl under the age of sixteen years out of the lawful custody of her parents or guardians without their knowledge and consent. It is also an offence under section 140 of the Penal Code to procure a woman for sexual purposes, whether within Malawi or outside.

166. However, the existing laws and proposed reforms to the Penal Code are inadequate in combating human trafficking. The amendments only address trafficking of women and children in prostitution and leave out trafficking for other purposes such as forced labour. Weak immigration rules and procedures have created a environment conducive to trafficking. Most of the foreign abductors do not seem to have sufficient immigration documents legitimizing their stay in the country. Taking notice of the rising cross-border crime of traffic in women and children and complying with its mandate to harmonize existing legislation with the country's international treaty obligations, the Law Commission set up a programme to develop anti-trafficking legislation in 2005. Due to difficulty in identifying financial resources, the programme has not yet begun and is expected to commence in the first quarter of 2007 should funds become available.

167. Some progress has been made towards combating internal child trafficking for labour, however. Reports from the Ministry of Labour indicate that at least two people were prosecuted during the reporting period on child labour offences and the children involved were reunited with their families back home after winning compensation from their employers.

Sexual exploitation and abuse, neglect and domestic violence including physical and psychological recovery and social reintegration

168. Sections 132, 133 and 134 of the Penal Code make it an offence to indecently assault young girls and boys.

169. The Penal Code (Amendment) Bill enhances protection of children, especially the girl child, from sexual abuse. For instance, the Bill raises the legal age of girls to consent to sexual intercourse from thirteen to sixteen years. The Bill also makes procuring the defilement of women and girls through threats fraud or administration of drugs a serious offence by enhancing the period of imprisonment to fourteen years. The Bill further increases the penalty for the offence of detaining women and girls for sexual activities to five years imprisonment.

170. As regards domestic violence, in May 2006, the Prevention of Domestic Violence Bill was enacted. The purpose of the Act is to eliminate gender-based violence occurring within a domestic relation, to provide effective legal remedies to persons affected by domestic violence, and finally, to provide social services to victims of domestic violence. These victims include children.

171. The Prevention of Domestic Violence Act complements criminal law and adds to it by acknowledging the various forms in which domestic violence can manifest itself. These forms are:

(a) economic abuse/financial abuse;

(b) emotional or psychological abuse/social abuse;

(c) sexual abuse.

Policies and programmes

172. In 2002, the Ministry of Women and Child Development developed a National Strategy to Combat Gender Based Violence (2002). This strategy drew on the National Plan of Action on Combating Gender Based Violence (2001-2006), which was equally formulated by the Ministry of Women and Child Development with the help of other stakeholders and submitted to the Southern Africa Development Community (SADC) for the purpose of reporting the progress of the SADC Declaration and its Addendum on the Prevention and Elimination of Violence Against Women and Children. The National Strategy further drew on the efforts of the Network against Gender Based Violence, a network of NGOs and public institutions coordinated by the Malawi Human Rights Resource Centre who developed an Elimination of Gender Based Violence Strategic Plan (2002-2005). Children are featured in both the Strategy and the Plan. The National Strategic Plan set out a number of activities aimed at addressing gender-based violence, top amongst which was the drafting of the since enacted Prevention of Domestic Violence Act. Other activities included the development of an integrated community based victim support system, improvement of coordination mechanisms between stakeholders and legal education and awareness programmes for decision-makers and other target groups down to community level.

173. In 2006, the Ministry of Women and Child Development came up with a National Response to Gender Based Violence and to review the expired National Plan of Action on Combating Gender Based Violence. The National Response addresses the issue of violence against children and other vulnerable sub-groups, including disabled children and the girl child. The National Response seeks to address the following gaps with the current situation:

(a) Lack of disaggregated data;

(b) Lack of follow-up care on victim support;

(c) Slow enactment of gender-related bills;

(d) Limited knowledge of gender-based violence issues and its effects on the victim and the community;

(e) Ill-equipped Victim Support Units to offer care and support to victims of gender-based violence;

(f) Limited expertise of and technical support from service providers of gender-based violence victims;

(g) Very low levels of legal literacy by the public;

(h) Inadequate IEC and public information on gender-based violence;

(i) Non-reporting on the human rights situation to international and regional bodies;

(j) Poor coordination among gender-based violence stakeholders;

(k) Inaccessibility of victim support at community level;

(l) Limited information on the human rights situation of refugees in the country.

174. The “Stop Harming and Exploiting Children” project was specifically designed to work towards the creation of an environment conducive for the protection of children. In incidents of child abuse, the project has a component that facilitates provision of appropriate care, support, protection and rehabilitation. Research also forms part of the project implementation as the lack of data collection mechanisms remains a problem for any child protection related programming. Under this initiative, officers from the Ministry of Education, Sports and Culture, the Ministry of Health and Population, from various NGOs as well as journalists have been trained as trainers on the prevention of sexual exploitation and abuse. NGOs have further conducted several sensitization meetings at community level targeting local leaders, the police, teachers, and boys and girls in and out of school. District labour officers have moreover been trained on trafficking.

175. With regard to institutional abuse and exploitation, the Guidelines on OVC Care and Support and the Children Homes and Orphanages Rules and Regulations, offer protection to children, amongst other things.

176. The Ministry of Health and Population has developed guidelines for health care providers on the management of sexual assault and rape. These guidelines specifically contain provisions on child sexual assault and deals with Sexually Transmitted Infections (STIs) in children, HIV post exposure prophylaxis (PEP) and pregnancy and emergency contraception for children.

177. Personnel under the School Feeding Programmes, particularly during emergency relief, sensitize children to report issues of child exploitation and abuse. This is in cognisance of the fact that food can be used to exploit and abuse children.

178. Victim Support Units under the Malawi Police and the District Child Protection Committees under the Ministry of Women and Child Development have carried out public awareness campaigns that aim at curbing commercial sexual exploitation of children.

179. The recovery and rehabilitation of child victims has largely occurred through counselling by the Department of Social Welfare, hospital personnel and the Victim Support Units. NGOs impart vocational skills in those that were previously engaged in commercial sexual exploitation.

Constraints

180. Despite the progress through the outlined programmes, some important challenges remain, including the following:

181. In certain instances, child abduction cases are compounded by the murder of the child with different body parts removed. It has been reported that these body parts are used in witchcraft. Perpetrators can only be tried for abduction and murder since the Witchcraft Act does not recognize the practice of witchcraft as an offence.

182. Child neglect and child abandonment cases are also reportedly on the increase due to rising poverty levels as well an increase in the number of teenage mothers. This is quite a challenge as interventions should be multi-sectoral and are not always co-ordinated.

183. The demand for programme interventions in most issues is enormous, the effectiveness of interventions is usually hampered by inadequate financial, capital and human resources.

184. There are plans to increase the coverage of counselling services by scheduling the training of police officers in Victim Support Units, since to date there is a lack of trained counsellors for child victims and witnesses, including counsellors trained in play therapy.

VII. BASIC HEALTH AND WELFARE

185. This chapter discusses the situation of the Malawian children in relation to the relevant articles 6, 18, 23, 24, 26 and 27 of the CRC. The health and social welfare sectors have formed the basis for the discussions in this chapter as they are fundamental for the survival and development of the child.

A. Survival and development (art. 6)

Constitutional provisions

186. It is a principle of national policy under section 13(h) of the Constitution to encourage and promote conditions conducive to the full development of healthy, productive and responsible members of society.

Policies and programmes

187. In order to target and control common childhood illnesses, the Government, through the Ministry of Health and Population developed and prioritized the Integrated Management of Childhood Illness (IMCI) Policy. The goal of this Policy is the reduction of mortality in children aged 0-5 by two-thirds between 2000 and 2015. The Policy focuses on the holistic and integrated delivery of a health package to children where all interventions regarding childhood illnesses converge and encompass major IMCI approaches. These approaches include: effective case management, pre-service training, health systems support and promotion of key family and community child care practices.

188. Another priority is the improvement of immunization of children through the Expanded Programme of Immunization (EPI). The EPI is a comprehensive national programme that seeks to reduce child mortality caused by some major killer diseases. The EPI programme in Malawi is guided by the recommendations on child immunization developed by the World Health Organization (WHO) The Programme significantly contributes to increased immunization of under one year olds against some diseases including tuberculosis, measles, diphtheria (see Tables 8 and 9 below).

Table 8

Immunization coverage for one-year olds

Vaccinations in first year of life

Percentage of children aged 12-23 months immunized against childhood diseases at any time before the survey and before the first birthday, Malawi 2006

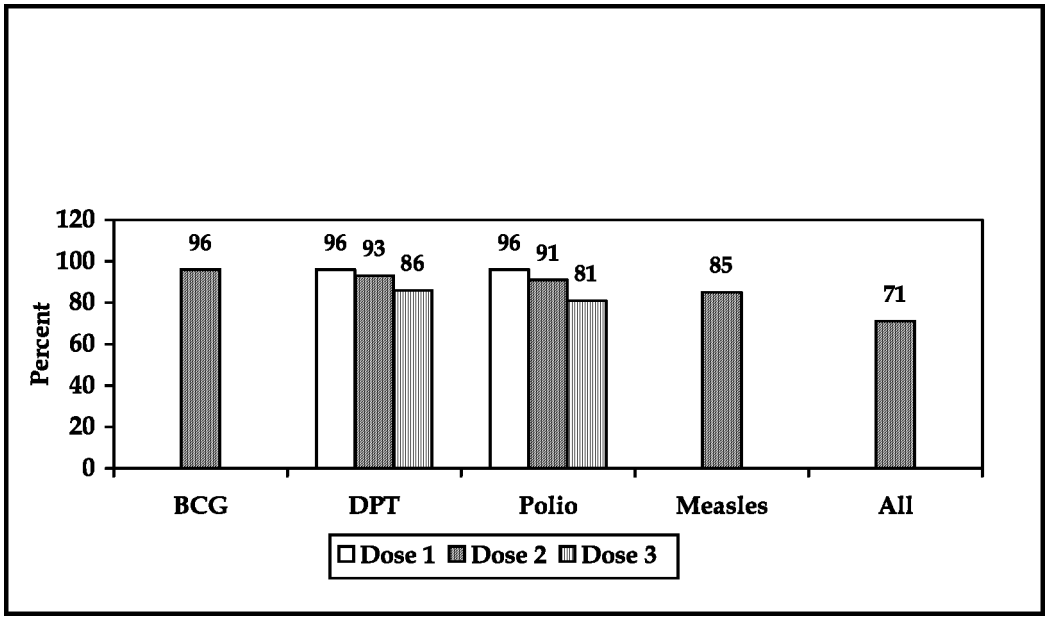
Source o f Information	BCG	DPT HepB 1	DPT HepB 2	DPT 3 HepB 3	Polio 0	Polio 1	Polio 2	Polio 3	Measles	All*	None	No. of children aged 12-23 months
Vaccinated at any time before survey												
Vaccination Card	75.6	76.4	75.3	73.5	24.9	76.5	75.4	73.1	66.8	65.4	0.3	4,979
Mother's Report	19.9	19.8	17.8	12.7	11.1	19.2	15.5	8.2	18.4	6.0	2.3	4,979
Either	**95.5**	**96.2**	**93.1**	**86.2**	**36.0**	**95.7**	**90.9**	**81.3**	**85.2**	**71.4**	**2.5**	**4,979**
Vaccinated by 12 months of age	94.5	95.3	92.5	84.6	36.0	95.2	90.3	79.8	77.3	62.0	2.6	4,979

* BCG, measles and three doses of each of DPT- Hep B and Polio vaccine (excluding Polio 0 dose)

Source: Government of Malawi and UNICEF; Multiple Indicator Cluster Survey (MICS) 2006.

Table 9

Percentage of children 13-23 months who received immunization in 2006



Source: Government of Malawi and UNICEF; Multiple Indicator Cluster Survey (MICS) 2006.

189. Previously the Government was only supplying the partner hospitals of the Christian Health Association of Malawi (CHAM), the second major health delivery service in the country, with TB drugs and vaccines. However, now all CHAM hospitals will benefit from the other listed drugs commonly used in Malawi as well, and this will contribute to the reduction of the infant mortality rate. Health Information Systems and Drug management information systems are now also in place.

190. The Ministry of Health and Population has been consistently stepping up efforts to reduce the number of malaria deaths of children. Distribution of free treated mosquito nets to children and pregnant mothers is one of the malaria programme interventions. It is an essential programme for improving child health. The risk of malaria is four times higher among pregnant women compared to the general adult population. The reported malaria rate in 2002 was 240 per 1000 population. About 40 percent of deaths of under-five children and about 40 percent of all out patient visits in health facilities are attributable to malaria. According to MDHS 2004, in 2004 Insecticide Treated (Bed) Nets (ITN) ownership stood at 41.9 percent. MICS 2006 records increases in the number of children sleeping under bednets (see Table 10 below). These nets are highly subsidized by the Government to reduce infant mortality rates resulting from malaria. The mosquito net ownership rate among the rich quintile was 71.9 percent while 20.3 percent was amongst the poorest. Malaria campaign programmes are carried out once every year between September and November and these campaigns have contributed to the reduction of infant mortality rates (see Table 10 below).

Table 10

Children sleeping under bednets

Percentage of children aged 0-59 months who slept under an insecticide treated net during the previous night, Malawi 2006

Background characteristic	% HHs with at least one bednet	% HHs with at least one ITN	Slept under a bednet	Slept under an insecticide treated net	Number of children aged 0-59 months
Sex					
Male	Na	Na	28.9	23.1	11,304
Female	Na	Na	29.0	23.0	11,687
Region					
Northern	57.6	36.4	34.4	23.7	2,436
Central	47.7	35.3	26.4	21.8	10,517
Southern	49.2	34.5	30.3	24.2	10,041
Residence					
Urban	72.2	53.8	52.1	42.9	2,489
Rural	46.5	32.6	26.1	20.6	20,505
Age					
0-11 months	Na	Na	32.2	26.4	4,947
12-23 months	Na	Na	30.3	23.7	4,979
24-35 months	Na	Na	28.2	21.9	5,157
36-47 months	Na	Na	27.2	21.9	4,601
48-59 months	Na	Na	25.8	20.2	3,310
Wealth index quintile					
Lowest	32.9	20.7	18.0	13.0	5,075
Second	40.4	28.0	23.7	18.6	4,770
Middle	51.0	35.7	28.4	22.5	4,881
Fourth	53.7	38.3	30.4	24.0	4,391
Highest	72.0	54.8	48.8	41.3	3,877
Total	**49.5**	**35.0**	**29.0**	**23.0**	**22,994**

Na : Not applicable

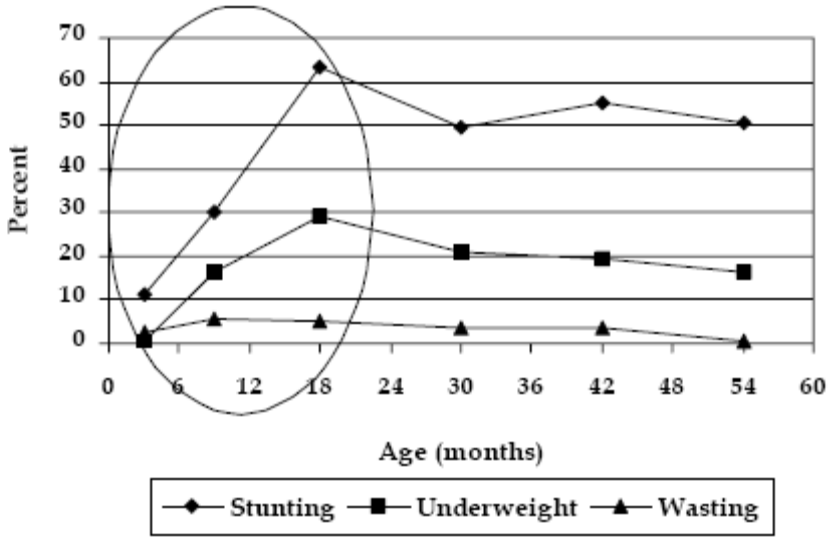
Source: Government of Malawi and UNICEF; Multiple Indicator Cluster Survey (MICS) 2006.

191. As regards the nutritional status of children, there is little evidence of progress since the Initial State Party Report. This is caused by the persistent food insecurity, poor health care practices, and HIV and AIDS that the country is experiencing. The Malawi Demographic Health Survey (MDHS), 2004, indicates that the nutritional status of children has remained static (48 percent in 1992, 49 percent in 2000 and 2004). The Multiple Indicator Cluster Survey (MICS) 2006 further shows that almost 10 percent of children under the age of five are

moderately underweight (19.4 percent) and 3 percent are classified as severely underweight. 46 percent of children are severely underweight and 3 percent are wasted or too thin for their height (see Table 11 below).

Table 11

Percentage of children aged 0-59 months who are undernourished



Source: Government of Malawi and UNICEF; Multiple Indicator Cluster Survey (MICS) 2006.

192. According to the 2001 Micronutrient Survey the prevalence of Vitamin A deficiency was 59 percent in preschool children, 57 percent in women of childbearing age, 38 percent in primary school children, and 37 percent in men. This indicates a severe public nutritional deficiency and health concern for preschool children and in women of childbearing age.

193. Nutrition Rehabilitation Units (NRUs) have been set up in all Districts either run by the Ministry of Health and Population or implementing partners that complement Government services mainly in remote areas. These NRUs provide supplementary feeding to the undernourished with the aim of preventing diseases and conditions resulting from malnutrition. Table 12 below provides statistics on the health status of children with regard to underweight (weight for age), wasting (weight for height) and stunting (height for age). The percentages are out of the total number of children under five:

Table 12

Health status of children under five

Parameter	Percentage
Moderate and severe underweight	25
Wasting	6
Stunting	49

Source: Malawi Demographic and Health Survey (MDHS, 2004).

194. As part of the implementation of the Nutrition Policy, the Ministry is promoting best nutritional practices such as exclusive breast-feeding, including for HIV-positive mothers and micronutrient supplementation and food fortification e.g. iodized salt. Almost all mothers (99 percent) in Malawi practice breast-feeding for at least a year, although only half (53 percent) exclusively breastfeed their children in the first six months (MDHS, 2004, see Table 13). This is however an improvement as compared to 2000, when only 45 percent of mothers breastfed exclusively (MDHS, 2000). MICS 2006 disaggregates this data by age group, providing further, that approximately 56 percent of children aged less than six months are exclusively breastfed. At age 6-9 months, 89 percent of children are receiving breast milk or semi-solid foods. By age 12-15 months, 97 percent of children are still being breast-fed and by age 20-23 months, 73 percent are still breast-fed. The table below shows the pattern of exclusive breast-feeding among mothers in Malawi. Notably, mothers with higher education and greater wealth were seen to exclusively breast feed more than the uneducated and poor (see Table 13 below).

Table 13

Pattern of exclusive breastfeeding

Age range (months)	Percentage of mothers practising exclusive breastfeeding
0-2	75
2-3	59.2
4-5	27.5
6-7	3.8
8-9	0.9
10-11	1.0
12-19	0.3
20-23	0.0

Source: Malawi Demographic and Health Survey (MDHS), 2004.

Table 14

Breastfeeding according to status at each age group

Percentage of living children according to breastfeeding status at each age group, Malawi 2006

Background characteristic	Children 0-3 months excl. breastfed	No. of children	Children 0-5 months excl. breastfed	No. of children	Timely complemen-tary feeding rate*	No. of children	Children 12-15 months breastfed	No. of children	Children 20-23 months breastfed	No. of children
Male	70.3	766	56.8	1,106	89.3	834	97.7	862	72.4	775
Female	71.8	775	56.0	1,207	88.8	851	97.2	903	74.2	810
Region										
Northern	62.0	156	51.6	231	84.8	166	97.4	180	76.3	185
Central	71.5	708	55.9	1,053	89.8	787	97.9	793	74.4	726
Southern	72.6	677	57.9	1,029	89.1	732	97.0	792	71.4	674
Residence										
Urban	80.8	194	65.4	273	88.1	206	95.1	182	63.4	170
Rural	69.6	1,348	55.2	2,041	89.1	1,480	97.7	1,582	74.6	1,416
Mother's Education										
None	69.0	322	56.4	482	91.4	417	94.7	363	75.3	330
Primary	69.7	1,000	54.9	1,508	88.0	1,065	98.5	1,191	72.7	1,063
Secondary	80.3	212	63.1	316	90.0	196	96.0	208	73.1	187
Non-standard Curriculum	17.1	2	14.0	3	100.0	4	100.0	3	84.5	5
Wealth index										
Lowest	63.4	351	48.1	532	90.4	374	98.0	415	83.7	312
Second	68.4	309	53.8	492	85.4	352	97.9	356	71.2	377
Middle	67.7	319	55.4	480	89.3	380	97.1	398	69.3	306
Fourth	80.0	281	65.8	398	90.7	305	97.5	342	74.3	347
Highest	78.3	282	62.2	411	89.5	275	96.2	254	67.2	243
Total	**71.0**	**1,541**	**56.4**	**2,313**	**89.0**	**1,685**	**97.4**	**1,765**	**73.4**	**1,585**

- : Infants 6-9 months receiving breast milk & solid/mushy food

Source: Government of Malawi and UNICEF; Multiple Indicator Cluster Survey (MICS) 2006.

Achievements

195. As a cumulative result of all the interventions outlined above, substantial progress has been made towards the reduction of the under-five mortality rate in Malawi. The under-five mortality rate fell from 234/1000 live births in 1992 to 189/1000 in 2000 and 133/1000 live births in 2004. Currently MICS 2006 indicates that the under five mortality rate is at 118/1000 live births (see Table 15 below). The 2003 Millennium Goals Report indicates that there is a strong correlation between actual and targeted reduction of under-five mortality rates. If this trend is maintained,

there is a high probability of reaching the target of reducing the under-five mortality rate by two-thirds in 2015. The correlation between the under-five mortality rate and the probability of achieving the MDG 4 has been graphically expressed above at Table 4.

Table 15

MICS/MDHS findings for MDG 4: reduce child mortality

Source	Neonatal mortality (NN)	Post neonatal mortality (PNN)	Infant mortality** (IMR)	Child mortality (1-4)	Under five mortality* (U5MR)
MICS 2006	31	38	69	53	118
MDHS 2004	27	49	76	62	133

Source: Government of Malawi and UNICEF; Multiple Indicator Cluster Survey (MICS) 2006.

196. MICS 2006 indicates that the incidence of vaccine preventable diseases such as measles has been reduced with the average coverage of vaccinations now standing at 85.2 percent.

197. The development and implementation of Community Based Child Care programmes, the National Policy on Early Childhood Development and the mobile health services demonstrate the commitment of Government to improve health care for children.

Challenges and constraints

198. The major challenges to reducing child mortality are water and food-borne diseases. There is need for improved sanitation facilities and safe drinking water in order to further safeguard child survival and development. According to MICS 2006, the proportion of the population with sustainable access to an improved water source is 74 percent - 96 percent in urban areas and 71 percent in rural areas. As part of the preventive health programme, the Government implements water and sanitation programmes. These programmes are community-based and implemented in coordination with other players taking into consideration other multi-sectoral policies.

B. Children with disabilities (art. 23)

Constitutional provisions

199. It is a principle of national policy under section 13 (g) of the Constitution to support the disabled. With regard to children, this can be achieved, inter alia, through providing greater access to public places and the fullest participation in all spheres of society.

Policies and programmes

200. The Government, through the Ministry for People with Disabilities and the Elderly, developed a National Policy on Equalization of Opportunities for Persons with Disabilities, which was finalized and launched in June 2006. The purpose of the Policy is to promote the rights of people with disabilities to enable them to play a full and participatory role in society.

The Policy has specific areas that promote the best interests of children with disabilities, such as prevention, early identification and social protection. The Government has also put in place special protection measures for children with disabilities. To date, however, there is no policy exclusively devoted to children with disabilities.

201. The Ministry for People with Disabilities and the Elderly and the Ministry of Education and Vocational Training have in place a policy agreement to institutionalize the issue of disability within the education system by ensuring the training of specialist teachers. The education system itself should have a component of special education devices and support systems such as appropriate teaching and learning aids, appliances, technologies and other support systems that are conducive to creating an optimal learning environment for children with disabilities. Under this agreement, school fees are also provided to needy disabled children.

202. In Early Childhood development (ECD) inclusive schooling is promoted. ECD caregiver trainings for Community Based Child Care (CBCC) Centres emphasize early detection of childhood disabilities and the inclusion of children with special needs.

203. To effectively support children with disabilities, The Ministry for People with Disabilities and the Elderly works in close collaboration with the Ministry of Women and Child Development, the Ministry of Health and Population and the Malawi Council for the Handicapped to raise awareness about possible causes of disability like lack of immunization.

Challenges and constraints

204. The lack of comprehensive data on disabilities, especially of disaggregated data, makes it difficult to track the achievements or impact of interventions for children with disabilities. The National Policy on Equalization of Opportunities for Persons with Disabilities has proposed the establishment of a monitoring system for the implementation of the policy in collaboration with the Federation of Disability Organizations of Malawi (FEDOMA) and the Malawi Human Rights Commission which should address the problem in due course.

205. The Ministry for People with Disabilities and the Elderly is however not adequately allocated with financial resources and the resources that are available are not specific to children.

206. The macroeconomic situation of the country has an impact on children with disabilities. The country does not have many institutions for children with disabilities and has none catering specifically for mental illness in children. As a result of poverty, many parents cannot afford to send their children to these institutions even when they are available. These institutions tend to be far away and it requires resources to transport children to them. Children are therefore sent to schools with no special facilities, run by teachers without specialized training on the educational needs of children with disabilities or special needs.

C. Child health and health services

207. In general, the Ministry of Health and Population's National Health Plan aims at providing greater access to primary health services. The objectives of the Health Plan integrate a variety of issues aimed at improving the quality of health care services and correlatively the standard of life, as follows:

(a) Range and quality of health services for mothers and children under the age of five years expanded;

(b) Better quality health care in all facilities;

(c) Health services to general population strengthened, expanded and integrated;

(d) Efficiency and equity in resource allocation increased;

(e) Access to health care facilities and basic services increased;

(f) Quality of trained human resources increased, improved equitably/efficiently distributed;

(g) Collaboration and partnership in health sector strengthened;

(h) Overall resources in health sector strengthened.

208. As part of the National Health Plan, a Sector Wide Approach (SWAp) (2004-2010) which hand in hand with the Essential Health Package (EH) and the Programme of Work (POW), focuses its efforts on addressing a prioritized list of eleven diseases and conditions that affect the poor so as to ensure the provision of health care at all levels and to address the problem of limited resources. The SWAp brings together the Ministry of Health and Population, donors and other stakeholders within the health sector principally at national level. The POW is a consolidation of different work programmes within the sector that aims to raise the health status of Malawians by reducing the incidence of illness and occurrence of premature deaths in the population.

209. Under the POW, the Ministry of Health and Population has developed and is implementing a Road Map for Maternal Mortality in order to reduce the incidence of maternal, child and infant mortality. The Programme aims to increase the availability, accessibility, utilization and quality of skilled obstetric care during pregnancy, childbirth and the postnatal period at all levels of the health care delivery system. The Programme further aims at strengthening the capacity of individuals, families, communities, civil society organizations and Government to improve maternal and child health services. In addition to the Road Map, the Ministry of Health and Population also developed an advocacy package with the intention of bringing more awareness on issues around maternal and child health. The Ministry of Health and Population has moreover put in place a patient charter outlining rights and obligations of patients and service providers.

Programmes and policies

Prenatal/antenatal care

210. Prenatal and antenatal care form the basis of a healthy life. The Malawi Demographic Health Survey (MDHS) 2004 estimates that about 93 percent of all pregnant women have access to prenatal health care. In most cases they receive prenatal services (82 percent) from a nurse and midwife or auxiliary midwife and only (10 percent) receive the same services from a doctor. The Multiple Cluster Indicator Survey (MICS) 2006 further provides that of the women who had a live birth in the two years preceding the survey, 53.8 percent delivered in a health facility and

53.6 percent were delivered by a health professional. The high coverage is due to increased sensitization and public awareness campaigns stressing that antenatal care is essential in ensuring the survival of mothers and the development and health of babies.

211. For pregnant women who have no access to health care facilities or who choose not to access them, Traditional Birth Attendants (TBAs) are continuously being trained and provided with birthing kits by the Government so as to ensure clean and safe deliveries and eventual survival of both mother and baby.

Post-natal care

212. However, regarding care at delivery, the country has not experienced significant improvement with the rate of babies born with the assistance of a health professional at 84 percent for urban women and 53 percent for rural women, notwithstanding the effort made in encouraging mothers to use health facilities in order to reduce health complications and death for themselves and their children. There have been numerous sensitization campaigns that inform that utilization of proper health facilities benefits mothers with services that include trained health workers, appropriate supplies, equipment to identify and manage complications in a timely manner, and maintenance of hygienic conditions that prevent infection to mother and baby.

Achievements

213. In general the substantial improvements in the provision of health care especially in the provision of antenatal and postnatal services have paid off as evidenced by the significant reduction in the infant mortality rate which currently stands at 69/1000 live births and the under five mortality rate currently at 118/1000 live births Multiple Indicator Cluster Survey (MICS) 2006. As shown by Table 16, compared with Malawi Demographic Health Survey (MDHS) 2004, the mortality rates show a decline and are consistent with trends since 1992.

Table 16

Early childhood mortality rates

Neonatal, post-neonatal, infant, child, and under-five mortality rates for five-year periods preceding the survey, Malawi 2006						
Years preceding the survey	Approximate calendar period	Neonatal mortality (NN)	Post-neonatal mortality (PNN)	Infant mortality (1q0)	Child mortality (4q1)	Under-five mortality (5q0)
0-4	2002-2006	31	38	69	53	118
5-9	1997-2001	40	46	86	74	154
10-14	1992-1996	34	50	84	90	166

Source: Government of Malawi and UNICEF; Multiple Indicator Cluster Survey (MICS) 2006.

214. In terms of financial allocation to the Ministry of Health and Population during the fiscal year ending 30th June 2006, total disbursements by SWAp pool donors were US$ 50,140, 408.93 against a pledge of US$ 40,447,144.00, giving a surplus of US$ 9,695, 265.95. The Government disbursed MK 7.7 billion against a pledge of MK 6.8 billion. For the current financial year, the Government did not honour its commitment to maintain its budget share allocated to the health sector for the year 2006- 2007. However, the Ministry of Finance has now committed to provide an in-year allocation to the Ministry of Health to address this. It is not clear how much of these resources have been allocated to child rights issues.

Challenges and constraints

215. Despite the reduction in the infant mortality rate, the disintegration of the average annual rate of reduction by wealth quintile demonstrates that the poorest 20 percent are unlikely to achieve the two-third reduction of infant mortality target.

216. The Disability Adjusted Life Years (DALY) remains high due to the burden of infectious diseases, which are underlying determinants of ill health. Despite the reduction, the mortality in neonates, infants and children remains unacceptably high.

217. High mortality rates of under five children in Malawi are correlated with:

(a) Parental unwillingness to access health care facilities;

(b) Acute shortages of skilled staff at health facilities;

(c) Frequent stock-outs of essential drugs at public facilities;

(d) Inadequate referral and coordination systems;

(e) Inequitable allocation of financial resources at the household and health facility;

(f) Impact of HIV and AIDS;

(g) Inherent weak institutional capacity existing in the private and public sectors;

(h) In most health centres the number of children requiring care far exceeds the capacity.

218. The health system suffers acute shortage of staff with a current ratio of 2 doctors and 59 nurses per 100,000 of the population, mainly due to brain drain. This is far below the WHO recommended ratios of 20 doctors per 100,000 population. Inequitable distribution of staff who favour the urban due to unattractive working environments in rural areas, is another problem. In order to address this, early in 2006, the Government commissioned a tracer study for health personnel who had either resigned or retired but were still in the country and active. The results of the study led to a reengagement campaign for qualified ex-service health personnel. A more attractive remuneration package for work in rural areas has since been established for them to encourage them to return.

219. The expenditure per capita on health, which is about US$ 13, is one of the lowest in sub-Saharan Africa and falls short of the amount estimated (US$ 17.5) necessary to deliver the EHP. The total expenditure on health amounts to about 9.3 percent of the GDP. The expenditure on health constitutes about 9.1 percent of total Government expenditure.

220. The National Health Plan also faces the challenge of poor hygiene practices due to inadequate participatory methodologies to sensitize households on proper sanitation, to inappropriate sanitation technologies, to the absence of policy and enforcement for sanitation, and to poor sanitation attitudes. In the rural areas, there is still low access to improved water sources due to frequent breakdowns and poor maintenance of water drawing devices, the unavailability of spare parts, and the lack of trained water committees. Commercial utilities are unable to provide sufficient quantities of good quality water even to urban areas.

221. High child mortality and morbidity remain a challenge for the National Health Plan. There are also challenges to the implementation of existing policies and programmes. Firstly, the multi-sectoral nature of issues affecting children makes planning, implementation and monitoring very difficult. Secondly, the high prevalence of HIV and AIDS has complicated the delivery of traditional programmes as the operating environment is changing fast. Thirdly, the HIV and AIDS prevalence has also resulted in the need for the Ministry of Health to increase its food and nutrition budget, and the subsequent trade-off means that other equally important programmes are being highly under-funded. The Ministry of Health and Population has played its part in overcoming some of the challenges by prioritizing the provision of postnatal care services so as to prevent and manage complications that may endanger the survival of mothers and their baby. The ultimate desire is to ensure that these services should be provided in all health facilities both public and private throughout the country.

D. Adolescent health

Programmes and policies

222. Adolescents in Malawi face several sexual reproductive health problems such as STIs, HIV and AIDS and unwanted pregnancies which sometimes lead to unsafe abortions and eventually death. Surveys conducted on adolescents reveal that they are sexually active from as early as an average of twelve years. In response to the problem, the Ministry of Health and Population drafted the Reproductive Health Policy (2001) which specifically provides for adolescent reproductive health services. This service is run together with a youth friendly services policy and is committed to expanding family planning services such as counselling and testing services, and the procurement and distribution of contraceptives such as condoms. Through this service, adolescents are provided with accurate and relevant information on sexual reproductive health and substance abuse. The service targets young people in the age range of 8-25 years.

223. The National Health Plan also has a training component for health centres where peer educators targeting adolescents are trained. Both the Ministry of Health and Population and the Ministry of Women and Child Development implement outreach programmes to assist children across the country in the same regard. There are also a number of interventions funded by different donors that aim at breaking taboos on sexual education. These initiatives have been

complemented by an intensification of sensitization workshops for Members of Parliament and the youth themselves with the aim of creating awareness on the importance of youth-friendly health facilities and legislation.

Achievements

224. Knowledge amongst adolescents of HIV and AIDS prevention is improving. According to MICS 2006, 40.2 percent of males and 40.3 percent of females aged between 15 and 24 years have comprehensive knowledge of HIV and AIDS. Respondents with comprehensive knowledge say that use of condom for every sexual intercourse encounter and having one uninfected faithful partner can reduce the chance of getting the AIDS virus, say that a healthy-looking person can have the AIDS virus, and reject the two most common local misconceptions. The rates of condom use among adolescents are also generally on the increase with MICS 2006 recording that 40 percent of females and 60 percent of males aged between 15 and 24 years having used male condoms in their last high risk sexual encounter within the past twelve months.

Challenges and constraints

225. In the period of reporting, the provision of free health services i.e. reproductive health, Voluntary Counselling and Testing (VCT), family planning and antenatal services as well as general treatment of health related problems, has improved. The level of community out-reach programmes for young people on HIV and AIDS awareness, however, varies from district to district. Malawi now has a substantial coverage of general treatment of health related problems among young people in both rural and urban areas, but VCT services are mostly concentrated in urban areas.

226. Girls and young women remain at risk of unintended pregnancy, unsafe abortion and STIs, including HIV. As the Adolescent Reproductive Health Policy is still new, services that address the needs of young people are not well established with bias to urban areas where they are mainly provided by NGOs.

E. HIV and AIDS

227. As Tables 16 and 17 below indicate, HIV and AIDS is fast becoming Malawi's number one social and economic problem. Essential social services are crumbling under the weight of human loss while the burden and cost of caring for the sick rises. Women in the age range of 15-24 years of age are four times more at risk of contracting HIV and AIDS than their male counterparts. The 15-19 years age group is worse with nine times more females at risk. Approximately 30,000 out of the 100,000 new HIV infections in Malawi every year have been attributed to mother to child transmission. An estimated 18.3 percent of the 540,000 women giving birth every year are estimated to be HIV infected, representing 98,000 women in need of access to PMTCT.

Table 17

Estimated number of adults and children living with HIV and AIDS

Indicator	Value	Low	High
National adult prevalence (15-49)	14.4%	12%	17%
Number of infected adults	760 000	630 000	910 000
Number of infected adult women	440 000	370 000	530 000
Urban Adult prevalence	23%	19%	28%
Number of infected urban adults	240 000	200 000	290 000
Rural adult prevalence	12.4%	10%	15%
Number of infected rural adults	530 000	440 000	640 000
Number of infected children (0-14)	70 000	60 000	80 000
Number infected over 50	60 000	50 000	70 000
Total HIV+ population	900 000	750 000	1 080 000

Source: HIV Sentinel Surveillance Report 2003, Ministry of Health and National AIDS Commission.

Table 18

Number of orphans in Malawi (estimates and projections)

Estimated number of orphans (0-18 years)	
Total number of orphans in 2001	937 000
Total number of orphans in 2005	1 080 000
Total number of orphans as a % of all children	14
Orphans due to AIDS (0-17 years)	
Number of orphans due to AIDS 2004	500 000
Children orphaned due to AIDS as a % of total 2004	48
Children who have lost mother, father or both parents	
Total maternal orphans 2004	610 000
Total paternal orphans 2004	660 000
Total double orphans 2004	240 000
Number of orphans by different age groups	
0-4 years	110 000
5-9 years	340 000
10-18 years	558 000
Projections of number of orphans	
Total number of orphans as a % of all children (2010)	18
Total number of orphans 2010	1 150 000

Source: State of the World Children, 2004.

Programmes and policies

228. The National AIDS Policy specifically addresses the issue of children by ensuring that Government shall:

(a) Ensure that all women and girls, regardless of their marital status or HIV sero status, have equal access to appropriate, sound HIV-related information and education programmes, and means of prevention and health services;

(b) Strengthen and enforce existing legislation to protect children and young people against any type of abuse or exploitation;

(c) Ensure that young people have access to youth-friendly sexual reproductive health information appropriate to their age and needs;

(d) Incorporate life skills education into the school curricula and ensure that similar life skills education is made available to out of school youth to enable them to protect themselves;

(e) Provide multi-purpose youth centres to ensure well-being and development of young men and women, while at the same time protecting them from HIV and other STIs;

(f) Ensure that all educational institutions have appropriate safeguards in place that are enforced to prevent students from being sexually abused, harassed or exploited by peers or employees.

Achievements

229. The National AIDS Commission (NAC) supports Community Based Organisations (CBOs) to sensitize communities on preventing mother to child transmission in many districts. CBOs institute programmes to encourage people to go for Voluntary Counselling and Testing (VCT) and thereafter easily access drugs if needed. Furthermore NGOs have psycho-social care workers who are appropriately trained to assist communities in the management of the pandemic. There are also numerous programmes minimizing the impact of HIV and AIDS on children. These include orphan care groups available in all constituencies; community home based care, prevention of mother to child programmes and the provision of food items to sick families.

230. The National AIDS Commission (NAC) has provided funding for the Law Commission to commence a law reform programme on HIV and AIDS legislation. The review process is expected to begin in the first quarter of 2007 and issues relating to children and HIV and AIDS are scheduled for reform.

231. Intensive prenatal care services are in place to ensure that mothers remain healthy throughout pregnancy. In cases of HIV and AIDS Prevention of Mother to Child Transmission of HIV (PMTCT) programmes have also been initiated and are compulsory in designated health centres. Plans are underway to scale up testing in all districts and health centres. A five-year plan for the provision of PMTCT for 2006-2010 has been drafted, aiming to dramatically improve upon the 2.7 percent of HIV infected women who received antiretroviral (ARV) prophylaxis in 2004. The milestones of this plan are: to increase the number of pregnant women tested for

HIV from over 100,000 in 2006 to over 400,000 in 2010; to provide ARV prophylaxis to 10,000 women/ child pairs in 2006 and over 65,000 in 2010; and thereby to prevent 40,000 infections in infants over the next 5 years.

Challenges and constraints

232. Increased pressure on the paediatric antiretroviral treatment (ART) programme due to limited resources result in fewer children accessing antiretroviral drugs despite the increase in demand for the drug by children.

233. The impact of HIV and AIDS on children has been particularly devastating. Orphaned children are at an increased risk of losing family property, further escalating levels of poverty amongst this vulnerable group. The death of parents due to AIDS also results in a shift of family responsibilities to the child especially the girl child. In addition to the high number of orphans due to AIDS, there is also a high number of children made vulnerable because their parents or guardians are suffering from AIDS-related illnesses. The high levels of poverty and increased family responsibilities adversely lead to children facing stigma, discrimination, economic and sexual abuse, hunger, homelessness, and more poverty. Again, the poverty and exclusion associated with Malawian orphans is particularly acute with regard to girls. Orphans often have few clothes, no bedding, and no soap. This is critical in the case of girls, especially in terms of sanitation after they reach puberty. Hunger and social exclusion undermine school attendance and lead to further social exclusion. Community care of orphans is overwhelmed and disintegrating. Further, children in these situations have limited, if any, access to psychosocial support, health care and clean water and sanitation. The Deceased Estate (Inheritance and Protection) Bill as well as the Adoption (Amendment) Bill referred to above will hopefully address some of these issues once enacted.

234. The occasional overlap of roles between the Ministry of Health and Population and NAC has led to some delays in the implementation of HIV and AIDS activities. This problem has been addressed in the NAF which recognizes the Ministry of Health and Population's key role in its implementation. The specific roles allocated to the Ministry of Health and Population to avoid overlap with NAC include:

(a) Planning and implementing the Health Sector HIV and AIDS Strategy;

(b) Providing technical support for HIV and AIDS policy development;

(c) Coordinating thematic areas in health care;

(d) Providing technical support to other sectors;

(e) Surveying HIV and AIDS and STIs, as well as epidemiological behaviour.

(f) Coordinating and managing the Biomedical and Health Responses, such as Behaviour Change Communication (BCC) interventions, including condom programming, HIV testing and counselling, PMTCT, ART and palliative care.

235. Calls from various sectors to make antenatal HIV testing routine and compulsory have led to substantial debate, since compulsory testing of HIV violates the right of the mother to privacy and personal dignity. This has generated substantial debate as anecdotal reports suggest that some mothers are opting to forego antenatal care services and deliver at home so as to avoid what they perceive as mandatory HIV testing at public health centres.

F. Social security and childcare services and facilities (arts. 26 and 18) and standard of living (art. 27)

236. Section 30 of the Constitution guarantees every person the right to development which entitles them to enjoy "economic, social, cultural and political development". This guarantee requires the state to take all measures for the realization of the right, including "equality of opportunity for all to access basic resources, education, health services, food, shelter, employment and infrastructure". The realization of the right to development is however hampered by the limited capacity of the Malawi economy to generate resources, resulting in a very low standard of living. High unemployment levels compound the low standard of living which is also compounded by the lack of a formal social security system to ameliorate the effect of unemployment or poor conditions of employment and the lack of food insecurity. The situation for children as a vulnerable group unable to exercise their right to development is even worse as evidenced by poor health indicators, high levels of school drop-out and poor living conditions as a result of either losing parents to AIDS or of being infected themselves.

Policies and programmes

237. The following are programmes and policies aimed at improving the standard of living of children in the absence of a formal social security system.

238. The Rural Livelihoods Programme is a programme targeting vulnerable families by providing credit for Small and Medium Enterprises (SMEs), skills development as well as infrastructure development. This intervention is aimed at improving a family's capacities for them to be able to adequately support their families.

239. The Integrated Rural Development Project implements interventions in areas of water and sanitation, HIV and AIDS, agriculture, micro-finance, and road network improvement.

240. The Malawi Social Action Fund (MASAF) implements several programmes including the Social Support Project (SSP), which is aimed at strengthening the capacities of vulnerable persons and communities to reduce and cope with social risks. The MASAF SSP Programme specifically supports the disadvantaged, poor and vulnerable groups (i.e. malnourished children, orphans, street children, the aged, widows, widowers, foster parents, the destitute, those affected with HIV and AIDS, people with disabilities). Such groups of people usually do not have the capacity to mobilize themselves and solicit resources for the purpose of improving their families' livelihoods.

241. Food allowances (cash transfer), capital and vocational skills training are provided to Child Headed Households (CHH) by the Government and NGOs which include the Catholic Development Commission (CADECOM). Specific CBOs also assist CHH with various support services such as food rations and agricultural inputs.

242. In order to increase food security the Government has instituted a fertiliser subsidy programme for low-income households, especially targeting the most vulnerable. Some problems have occurred in the distribution system but the Government is refining the programme to ensure that the most needy families will access subsidized fertilizer.

243. The Malawi Development Growth Development Strategy (MGDS) has been endorsed by Cabinet in November 2006 and serves as the successor to the Malawi Poverty Reduction Strategy Paper (MPRSP) which expired in 2006. The MGDS is expected to run from 2006 to 2011 and builds on the Malawi Economic Growth Strategy whilst incorporating lessons learnt from the implementation of the MPRSP. In essence, the MGDS is a guiding strategic policy document for policy makers in Government, the Private Sector, NGOs and Cooperating Partners on Government's socio-economic growth and development priorities. Most importantly, it is a national tool for facilitating growth and the development process. Three of the thematic areas of the MGDS, namely sustainable economic growth, social protection and social development, attempt to address the problem of low standard of living and the lack of a social welfare system. It tries to cumulatively empower the most vulnerable who may not be able to benefit from economic growth with plans for their protection, such safety nets programmes and public works. These thematic areas also recognize that a healthy, educated, productive population, is necessary to achieve poverty reduction, sustain economic growth, and eliminate hunger and vulnerability.

Achievements

244. The Department of Poverty and Disaster Management Affairs in the Office of the President and Cabinet is currently facilitating a participatory process of designing and testing a Social Cash Transfer Scheme. Mchinji has been chosen as the pilot district, with the District Assembly as the implementing agency. Under the Scheme, approximately 1,200 ultra-poor households which are labour-incapacitated receive a monthly grant and an education bonus for children in primary and secondary schools. It has recently been decided by the Government to extend the pilot to six districts. The pilot will be funded by the National AIDS Commission (NAC) in 2007 and funds from Global Fund Round 5 have been mobilized to support the scale up.

245. Cooperation and coordination mechanisms between the Government and civil society are already in place to facilitate the realization of the right to an adequate standard of living. The Government intends to achieve this through the Social Welfare Department in the Ministry of Women and Child Development, hospitals and health centres in the Ministry of Health and Population, public works programmes and Malawi Social Action Fund (MASAF). The various Government departments involved in the implementation of this right routinely work together with CBOs and NGOs.

246. As noted earlier, the MGDS makes specific reference to children as a vulnerable group and incorporates social support measures in the implementation strategies for all its five thematic areas.

Challenges and constraints

247. Malawi has experienced consistent food insecurity during the period of reporting. The 2005-2006 harvest indicated a substantial improvement of about 2,350,159 metric tonnes of

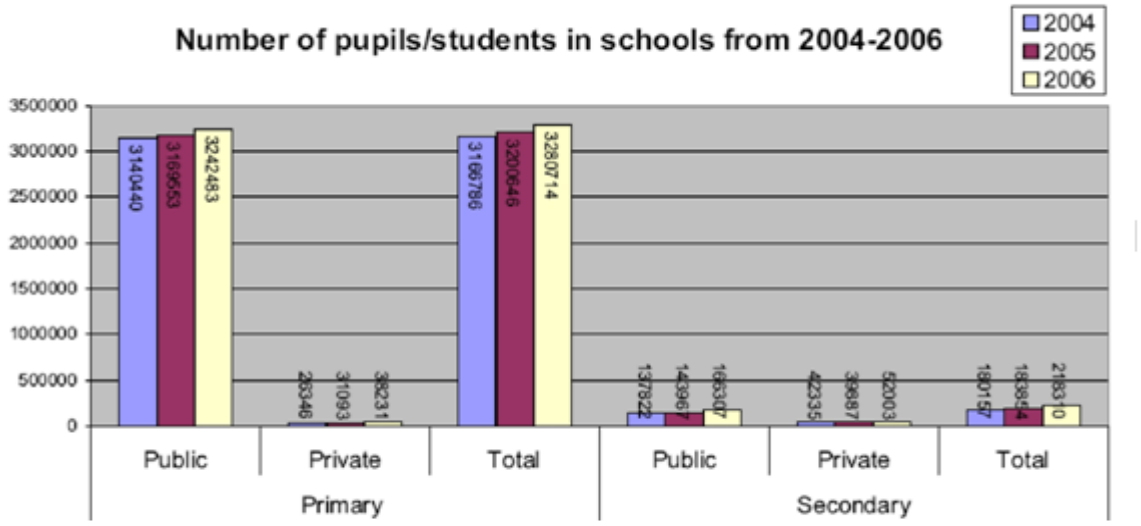
maize, marking a 43 percent increase from the average tonnage of 1,642,368 for the past 5 years. Despite this national increase, Lilongwe, Dedza, Salima, and Mangochi still experienced food shortages.

VIII. EDUCATION INCLUDING VOCATIONAL TRAINING AND GUIDANCE

248. This chapter discusses the situation of Malawi with regard to articles 28, 29 and 31 of the CRC with particular emphasis on the recommendations of the Committee on the Rights of the Child in its Concluding Observations on the Initial State Party Report.

249. Education indicators for Malawi remain unacceptably low. Although the adult literacy rate is currently at 64 percent, the majority of the population have no formal educational qualifications. In 2000 a survey conducted by the National Statistical Office indicated that 88 percent of the population (84 percent males and 92 percent females), had no formal educational qualifications (i.e. possessed neither a Primary School Leaving Certificate, nor a Junior Certificate of Education, neither a Malawi School Certificate of Education nor 'A' Levels, neither a Diploma nor Degree). Although no recent surveys have since been undertaken it is projected that there has been no significant change to these indicators. Government commitment to improving the education sector is slowly yielding returns with steady annual increases to the number of students and pupils in schools (see Table 19 below). It is envisaged that with a conducive legal environment and various strategies as outlined below, more children will enrol in schools and survive to completion, thus generally improving the education indicators in the country.

Table 19



Source: EMIS 2006.

Legal provisions

250. Primary education remains voluntary as the country has not yet developed a policy to make it compulsory. However, submissions advocating compulsory primary education have been made to the Constitutional Review programme and are being considered by the Law Commission.

251. The review of the Education Act is still underway. The review process has considered making provision for children with special needs. Unfortunately, there is no education policy on special needs and therefore consultations are first being held before developing provisions on this issue. The review has already incorporated provisions on compulsory primary education and takes into account the Decentralization Policy which in terms of education devolves primary schools to District Assemblies which are best suited to implement compulsory education. In terms of improving the quality of education, the review has proposed legislative measures for teacher training and has introduced a professional regulatory body, to be known as the National Teachers Council that will monitor the teaching profession. The review has also made recommendations regarding the regulation of the establishment and administration of private schools, which have contributed to the decline in the quality of education by setting up inappropriate premises with insufficient materials and inadequately trained teachers. The issue of school curricula has also been addressed so that education is relevant and encourages participation of pupils at all levels. In order to create a safe school environment, tough disciplinary measures have been put in place for teachers that abuse and exploit children and recommendations have been made to criminalize the notorious practice of bullying by fellow pupils and students.

Policies and programmes

252. The current education policy, the Malawi National Education Sector Plan (NESP) for the coming ten-year period (2006–2015), draws on the National Long-Term Development Perspective for Malawi (Vision 2020), the subsequent Policy and Investment Framework for the Education Sector (PIF, 2000-2012) and the more recent MGDS. It reflects the Government of Malawi's commitment to both regional (Southern African Development Community and the Organization of African Union) and international (the Millennium Development Goals) targets and priorities, and it incorporates the existing Education For All (EFA) National Plan of Action, aligned with the EFA Fast Track Initiative. The ten-year NESP paves the way towards a sector-wide approach (SWAp) to planning and development of the education sector. The NESP also incorporates all forms of provision in the sector: it contains fully developed strategies, programmes and activities for the Basic and Secondary Education sub-sectors, an indicative strategy for Technical Vocational Training and a summary of some key themes and issues in Higher Education. The NESP, through its review and revision cycle, will adopt the strategic plan for the Higher Education sub-sector as soon as it is completed.

253. The NESP has proposed various targets to be achieved by 2015, many of which focus on an improved free primary education scheme. The key targets for the NESP in primary education are as follows:

(a) Increase pupil to qualified teacher ratio: from 83:1 in 2005 to 55:1 by 2015;

(b) Increase completion rate: from 25 percent in 2005 to 75 percent by 2015;

(c) Increase the net enrolment ratio (NER): from 81 percent in 2005 to 95 percent by 2015;

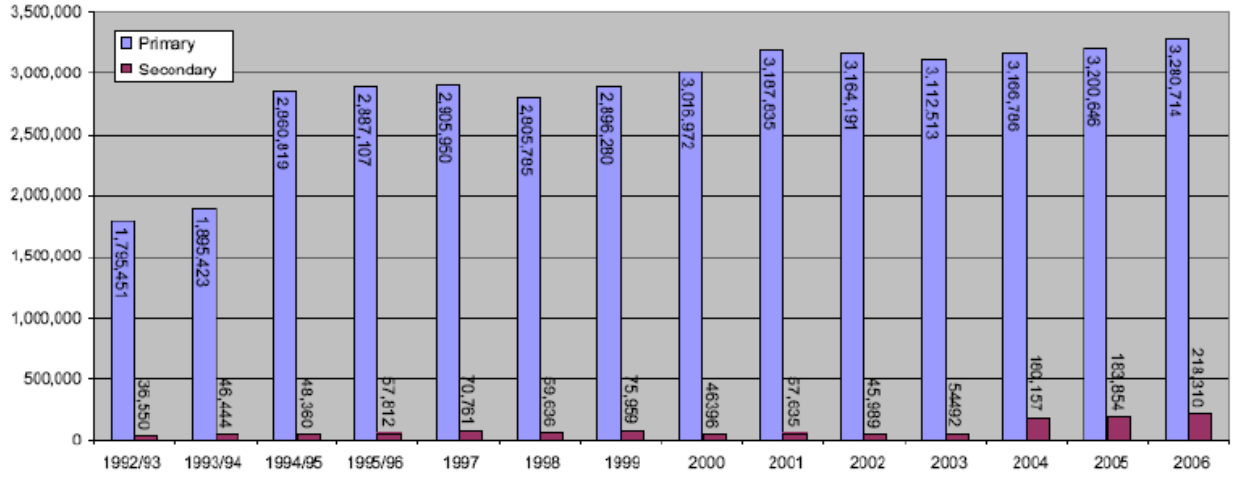
(d) Decrease pupil to classroom ratio: from 111:1 in 2005 to 60:1 by 2015.

Targets in secondary education are generally focussed on achieving gender equity by 2015 (from 57:43 boy to girl ratio now) and completion.

254. The NESP Implementation Plan is structured around three goals. The first is to increase access to educational opportunities for all Malawians at all levels of the system in order to enable all to benefit. The second goal aims at improving quality and relevance of education to reduce drop-out and repetition and promote effective learning. The NESP strategy seeks to minimize the trade-offs among all three education sub-sectors (basic, secondary, and technical and vocational training) while assigning the highest priority to accelerated progress towards universal primary schooling, because universal primary education gives the highest social returns to investment: a more economically active, informed, healthier and participatory population. At the primary school level, where poor attendance, low enrolment, repetition and drop-out are particularly acute, the NESP strategy aim at reducing repetition and dropout rates to less than 5 percent in grades 1 to 7 and to less than 10 percent in grade 8. Thirdly, the NESP aims at improving governance and management of the system to enable more effective and efficient delivery of services. The current enrolment, drop-out, survival, repetition, and promotion rates are provided in the tables that follow.

Table 20

Enrolment for basic and secondary education 1993-2006

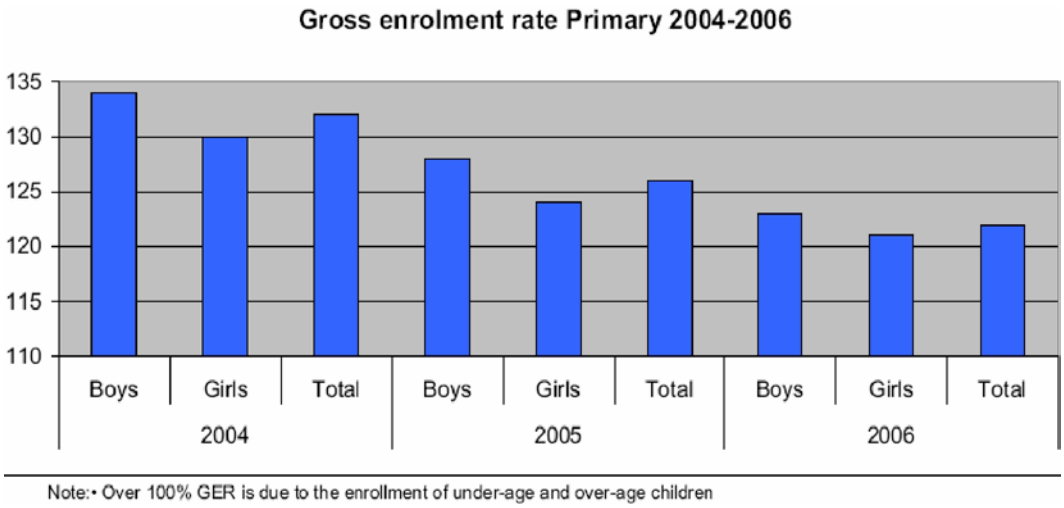


Note: Coverage of secondary schools improved from 2004 (785 to 967) after launching of EQUIP 2 project in EMIS.

Source: EMIS 2006.

Table 21

Gross enrolment rate primary education 2004-2006



Source: EMIS 2006.

Table 22

Dropout rates by standard

	Dropouts Rates by Standard							
	Standard 1	Standard 2	Standard 3	Standard 4	Standard 5	Standard 6	Standard 7	Standard 8
Male	21.67	5.71	15.28	12.53	15.27	13.51	10.44	8.61
Female	22.42	7	14.53	11.84	15.96	14.95	18.76	22.76
Total	22.05	6.36	14.9	12.19	15.62	14.21	14.41	14.81

Source: EMIS 2006.

Table 23

Survival rates for standards 5 and 8

Year	Standard 5			Standard 8		
	Boys	Girls	Total	Boys	Girls	Total
2004	44.8	50.5	47.4	26.9	22.6	24.6
2005	51.8	47.6	49.8	30.1	22.9	26.1
2006	53.3	52.9	53	31.9	27.2	29.6

Note: This is the proportion of a cohort of pupils who reached each successive standard expressed as a percentage of pupils enrolled in a given school year. This indicator is used to show the extent to which the school system can retain pupils with or without the magnitude of dropouts.

Source: EMIS 2006.

Table 24

Promotion rates by standard and sex

Source: EMIS 2006.

Table 25

Repetition rates by standard and sex

	Repetition Rates by Standard and Sex							
	Standard 1	Standard 2	Standard 3	Standard 4	Standard 5	Standard 6	Standard 7	Standard 8
Male	26.09	21.99	22.85	17.81	16.78	13.24	11.27	16.31
Female	25.4	21.17	22.35	16.88	16.13	13.44	11.71	14.48
Total	25.74	21.58	22.6	17.34	16.45	13.34	11.48	15.51

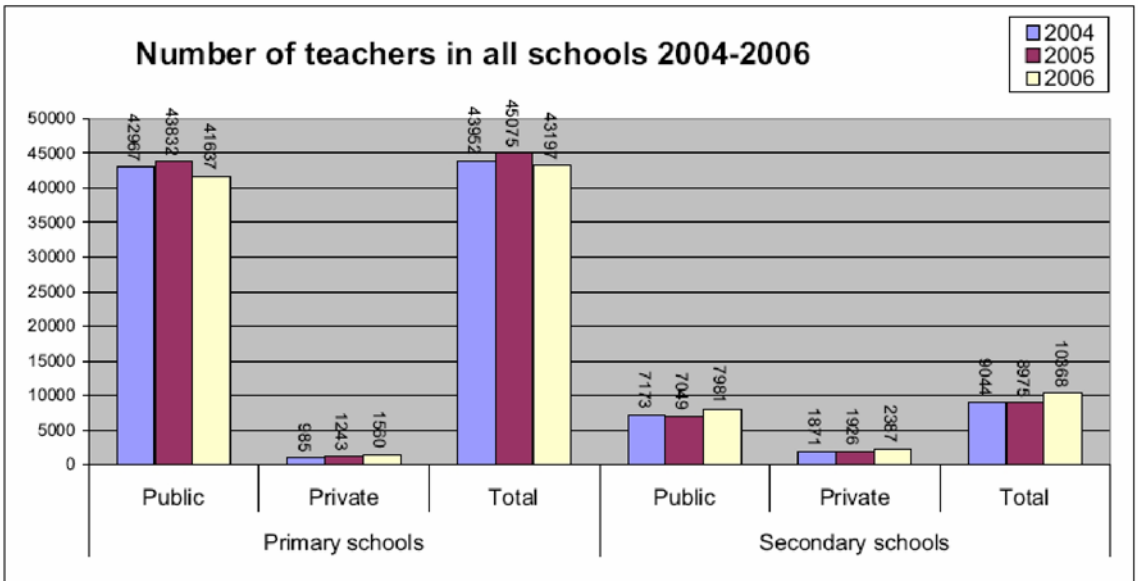
Source: EMIS 2006.

255. The PIF, upon which the NESP is premised, stresses the need for ensuring that Malawi's education system does not intensify existing inequalities across social groups and regions. In this regard, the PIF identifies strategies, including bursary schemes, for improving the participation of girls and women, children with special needs and other disadvantaged youths and rural communities, at all levels of the education system. At primary, secondary and tertiary level the intention is to increase female participation to at least 50 percent of the total enrolment.

256. The NESP is particularly elaborate on measures to improve the quality and relevance of education. Quality improvement will be addressed by strategies, which aim at combining the right inputs (good physical infrastructure, qualified teachers and adequate instructional materials), the processes (good management, effective teaching/learning, effective supervision and fair examinations), and outputs (motivated and well-educated students capable of contributing to the development of the nation). With regard to the relevance of Malawi's education system, the NESP calls for ongoing reviews of the curriculum to ensure that it more effectively addresses the needs of individual school-goers as well as those of the nation at large. Since adequate numbers of professionally qualified teachers are critical in promoting quality education, the NESP underlines the need for a quality and sustainable teacher-training programme especially for primary and secondary institutions. The tables that follow outline some of the current quality indicators.

Table 26

Number of teachers in schools 2004-2006



Source: EMIS 2006.

Table 27

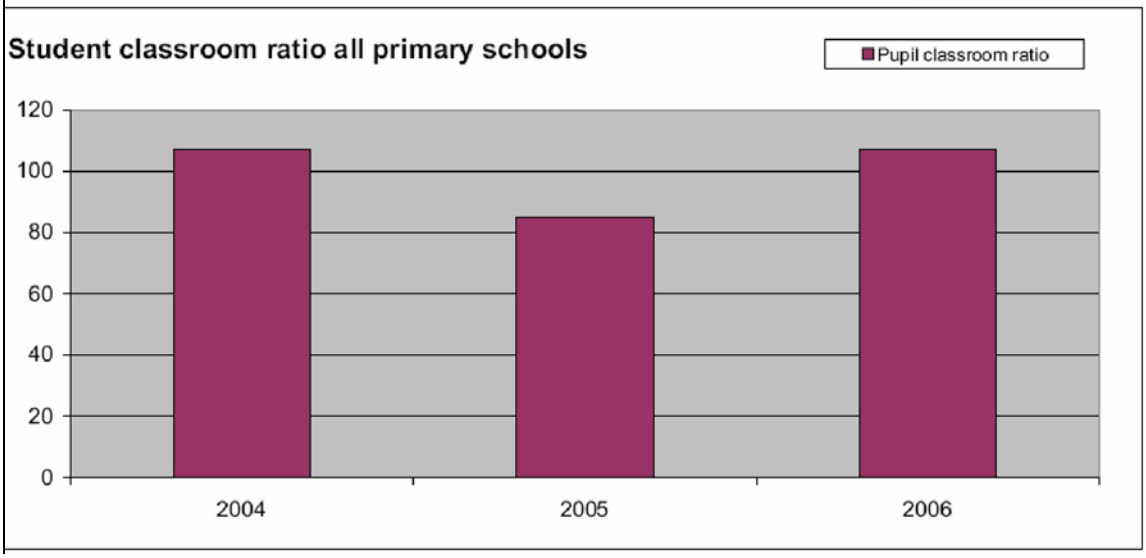
Pupil teacher ratio in primary schools 2004-2006

Source: EMIS 2006.

Table 28

Pupil classroom ratio in primary schools 2004-2006

Year	Pupil classroom ratio
2004	107
2005	85
2006	107



Source: EMIS 2006.

257. Implementation of the NESP will be supported by capacity and systems development and by an emerging series of policies which set out the Government of Malawi's intentions and guidance for important initiatives, linked to national goals. Implementation of the NESP will also be reviewed and monitored according to agreed indicators (at both sector and programme level) and the plan, as a living document, will be revised and modified according to findings. The prioritized programmes and activities, along with their indicators (for monitoring purposes) and indicative costs have been detailed for operational and implementation purposes. Existing costing will be revised periodically so that they reflect the actual situation during implementation.

258. Finally, the NESP recognizes that the proposed changes are unlikely to be achieved with the current level of funding from Government, while appreciating that the Government is unlikely to spend more than the current 27 percent of the national budget on education. The main thrust of the policy is that those in society who can afford it will be asked to share in the cost of education provision, while ensuring that the poorer sections of society are not forced to drop out of school because of inability to pay. The NESP recognizes the roles that communities and

private sector can play in the development of education, and proposes strategies that will encourage an increase in private investment. The NESP also addresses the concerns of donors who have indicated their willingness to increase funding on the basis of a fully developed PIF.

Achievements

Access

259. The introduction of Free Primary Education (FPE) remains the most significant achievement of the PIF. The Government has responded to FPE by increasing the share of the recurrent budget in education from 49 percent in 1993/94 to 61 percent in 1998/99. Whilst high drop-out rates remain a challenge, parental and community commitment to education has improved as demonstrated by the increase in enrolment. It is envisaged that further gains will be made as the perceived benefits of education are more widely understood and the quality of education improves.

260. Secondary education also experienced considerable growth. Approximately 65,000 students are enrolled in conventional and private secondary schools. Almost another 100,000 are registered in Community Day Secondary Schools (CDSSs). Since 1994, 31 new secondary schools have been built. It is still a challenge, however, that despite these increases, secondary school enrolment for the relevant age cohort remains the lowest in Africa.

261. The most significant achievement in secondary school education relates to the promulgation of relevant policy and strategic frameworks for creating the appropriate environment for secondary school expansion. Firstly, since 1998, policy has transformed previous Distance Education Colleges (DECs) into CDSSs. Secondly, secondary school selection has been decentralized with boarding schools being phased out so as to emphasize a system of selection to secondary school based on local catchment areas. The private sector will be encouraged to contribute more to the provision of secondary school education. Finally, cost-sharing measures will be introduced to ensure that available resources benefit as many Malawians as possible, and every effort will be made to ensure that secondary school education does not only benefit those with means.

262. The Ministry of Education and Vocational Training has developed a policy which stipulates the introduction of automatic promotion (progressing from class to class without repeating) to increase internal efficiency. Children will therefore be continuously assessed as a process for ensuring efficiency of the policy.

263. In order to increase the number of secondary schools in response to FPE, a number of primary schools were converted into CDSSs. These converted primary schools lack the facilities necessary for secondary education and a project is now underway to upgrade them so that they fulfil the minimum basic requirements for secondary schools. The project is being run with assistance from the African Development Fund Programme and has started upgrading forty schools all over the country.

264. The Ministry of Education and Vocational Training has also introduced a Re-entry Policy to ensure that girls who fall pregnant can go back to school.

265. Drop-out rates have decreased due to intensive advocacy campaigns by the Government to encourage parents to send children to school and desist from enlisting children in cultural initiation ceremonies during school terms. It has furthermore introduced a pilot programme called Complementary Basic Education targeting children who have dropped out of school.

Equity

266. A special programme on Education Support for Orphans and other Vulnerable Children for both primary and secondary education has also been introduced. This facilitates access to education for these disadvantaged groups of children.

267. Various programme interventions have aimed at eliminating inequalities and discrimination in schools. School curricula have been made gender sensitive, an itinerant programme for the visually impaired has been launched, and the Government has reviewed the designs of school buildings so that future school buildings will take cognisance of the comfort and convenience of children with special needs. In response to a study conducted in 2005 by a leading education NGO, Civil Society Coalition for Quality Basic Education (CSCQBE), subventions to special education schools as well as an increase in the number of trained special education teachers have been planned. The study had indicated that 95 percent of schools with children with special needs received no special materials (see Table 29 below).

Table 29

Pupils with special learning needs

Source: EMIS 2006

268. In secondary education, the Ministry of Education and Vocational Training has introduced a 50-50 Form 1 selection policy to ensure equal access between girls and boys.

Quality

269. Regarding quality of education and creating an environment conducive to learning, several water and sanitation programmes have been set up. At Local Government level in all districts, the District Assemblies are also implementing programmes under Malawi Social Action Fund (MASAF). These MASAF programmes on education focus on supporting communities in the construction of school blocks, teacher's houses and early childhood development centres so as to improve the quality of school structures.

270. NGOs, international development partners and other donor institutions have been instrumental in rendering support to the education sector through the construction of infrastructures and training courses for teachers. As part of the NESP, the Ministry of Education and Vocational Training has received support to incorporate training for teachers in child protection and to review the teacher's training curriculum. It has further introduced Pre-Service and In-Service training to improve the quality of teachers.

Relevance

271. In an attempt to improve the relevance of education and to align it with contemporaneous societal needs, human rights education has become part of the Life Skills Curriculum offered in both primary and secondary school. In furtherance of this development, the Ministry of Education and Vocational Training with the support of UNICEF developed and produced 1.2 million storybooks on child protection to reach 1.8 million children in the 6-10 age group in primary school. The books, entitled "A Trolley Full of Rights", will be distributed in 2007 and shall remain the property of the schools.

272. The introduction of extra curricular activities such as clubs that engender debate and discussion among children, such as Edzi Toto and child protection clubs, as well as the National Child Parliament are some of the structures that have been put in place to facilitate the participation of children in issues that affect their lives.

Vocational training

273. Malawi has four government-aided and three state technical and vocational training institutions offering formal training in some 22 trades in the field of building/construction, engineering, horticulture and printing. Until 2006, vocational training was the responsibility of the then Ministry of Labour which had been renamed the Ministry of Labour and Vocational Training. Vocational Training has now moved back from what was then the Ministry of Education, Sports and Culture which has since been renamed the Ministry of Education and Vocational Training. In January 1999, the then the Ministry of Labour and Vocational Training launched a policy whose mission was to contribute to human resource development in response to the labour market demands and to increase Malawi's economic productivity through provision of Technical Entrepreneurial and Vocational Education and Training (TEVET) based on environmentally appropriate technology. The same year the Technical Entrepreneurial and Vocational Education and Training Authority (TEVETA) was established through an Act of Parliament to regulate TEVET programmes and activities. Various aspects of this TEVET policy are now being implemented by the Ministry of Education and Vocational Training which works alongside TEVETA so as to avoid any duplication of roles.

274. The FPE policy increased the numbers accessing TEVET services, as secondary school intake as well as university intake is disproportionately low. TEVET services are therefore in demand more than ever before. Now that vocational training has moved to the Ministry of Education and Vocational Training, issues of access, quality, relevance, management and financing have been factored into the NESP so that they are included in the budgetary allocation to the Ministry. This should facilitate better access to training and vocational programmes for more students.

275. Although TEVETA has managed to implement most of the programmes planned in the years it has been operational, it had to overcome a lot of challenges in order to make an impact. Some of the crucial challenges that are yet to be surmounted are:

(a) Limited space in the existing Technical Colleges impedes access to Technical and Vocational Training in Malawi Colleges (as of 2004, a total of 1362 students have been recruited into the Public and Private Technical Colleges in Malawi. The numbers would have been higher had it not been for the limitation of space and capacity in the existing colleges. There are only seven established public technical colleges in Malawi which accommodate less that 300 hundred students against enormous demands each year);

(b) Limited funding, human resources and equipment;

(c) Lack of data as to how many children access TEVET programmes;

(d) No separate framework or strategy for TEVET with a component dedicated to children.

Child protection

276. Management Committees (SMCs) are by the National Strategy for Community Participation in Primary School Management, and oriented and empowered to handle issues of abuse at school level.

277. A Code of Conduct for Teachers to regulate teachers' conduct towards pupils is in place. Teachers that are involved in child abuse and exploitation acts are appropriately dealt with in accordance with the law and for teachers employed in the public service, additional disciplinary measures under the Malawi Public Service Regulations are also instituted.

278. Through community policing outreach, the Police have reached out to schools and communities across the country to encourage victims and parents to report incidents of abuse to the relevant authorities and to the Police through the friendly Victim Support Units.

279. The Ministry of Women and Child Development, with the assistance of UNICEF, has begun to formalize Community Child Protection Workers (CCPW) in all constituencies. So far 243 CCPWs have been deployed and they have established 201 child protection committees which actively address issues of child protection within communities and act as interface between the District Assemblies and communities. As regards education, one of their tasks is to visit schools to identify victims of violence and abuse and refer them to the appropriate authorities.

Management

280. At operational level, there are numerous programmes and initiatives to improve internal efficiency in the management of education, better infrastructure for schools and appropriate training for teachers as well as a safe school environment.

Finance

281. Under the NESP, the Ministry of Education and Vocational Training has established a policy requiring yearly budgetary allocations aimed at improving the quality and relevance of education. This will entail improved allocations for teaching and learning materials as well as inspection for basic, secondary and vocational education and training.

Early childhood development

282. Early Child Development promotes quality of education by exposing the child to preliminary principles of learning and stimulation and prepares the child for basic primary learning. The Ministry of Women and Child Development coordinates ECD activities through the National ECD Network which is chaired by an independent person. The Network filters into the communities which are comprised of district committees, community committees as well as parent committees.

Constraints and challenges

Access

283. Despite the framework for FPE having been created, there is still need for more and better educational facilities and for the enhancement of the capacity of a qualified teaching force.

284. The dramatic expansion of primary school opportunity has put tremendous pressure on a traditionally elitist secondary school system to accommodate more children. Although the goal of education is not limited to progression from the lower to the higher grades, a growing secondary school sub-sector will necessarily put pressure on the tertiary sector.

Equity

285. A second important challenge relates to putting in place measures aimed at reducing the existing regional, district and socio-economic disparities with regard to educational access to all levels. Overall, urban residents have more access to education than their rural counterparts. Gender-focused initiatives will act as one of the main offensives in the elimination of poverty.

286. In some remote parts of the country, girls' enrolment in primary school is relatively low. Gender equity is even more pronounced at the secondary school level. Approximately 43 percent net enrolments of secondary school pupils are female.

Quality

287. A third important challenge is providing an education of acceptable quality. The introduction of FPE resulted in a chronic shortage of basic relevant physical and human resources and in very high pupil/qualified teacher ratios. Pupil teacher ratios are as high as 1:200 in some rural schools against a recommended ratio of 1:60 targeted for 2015.

288. Inadequate funding to the education sector has led to shortage of teaching and learning materials in schools such as text books, exercise books, writing materials, desks and other essential materials. The scarcity of basic learning resources is also true for the secondary and tertiary sub-sectors where essential physical facilities and reading materials are lacking in many institutions. Inadequate school infrastructure i.e. school blocks, classroom blocks, sanitary facilities and safe drinking water also contribute to high drop-out rates, especially for girls. Out of 3 million children who enter primary school only 17.5 percent proceed to secondary.

289. The relatively poor terms and conditions of employment for all teachers have resulted in a poorly motivated teaching force. These poor terms include low salaries, shortage of houses, limited access to credit and loan facilities, non-conducive working environment and narrow career advancement. The consequences of this situation are that the quality of education provided by the system has deteriorated to a disturbing level.

290. About 50 percent of teachers in secondary schools are not appropriately qualified to teach in secondary, a factor which contributes to low quality of secondary school education.

291. Although an adequate and professionally qualified teaching force is needed at all levels of the system, such a need is most critical at the basic education level. Due to the HIV and AIDS pandemic the Ministry of Education and Vocational Training loses about 13 percent of its teachers annually due to AIDS-related illness thus aggravating shortages and creating financial strain on Government through medical bills and funeral arrangements. Further this pandemic has led to an increase in the number of orphans and vulnerable children who in turn require additional counselling skills from the teaching staff.

292. For both the basic and secondary school levels, the level of teacher recruitment, and the quantity required to sustain the system demands that a strategic plan for teacher recruitment is formulated. Such a plan should also take account of the need to train teachers who are more flexible with regard to what they can and should teach. Also critical is the need for an ongoing in-service training programme for practising teachers. Given that both the recruitment and retention of teachers for all levels of the education system has much to do with their economic and social status, a review of the remuneration package for teachers and other educational staff is a matter deserving urgent attention.

293. Emerging evidence suggests that even where educational resources are made available and are accessible, education of the youth is not fully valued by some communities. This is demonstrated by low attendance in schools that are relatively well resourced. Quality and

relevance of the education on offer contribute to this, and therefore there is much to be done on the part of the Government and the community themselves to enhance the perception of the benefits of education, and to overcome the very real barriers to uninterrupted attendance that pupils in the most deprived circumstances face.

Relevance

294. In addition to the provision of relevant physical and human resources, the quality of education provided by Malawi's educational institutions should be enhanced by a thoroughly revised curriculum. The challenge is to design a school curriculum which deemphasizes selection for post-primary education. Instead, the focus should be on the more than 90 percent of the primary and secondary school graduates who have to seek employment in the private and informal sectors. In this connection, the primary and secondary school curriculum of the future should strive to impart essential skills and knowledge on a broad range of issues including new basic skills, critical thinking and analytical skills, civic and democratic values, computer skills, entrepreneurial skills, life skills and environmental education. The teaching of science and mathematics will also deserve more attention in the re-oriented curriculum.

Finance

295. The Education for All (EFA) and the MDGs recommend that for a country to achieve universal primary education, 26 percent of its national budget should be allocated to education sector, however Malawi allocates only 10-13 percent to education sector.

296. The strong Government commitment to the education sub-sector is far from enough to accommodate the demands of the significant expansion and improvement in the system. In view of the fact that available Government resources can be stretched only so far, a major shortcoming of the current system of education finance is its over dependence on scarce Government resources (see Tables 25 and 26 below for projected recurrent expenditure requirements and investment expenditure requirements). Although donor presence is strong especially in the area of development, such heavy dependence on the donor community poses serious problems of national ownership and sustainability. Also regrettable is the fact that although the private sector is a major beneficiary of the public school system, its role in national educational financing remains rather limited.

Table 30

Projected recurrent expenditure requirements for basic education

Basic Education	**1997**	**%**	**2002**	**%**	**2007**	**%**	**2012**	**%**
Recurrent Funding Needs	**920**		**1491**		**1596**		**1562**	
Teacher Wages and Benefits	809	88	941	63	1026	64	1004	64
Teaching and Learning Materials	48	5	430	29	449	28	436	28
Maintenance	25	3	39	3	45	3	52	3
Special Education	3	0	5	0	7	0	10	1
Inspection & Advisory	6	1	14	1	14	1	14	1
Administration	28	3	37	3	38	2	38	2
Other	1	0	25	2	16	1	8	1
Total Projected Funding	**920**		**1403**		**1355**		**1537**	
Government	**919**		**1207**		**1332**		**1522**	
Teacher Wages and Benefits	809	88	916	76	1000	75	979	64
T & L Materials	48	5	203	17	234	18	436	29
Maintenance	25	3	39	3	45	3	52	3
Special Education	3	0	5	0	7	1	10	1
Inspection	6	1	14	1	14	1	14	1
Administration	28	3	31	3	31	2	31	2
Development Partners	***1***		***196***		***23***		***15***	

Social awareness campaign			25		13		6	
Support CAG	1		1		1		1	
Textbook provision			164					
Community Training			0.1		1		1	
Health promotion			0.1		1		0.0	
Support to EMIS			6		7		6	
School mapping			1		1		1	
Funding gap	**0**		**-89**		**-241**		**-25**	
Textbooks					171			
Learning materials			64		44			
Allowance for teachers in remote areas	0		25		26		25	

Source: PIF 2000-2012.

Costs are shown in Mk million (1997 constant prices).

% Shows the share of total resource needs or of projected funding.

Table 31

Investment expenditure requirements

Type of Investment	Details	Time-frame	Total Cost US$ million	Cost per year US$ million
Basic Education				
1. New Classrooms (disabled friendly) with furniture	100 per annum (15000 total)	1998-2012	320.7	21.4
2. New Latrines	3000 per annum	1998-2012	Incl.above	Incl.above
3. New Teachers houses	500 per annum	1998-2012	Incl.above	Incl.above
4.New Pre-school facilities	330 rooms per annum (5000 total)	1998-2012	37.5	2.5

Source: PIF 2000-2012.

297. A second problem relates to the inefficient use of the resources available. One manifestation of this is the skewed nature of the allocation of Government funds in favour of higher education. In 1997/ 98 for example, the Government spent 208 times as much money on a university student as it did on a primary school student. During the same year, it cost the Government MK 75,230 to educate one university student compared to MK 2,934 for a conventional secondary school student MK 5,604 for a teacher training college student and a meagre MK 362 for a primary school student.

298. Another inefficiency in resource allocation is the skewed distribution across inputs. Firstly, teachers' emoluments have always accounted for the largest proportion of the education recurrent expenditure. In the 1997/ 98 fiscal year for example, of the total recurrent expenditure available to the primary education sub-sector 87 percent went to staff emoluments with a mere 4 percent being allocated to learning/ teaching inputs. Having stated this, it needs to be appreciated however that salaries of teaching staff at all levels of the system are extremely low and constitute the main reason for their generally low morale. Such low salaries make it virtually impossible to defend an argument in favour of reduced staff emoluments.

299. A fourth illustration of poor utilization of the available education funding relates to the pervasiveness of the inefficiency with regard to time and facilities used and the high rate of drop-out and repetition at primary level. A substantial number of Malawi's educational institutions are characterized by fewer than 5 hours of teaching in a day, long and frequent breaks and by relatively poor utilization of the existing physical facilities.

300. Fifthly, the efficiency of the financing mechanism leaves much to be desired. Currently there is a large discrepancy between the approved and the actual budget. In 1997/ 98 primary

education received 22 percent more resources than was approved. These large jumps are partly the result of certain built-in constraints in the Government budget system, but also indicate that the budget preparation process could be improved. Moreover, most funds from donors, NGOs and others do not appear in the development budget which makes sector planning difficult due to fragmented analyses. Lack of transparency and accountability in the system means that it is probable that service providers do not always receive the budgets they are entitled to.

301. But there are more problems associated with the Ministry of Education and Vocational Training's budgeting system. There is, for instance, no standard formula regarding how resource estimates allocations should be arrived at. This limits the capacity of the beneficiary institutions to plan ahead. The recurrent budget is furthermore prepared on an incremental and not a strategic planning basis. No initial reviews of specific funding activities are done to ensure that these activities conform to the priorities or that they are being implemented in the most effective manner. And the Ministry of Education and Vocational Training recurrent budget structure does not always reflect the activities which the Ministry is responsible for. Thus, there being no forward planning it is not possible to take into account the recurrent cost of investments.

IX. SPECIAL PROTECTION MEASURES

302. The areas covered in this chapter are refugee children, children in conflict with the law, sexual exploitation and child abuse, substance abuse, and sale, trafficking and abduction of children. As indicated in the Initial State Party Report the problem of children in armed conflict is not really an issue for Malawi nor is the problem of children of minorities. Malawi has not yet ratified the 1961 Convention on the Reduction of Statelessness and the 1954 Convention relating to the Status of Stateless Persons, and there are no immediate plans for their ratification. This chapter will again focus only on the changes that have occurred since the submission of the Initial State Party Report.

A. Refugee children (art. 22)

Constitutional and legal provisions

303. There are no Constitutional provisions on refugee children. The Refugee Act, enacted in 1999 at the time Malawi hosted about one million refugees, has no provisions relating specifically to children. Malawi, however, provides refugee children access to education at the designated camps.

Policies and programmes

304. In order to facilitate access to education by refugees the Government established primary schools in refugee camps, and where there are no schools, children are allowed access to peripheral schools. Specific awareness raising programmes on child abuse and child trafficking are conducted in these schools upon the initiative of the Ministry of Women and Child Development.

Constraints and challenges

305. Due to lack of language training and specialized training of teachers to deal with refugee children, the language barrier is a challenge when refugee children attend local schools. The special needs of children as a vulnerable group are also not met.

306 There is a lack of data on the precise numbers of refugee children attending schools and accessing health care.

Table 32

Demographic composition of refugees/asylum-seekers in Malawi

Age group	Male (in absolute numbers)	%	Female (in absolute numbers)	%	Total (in absolute numbers)	%
0 - 4	554	6.5	624	7.4	1 178	13.9
5 - 17	1 365	16.2	1 265	14.9	2 630	31.1
18 - 59	2 803	33.1	1 817	21.5	4 620	55.6
60 and >	19	0.2	22	0.2	41	0.4
Total	4 741	55.0	3 728	45.0	8 469	100

Source: UNHCR Malawi 2006.

Major Locations: Dzaleka, Luwani and in urban Lilongwe.

B. Children in armed conflict (art. 38), including physical and psychological recovery and social reintegration (art. 39)

307. As indicated in the Initial State Party Report, there has been no armed conflict in Malawi since independence in 1964 and hence there are no children in armed conflict in Malawi. The Constitution is similarly silent on the issue of children and armed conflict. Nevertheless, in the Constitutional Review, there is a proposal to include provisions prohibiting the use of children in armed conflict and other protection measures for children in situations of hostilities.

C. The administration of juvenile justice (art. 40)

Constitutional and legal provisions

308. With the exception of the Bill proposed to replace the Children and Young Persons Act (the Child (Care, Protection and Justice) Bill), the Constitutional and legal position on the administration of juvenile justice remains as it was in the Initial State Party Report. The proposed Bill, however, will greatly improve the administration of juvenile justice through:

(b) Improved procedures for bringing children in conflict with the law to court, including the introduction of preliminary inquiries for children,

(c) Provisions on the age of criminal responsibility and ways of determining the age of a child;

(d) Legal recognition of diversion and provision of established diversion options;

(e) Express recognition of the right to legal representation for children;

(f) Specific provisions relating to jury trials for children;

(g) Prohibiting the imprisonment of children;

(h) Comprehensive provisions that emphasize the principles of best interests of the child.

Extremely important is the fact that the CRC will be part of the Juvenile Justice system in its entirety.

Reformatory institutions

309. There are two reformatory institutions for juveniles in Malawi, Mpemba Boys Home in Blantyre and Chilwa Approved School in Zomba, both in the Southern Region, where children in conflict with the law or in need of care and attention are sent for institutional care. Chilwa Approved School was founded in 1947 to reform juveniles through punishment while Mpemba Boys Reformatory School was established in 1963 with the aim of providing shelter for street children in need of care and for children remanded in custody. The current Children and Young Persons Act passed in 1969 formalized the institutional framework and juvenile justice functions of these institutions. Prior to 1973, Mpemba Boys Home and Chilwa Reformatory School functioned as part of the Prisons Department. In 1973, the two institutions were handed over to the then Ministry of Community Development and Social Welfare which is currently operating as the Ministry of Women and Child Development. The main effect of the change was to shift the focus of punishment to reform through behaviour change and acquisition of skills. The two institutions therefore follow a defined programme which includes counselling, academic (primary school), vocational training and recreational activities.

310. The shift in focus in the reformatory institutions from punishment to reform and rehabilitation is however undermined by sporadic funding, inadequately trained staff, and insufficient training materials. In addition, reintegration is made difficult due to the fact that juveniles are cut off from their family and communities. The Children and Young Persons Act provides for a Board of Visitors that is supposed to review matters of juveniles; however this Board has not been making regular visits to review cases.

311. The sporadic funding allocated by Treasury to the two institutions is disbursed through the Ministry of Women and Child Development. Levels of funding fluctuate between MK 250,000 to MK 500,000 per month to each of the two institutions depending on the numbers of children at each institution. This funding is not enough to meet all the needs of the institutions which are currently operating on debts. The Ministry of Women and Child Development has with development partner support commissioned various studies aimed at finding ways of improving funding and efficiency of the institutions. It is envisaged that the results of these findings will soon be implemented to improve the workings of the two reformatory institutions and to build

new institutions to satisfy the growing demand. The proposed Child (Care, Protection and Justice) Bill has also reiterated and improved provisions regulating private institutions which can fill the gap in services for children in need of care and protection.

Programmes and policies

312. As indicated above, Malawi has established a National Juvenile Justice Forum (NJJF) whose mandate is to establish and provide a fair and humane juvenile justice system which is based on the principles of restorative justice that make the best interests of the child a first priority and custody and institutionalization a sanction of the last resort for the shortest period of time while taking into account the interest of the victim. While pursuing its mandate, the NJJF considers the four main stages involved in the delivery of juvenile justice, namely Prevention, Pre-trial, Trial and Post-trial so as to ensure that the best interests of the child are paramount at every stage of the child's encounter with the justice system and after.

313. The Malawi Police Services, Social Welfare Department, NGOs and churches are implementing recovery services. However, they are not yet comprehensive.

D. Economic exploitation of children, including child labour (art. 32)

Constitutional and legal provisions

314. Stakeholders to the ongoing Constitutional Review have proposed an enhancement of the statutory minimum age of employment from fourteen years to eighteen years.

315. The Employment Act (2000) repealed earlier legislation on the employment of children and together with the Labour Relations Act (1996) prohibit child labour. The prohibition of child labour is no longer based on their contractual capacity but on the protection of children from hazardous work.

316. The Employment Act specifically prohibits the employment of persons under the age of fourteen from working in any public or private agricultural, industrial or non-industrial undertaking, but excludes work done at a vocational technical school or any other training institution. Children between the ages of fourteen and eighteen are prohibited from work that is likely to be harmful to their health, safety, education, morals or their development as well as work that is prejudicial to their attendance at school or vocational training. The Act obliges all employers to keep a register of all children below the age of eighteen employed by them and imposes a MK 20,000 fine to any person contravening any of these provisions.

317. The proposed Child (Justice, Care and Protection) Bill has made some amendments to the Employment Act which already domesticates various ILO Conventions. The amendments relate to the provisions relating to the employment of children so as to harmonize them with the CRC. The Bill therefore proposes that work of any kind be prohibited and extends the prohibition of employing children in hazardous work to all children even those below the age of fourteen who work as part of educational or vocational training. Both the Employment Act and the Labour Relations Act are also currently under further review with the assistance of ILO/IPEC in order to strengthen the provisions on economic exploitation of children, including child labour.

Policies and programmes

318. Other mechanisms put in place to prevent child labour include the establishment and training of Child Labour Monitoring Committees, Child Labour Inspectors and Child Protection Committees. These institutions are based in communities across the country and are since performing their different roles. The Committees however meet numerous challenges when executing their duties, such as inadequate resources, lack of cooperation from parents, guardians and those suspected to have employed children. Poverty among most people is the contributing factor towards an increase in economic exploitation of children.

Achievements

319. Government, supported by ILO, commissioned a comprehensive study on child labour in 2002 and a report was published in 2004 as the Malawi Child Labour Report. The study established that child labour is rampant in the country: 1.4 million children were or had been involved in child labour, mainly in the agricultural sector (e.g. tea and tobacco estates). Following this report a number of initiatives have come up such as: review of the Employment Act, creation of a National Code of Conduct on Child Labour, development of Policy legislation, Child Labour Inspection Programme, Advocacy Programme and the establishment of Child Labour Committees and a Child Labour Unit within the Ministry of Labour and Social Development.

320. Furthermore a National Network on Child Labour was formulated and is currently chaired by Ministry of Labour and Social Development.

E. Drug and substance abuse (art. 33)

Legal provisions

321. The Dangerous Drugs Act makes it an offence to use dangerous drugs as defined in the law. There is need to amend the law to incorporate therein other emerging dangerous substances than those mentioned by name. The Liquor Act also makes it an offence to sale liquor to persons below 18 years.

F. Sexual exploitation, abuse and trafficking (art. 34)

322. As the legislative provisions, achievements and challenges on the issues of sexual exploitation and trafficking have already been discussed in Chapter V on Family Environment and Alternative Care, this chapter shall focus only on the aspect of exploitation, inducement or coercion to engage in these acts.

The situation

323. There is no available data on the number of children involved in sexual exploitation, including prostitution, pornography and trafficking, although these are recognized problems.

324. In terms of trafficking, reports from International Organization for Migration (IOM) indicate that women and girls are recruited along major trucking routes by long-distance truck drivers, who promise them jobs, marriage, or an education in South Africa. They cross the border

at Beitbridge or Komatipoort with no documents. Once in Johannesburg, the victims are held as sex slaves. Malawian businesswomen also traffic victims to brothels in Johannesburg. Of the 80 people deported to Malawi every month from South Africa, IOM reports that at least two are trafficking victims.[14]

325. According to a report by the Malawi Human Rights Commission, young girls from poor families are being sold to wealthy people as sex slaves in remote areas in the northern border districts of Karonga and Chitipa. Some parents are giving away their daughters to pay off debts. In the northern region of Malawi, a traditional custom known as *Kupimbira* is practiced by the Nyakyusa and Ngonde, who live along the shores of Lake Malawi, along the Tanzanian border, and in the Misuku Hills. Under this tradition, girls are held in perpetual bondage and are often subject to abuse. [15]

326. European tourists have visited Malawi to engage in the sexual exploitation of children. They have recruited girls and boys in the holiday resorts along Lake Malawi. A U.K. national accused of sodomizing street children in 2002 was pardoned by the then President, Muluzi, in May 2003. He had been convicted on three counts and sentenced to 12 years of imprisonment with hard labour. He had served only 1 year and 6 months of his sentence and was to be deported after his release from prison.[16]

327. In addition, people have been arrested in Malawi for trafficking in human body parts or organs, a practice frequently associated with witchcraft. In May 2003, seven people accused of trafficking in human body parts were sentenced to 14 years in jail. In that same month, a woman was on trial for trafficking girls to Europe for prostitution under the pretense of providing them with education and jobs. One of the victims had reported her story to the police after escaping from a brothel in Germany. Earlier, in 1999, three girls from Lilongwe were arrested in a police raid at a sex club in Amsterdam and a local businesswoman stood trial on the charges of procuring prostitution outside Malawi but was acquitted on technical grounds. There girls aged between 15 and 19 were subjected to various indignities during their stay in the Netherlands, first by their trafficker and later by Nigerian businessmen to whom they were sold off to for US$ 10,000.[17]

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[14] IOM; Seduction, Sale and Slavery: Trafficking in Women and Children for Sexual Exploitation in Southern Africa, 2003.

[15] Ibid.

[16] Ibid. and see The Protection Project: Country Report on Malawi, www.protectionproject.org/malawi.doc 2004.

[17] Ibid. and see The Protection Project: Country Report on Malawi, www.protectionproject.org/malawi.doc 2004.

Government response

328. Legislative responses in terms of amendments to the Penal Code and institution of a law reform programme on trafficking by the Law Commission have already been detailed above in Chapter V. The Position Paper contributing to the ongoing Constitutional Review, developed by the Ministry of Women and Child Development, proposes to introduce provisions on sexual abuse, exploitation and pornography in the Constitution. All these efforts are to ensure that traffickers can no longer avail themselves of loopholes in the law as is currently the case.

329. In 2001, the then President Muluzi, through a presidential directive, ordered police to arrest all women working in the commercial sex industry, prompting an outcry from women's organizations that the arrests were discriminatory as they did not arrest the men procuring the prostitutes. The arrests were therefore stopped and prostitution generally goes on unregulated by the police to the detriment of women and child sex workers who are sometimes physically abused by their clients. In 2003, Malawi embarked on a campaign to shut down brothels and arrest pimps in urban areas in an attempt to curb the spread of HIV. A study has been conducted on the impact of this campaign.

330. The Police and the Immigration Department have some programmes and mechanisms in place for the protection of children. These include Victim Support Units and Child Protection Units which provide support and shelter to victimized children. Police and immigration officers manning border points are always alert to intercept child traffickers. Further, community-policing personnel have also been sensitized on child trafficking.

331. The Immigration Office in Blantyre, Malawi, introduced some measures to combat trafficking in women and children. For example, the office have set up a requirement that everyone traveling out of the country with children have tickets to ensure their return to the country.

332. The Ministry of Women and Child Development through its District Social Welfare Offices (DSWOs) is raising awareness on sexual exploitation. However, DSWOs are challenged in their ability to assist victims who face no alternative source of income and support after withdrawal. Lack of transport and resources to send the children back to their homes and also basic needs to support the withdrawn children so that they do not go back to their employment remain a problem.

333. DSWOs encourage the establishment of child rights clubs to address child sexual abuse among other protection issues. Life skills trainings are being used to target adolescent girls to reduce levels of exploitation. There is a growing trend where girls are recruited to work in restaurants only to realize later that they are being used to sleep with men who pay them. DSWOs have been particularly active in intercepting perpetrators and assisting the rehabilitation of victims.

334. The recovery and rehabilitation of child victims has been through counselling by the Social Welfare Officers and Child Protection Officers, hospital personnel and the Victim Support Units.

Collaborating partner responses

335. There is a National Network against Child Trafficking composed of NGOs that reports to a Technical Working Group on Child Protection set up at the Ministry of Women and Child Development in order to provide assistance on the elimination of child trafficking and to provide support in reintegration and rehabilitation.

336. In 2003, End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes (ECPAT) International launched a project for child victims of commercial sexual exploitation in Malawi, Mozambique, and South Africa. The project aims to increase child participation in the fight against commercial sexual exploitation, to strengthen the children's life skills, to improve the quality of recovery and reintegration programmes for victims, and to reduce victims' sense of isolation. Eye of the Child, a local NGO, will be implementing the project in Malawi.

337. The International Organization for Migration (IOM) in Pretoria recently launched a US$ 1.9 million 2-year programme to prevent trafficking in persons and to protect victims and provide them with rehabilitative assistance or with return and reintegration options. The programme will focus on researching and disseminating countertrafficking data throughout the region, as well as building the capacity of law enforcement agencies and NGO service providers to enable them to identify and assist potential victims. Working with Governmental and NGO partners, IOM will also identify victims of trafficking, provide them with some rehabilitation options, and assist them with voluntary repatriation and reintegration. IOM has also pledged to support the trafficking legislation review programme to be undertaken by the Law Commission.

338. There have also been efforts by NGOs to assist in post victimization reintegration and rehabilitation by imparting vocational skills to those who were engaged in commercial sexual exploitation.

X. OPTIONAL PROTOCOLS TO THE CONVENTION ON THE RIGHTS OF THE CHILD

339. The State Party has not yet accepted amendment to Article 43 (2) of the CRC. Malawi put its signature on the Optional Protocol on the Sale of Children on 7 September 2006. However, the country is yet to ratify the Protocol.

340. The State Party is also yet to ratify the Protocol on Children involved in Armed Conflict despite putting its signature on the Protocol. There are no immediate plans for the ratification of either Protocol.

XI. DISSEMINATION OF DOCUMENTATION

341. The Technical Working Group on Child Protection set up under the auspices of the Ministry of Women and Child Development with support from UNICEF is guided by the observations to the Initial State Party Report and the Concluding Remarks of the Committee on the Rights of the Child. The Technical Working Group has prioritized legislation, awareness raising and monitoring as priority areas. As a result of the dissemination of the Observations and the Concluding Remarks of the Committee on the Rights of the Child to stakeholders, the

Ministry of Women and Child Development has proposed amendments and made other recommendations to the ongoing Constitutional Review, the Penal Code Review and the Review of the Children and Young Persons Act.

342. In 2005, The Ministry of Women and Child Development produced a handbook on Child Abuse in Malawi which was written against the backdrop of the CRC and has since been distributed. Various IEC materials on different aspects of the CRC have also been distributed as follows:

(a) Five billboards on a variety of child-related issues have been produced and displayed;

(b) 45,000 posters in English and Chichewa (9,000 on incest; 9,000 on sexual abuse; 9,000 on trafficking; 9,000 on sexual exploitation of school children and 9,000 on child labour) have been produced and distributed;

(c) 50,000 leaflets on child abuse in Malawi in both English and Chichewa have been produced and distributed.