



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Concluding observations on the combined third to fifth periodic reports of Malawi\*

#### I. Introduction

1. The Committee considered the combined third to fifth periodic reports of Malawi (CRC/C/MWI/3-5) at its 2184th and 2185th meetings (see CRC/C/SR.2185 and 2186), held on 30 January 2017, and adopted the present concluding observations at its 2193rd meeting (see CRC/C/SR.2193), held on 3 February 2017.

2. The Committee welcomes the submission of the combined third to fifth periodic reports of the State party, which allowed for a better understanding of the situation of children's rights in the State party, and takes note of the written replies to the list of issues (CRC/C/MWI/Q/3-5/Add.1), received the day of the dialogue. The Committee expresses appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

#### II. Follow-up measures taken and progress achieved by the State party

3. The Committee welcomes the progress achieved by the State party in various areas since its last review, including the ratification of or accession to international human rights instruments, and the adoption of a number of new legislative acts and institutional and policy measures relating to children's rights, in particular the Childcare Protection and Justice Act 2010, the Disability Act 2012, the Gender Equality Act 2013, the Marriage, Divorce and Family Relations Act 2015 and the Trafficking in Persons Act 2015. It also welcomes the development of the National Plan of Action for Vulnerable Children 2015-2019 and of several policies that are relevant to children's rights, in particular the Early Childhood Development Policy and the Orphans and Other Vulnerable Children Policy.

#### III. Main areas of concern and recommendations

4. The Committee reminds the State party of the indivisibility and interdependence of all the rights enshrined in the Convention and emphasizes the importance of all the recommendations contained in the present concluding observations. The Committee would like to draw the State party's attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: birth registration (see para. 18),

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\* Adopted by the Committee at its seventy-fourth session (16 January-3 February).



abuse and neglect (see para. 21), sexual exploitation (see para. 23), harmful practices (see para. 25), children with albinism (see para. 27), and adolescent health (see para. 35).

## **A. General measures of implementation (arts. 4, 42 and 44 (6))**

### **Legislation**

5. The Committee urges the State party to finalize the constitutional review process by the end of 2017, as indicated during the dialogue, to continue to harmonize with the Convention all domestic legislation related to children's rights and to ensure effective implementation of laws.

### **Comprehensive policy and strategy**

6. The Committee recommends that the State party:

(a) Finalize the comprehensive children's policy and strategy on addressing and monitoring children's rights and protection issues and develop a national action plan for children;

(b) Develop strategies to implement child-related policies supported by sufficient human, technical and financial resources as well as mechanisms for their systematic evaluation and monitoring to assess progress and identify gaps.

### **Coordination**

7. The Committee reiterates its previous recommendation (see CRC/C/MWI/CO/2, para. 11) and furthermore recommends that the State party ensure that adequate human, financial and technical resources are provided to the Ministry of Gender, Children, Disability and Social Welfare to carry out its coordination mandate effectively through its national technical working groups and network meetings.

### **Allocation of resources**

8. In the light of its general comment No. 19 (2016) on public budgeting for the realization of children's rights, the Committee recommends that the State party:

(a) Allocate adequate budgetary resources, in accordance with article 4 of the Convention, for the implementation of children's rights and, in particular, increase the budget allocated to the Ministry of Gender, Children, Disability and Social Welfare and the Ministry of Health;

(b) Strengthen efforts to improve the efficiency of resource usage in all sectors, particularly in health and education;

(c) Taking note of target 16.5 of the Sustainable Development Goals to substantially reduce corruption and bribery in all their forms, take immediate measures to combat corruption and strengthen institutional capacities to effectively detect and investigate cases of corruption and prosecute the perpetrators, including by strengthening the public financial management system in order to avoid diverting resources from the implementation of the Convention.

### **Data collection**

9. In the light of its general comment No. 5 (2003) on general measures of implementation of the Convention, the Committee reiterates its previous recommendation (see CRC/C/MWI/CO/2, para. 19) and furthermore recommends that the State party:

(a) Extend the pilot of the management information system at the Ministry of Gender, Children, Disability and Social Welfare to all districts and build the capacity of the district social welfare offices and staff for its efficient and effective use;

(b) Collect and share among all relevant ministries and agencies data on all areas of the Convention, disaggregated by age, sex, disability, geographic location, ethnic and national origin and socioeconomic background, in order to facilitate analysis of the situation of all children, particularly those in situations of vulnerability;

(c) Take into account the conceptual and methodological framework set out in the guide by the Office of the United Nations High Commissioner for Human Rights (OHCHR)<sup>1</sup> when defining, collecting and disseminating statistical information.

#### Independent monitoring

10. In the light of its general comment No. 2 (2002) on the role of independent human rights institutions in the promotion and protection of the rights of the child, the Committee reiterates its previous recommendation (see CRC/C/MWI/CO/2, para. 15) and furthermore recommends that the State party:

(a) Ensure that the Malawi Human Rights Commission is provided with adequate human, technical and financial resources to carry out its mandate effectively, fully in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including, as mentioned during the dialogue, making the Commission accessible for all children in all 28 districts of the country;

(b) Ensure that the mechanism for monitoring children's rights is able to receive, investigate and address complaints by children in a child-sensitive manner.

#### Dissemination, awareness-raising and training

11. The Committee welcomes the inclusion of human rights education at some levels of formal education and the translation into two local languages and dissemination of laws relating to women's and children's rights, and recommends that the State party continue to strengthen its awareness-raising programmes, including campaigns on children's rights, through the existing community-based structures. It also recommends that all professionals working with and for children be systematically trained, particularly child protection workers, policymakers and local government officials.

#### Children's rights and the business sector

12. In the light of its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights, the Committee recommends that the State party:

(a) Include provisions in the draft mines and minerals bill that require environmental and health monitoring at all stages of the mining process and assessment of the impacts of mining operations on children's rights to water, food, health and a clean environment;

(b) Ensure the effective implementation by companies, especially those involved in mining in regions such as Karonga district and Kayelekera, of international and national environment and health standards, the effective monitoring and implementation of those standards, and the appropriate sanctioning and provision of remedies when violations occur;

(c) Ensure the affected communities have access to information about planned mining operations and any associated risks, particularly for children;

(d) Develop a national strategy to improve the health of children in mining communities and strengthen the health system's capacity to diagnose and treat mining-related conditions in children.

<sup>1</sup> OHCHR, *Human rights indicators: a guide to measurement and implementation* (2012), available from [http://www.ohchr.org/Documents/Publications/Human\\_rights\\_indicators\\_en.pdf](http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf).

**B. Definition of the child (art. 1)**

13. While welcoming the information provided by the State party's delegation during the dialogue about a government bill to amend the Constitution that will define a child as a person under 18 years of age and will raise the minimum age of marriage to 18 years, and about the forthcoming further harmonization of all legislation in that regard, the Committee urges the State party to expeditiously adopt those amendments to the Constitution and legislation and ensure wide public awareness of such legislative changes.

**C. General principles (arts. 2, 3, 6 and 12)****Non-discrimination**

14. The Committee welcomes the adoption by the State party of several recent acts and policies and recommends that it:

(a) Intensify its efforts to eliminate discrimination against groups of children in the most vulnerable situations, such as girls, children with disabilities, children with albinism, children living with HIV/AIDS and children in rural areas;

(b) Cooperate with the widest range of stakeholders, in particular the judiciary, through local structures, including children, community and traditional leaders and all sectors of society, to promote social and cultural change and create an enabling environment that promotes equality among children;

(c) Translate into local languages the existing laws and policies relating to the non-discrimination of children and raise awareness by disseminating them among the communities.

**Best interests of the child**

15. While noting the Constitutional Amendment Act 11 of 2010, and in the light of its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee reiterates its previous recommendation (see CRC/C/MWI/CO/2, para. 31) and furthermore recommends that the State party strengthen its efforts to ensure that this right is appropriately integrated and consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions and in all policies, programmes and projects that are relevant to or have an impact on children. In that regard, the State party is encouraged to develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving them due weight as a primary consideration.

**Respect for the views of the child**

16. In the light of its general comment No. 12 (2009) on the right of the child to be heard, the Committee welcomes the legislative and policy framework through which the views of the child can be expressed and the launch in 2012 of the Youth Parliament, and encourages the State party to:

(a) Strengthen the Youth Parliament so as to increase its legitimacy and effectiveness and provide it with necessary resources;

(b) Give due consideration to the views of children and strengthen structures for their participation, especially at the community level, in the family, at schools and in judicial and administrative procedures concerning them;

(c) Develop mechanisms for the systematic inclusion of children's participation in law, policy, programme development and implementation.

## **D. Civil rights and freedoms (arts. 7, 8 and 13-17)**

### **Birth registration**

17. While noting the enforcement in 2015 of the National Registration Act, the Committee is concerned that:

- (a) Births are registered before the mother is discharged from hospital in only 4 out of 28 districts;
- (b) There are delays in implementation and low awareness of the Act, and the registration rate is low;
- (c) Despite enacting in its Citizenship Act a provision that guarantees that children born on its territory who would otherwise be stateless have the right to nationality, there are still cases where children born outside of Malawi or born to a non-Malawian father are at risk of being stateless.

18. **Taking note of target 16.9 of the Sustainable Development Goals to provide, by 2030, legal identity for all, including birth registration, the Committee urges the State party to:**

- (a) **Effectively implement the National Registration Act, enforced as of 2015, making birth registration compulsory and universal;**
- (b) **Consider developing mobile registration structures and creating mechanisms for registration at the traditional authority level, to ensure that the registration service is accessible to all;**
- (c) **Expedite the scaling-up of health facility-based birth registrations;**
- (d) **Develop and implement awareness-raising campaigns and programmes for the general public on birth registration and encourage parents to register their children;**
- (e) **Consider ratifying the 1954 Convention Relating to the Status of the Stateless Persons and the 1961 Convention on the Reduction of Statelessness, and bring its national legislation in line with these international instruments (see CRC/C/MWI/CO/2, para. 65 (d)).**

## **E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

### **Corporal punishment**

19. **In the light of its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee urges the State party to:**

- (a) **Review the Constitution and legislation to include an express prohibition of corporal punishment in non-State settings, including at home and in all alternative care and day-care settings;**
- (b) **Strengthen its awareness-raising programmes, including campaigns among parents and relevant professional groups, to promote positive, non-violent and participatory forms of child-rearing and discipline;**
- (c) **Enlist the assistance of community, cultural and traditional leaders for these purposes.**

### **Abuse and neglect**

20. The Committee notes the adoption of the National Plan of Action for Vulnerable Children 2015-2019 and the 2013 survey on violence against children and young women in Malawi, but remains seriously concerned at:

- (a) The high levels of violence against children;

(b) The limited capacity of and access to protection and response services, in particular the police and community victim support centres and child protection workers, and the lack of awareness about the support services;

(c) The absence of early abuse detection and prevention systems at the community level;

(d) The lack of comprehensive data on children suffering from ill-treatment, abuse and neglect, domestic violence and sexual abuse;

(e) Reported incidents of police violence against children, including the recent shooting by police of unarmed child protestors, despite the efforts to curb police violence by establishing a professional standards unit to regulate the conduct of police officers, disciplinary committees and the national Independent Complaints Commission, which will hold police officers accountable.

**21. In the light of its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and taking note of target 16.2 of the Sustainable Development Goals to end abuse, exploitation, trafficking and all forms of violence against and torture of children, the Committee urges the State party to:**

**(a) Scale up and implement programmes aimed at preventing violence against children;**

**(b) Ensure that more services are available by strengthening the technical and operational capacities of the police and community victim support centres, as well as child protection workers, to increase their accessibility and outreach, especially at the community level;**

**(c) Strengthen mechanisms for the early detection and prevention of child abuse at the community level and raise awareness on their existence and procedures;**

**(d) Take the measures necessary to ensure that child victims of violence receive psychological and recovery support and encourage them to report cases of abuse, violence and neglect;**

**(e) Establish a national database on all cases of violence against children, including ill-treatment, sexual abuse, child abuse and neglect and domestic violence, and develop and implement a monitoring and evaluation system to help determine how child protection systems can best address violence against children;**

**(f) Implement the recommendations of the 2013 national survey on violence against children; developing evidence-informed strategies and practices for preventing violence against children; increasing safe, stable and nurturing relationships between children and their parents and caregivers; promoting gender equality to prevent violence against girls; and changing cultural and social norms that support violence;**

**(g) Address police violence against children by providing police with special training on child-friendly techniques for dealing with children generally, and crowd control and dispersal in particular, and by introducing guidelines governing the use by police of deadly force.**

#### **Sexual exploitation and abuse**

22. The Committee notes the adoption of the Penal Code Amendment Act 2009, which raised the age of sexual consent to 16 years. However, it expresses its grave concern at:

(a) The slow implementation of the Childcare Protection and Justice Act;

(b) The high incidence of sexual violence, including rape and defilement in all settings, including in the family and in schools, and the targeting of girls in vulnerable situations, such as girls with mental disabilities;

(c) Poor access and availability of the one-stop centres that provide comprehensive service to child survivors of sexual and physical violence;

(d) The low rate of reporting and delays in prosecuting the perpetrators of sexual abuse and exploitation, especially owing to the reluctance of families and the general public to report such cases due to shame, stigma and economic dependency on the perpetrator;

(e) Limited access to justice by child victims, particularly of girls, due to the legal requirement for corroboration of evidence of a child victim before the court.

**23. Drawing attention to target 5.2 of the Sustainable Development Goals to eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation, the Committee urges the State party to:**

(a) **Prioritize and ensure the provision of adequate resources for the full implementation of the Childcare Protection and Justice Act and other relevant legislation, ensure the development of programmes and policies for the prevention of sexual violence against and abuse of children and the recovery and social reintegration of child victims, and adopt comprehensive measures to address such violence;**

(b) **Scale up services for child victims of sexual violence, such as psychosocial medical support and access to post-rape health services, scale up support for the one-stop centres so as to make them easily accessible by all victims, especially those from rural areas, and pay special attention to vulnerable groups, such as girls with mental disabilities;**

(c) **Ensure that there are effective mechanisms, procedures and guidelines in place for mandatory reporting of cases of sexual abuse and exploitation, and ensure accessible, child-friendly and effective reporting channels for such violations;**

(d) **Take all measures necessary to investigate reported cases of sexual violence, and prosecute and punish the perpetrators without any exception;**

(e) **Conduct awareness-raising activities to combat the stigmatization of child victims of sexual abuse and exploitation;**

(f) **Revise the requirement for corroboration in sexual offences and modify it to ensure that child victims are not denied justice.**

#### **Harmful practices**

24. The Committee notes that the Childcare Protection and Justice Act criminalizes harmful practices. However, it is concerned that:

(a) The practice of child marriage still persists;

(b) Harmful practices, such as abduction, forced marriage, betrothal, *kusasa fumbi* (sexual cleansing) and the pledging of children as collateral, are still practised;

(c) Traditional and religious leaders are not fully supportive in implementing these laws;

(d) The support mechanisms and staff responsible for the implementation of legislation have inadequate resources.

**25. In the light of its general comment No. 18 (2014) on harmful practices, adopted jointly with the Committee on the Elimination of Discrimination against Women, the Committee urges the State party to:**

(a) **Take all measures necessary to eliminate child marriages;**

(b) **Disseminate the Childcare Protection and Justice Act and other relevant legislation at the local level, and particularly among traditional and religious leaders;**

(c) **Develop comprehensive awareness-raising campaigns and programmes on the provisions criminalizing harmful practices and on their negative consequences on children, as well as campaigns on the harmful effects of child marriage on the physical and mental health and well-being of girls, targeting households, local**

authorities, teachers, religious, traditional and community leaders and judges and prosecutors;

(d) **Provide appropriate financial resources to front-line staff who implement legislation at the grass-roots level and strengthen the capacity-building of volunteers and police officers responsible for providing victim support unit services in order to ensure that they discharge their duties in the best interests of the child and in a child-sensitive manner.**

#### **Children with albinism**

26. While welcoming the measures taken by the State party to protect children with albinism, the Committee is seriously concerned at:

(a) The inadequate enforcement of the laws and policies aimed at protecting the rights of children with albinism, the lack of resources for their implementation, and consequently the poor protection, rehabilitation and legal services available to child victims with albinism and the reportedly lenient sentences handed down to perpetrators;

(b) The significant number of cases of abduction, ritual killings and exhumation of remains of children with albinism;

(c) The high rate of school drop outs among children with albinism, due to fear of attacks, poor vision, prohibition from wearing appropriate sun protection clothing, unavailability of specific sun protection tools and insufficient skilled staff trained to meet their needs and ensure their inclusive education.

27. **The Committee urges the State party to:**

(a) **Ensure that the protection of children with albinism is included in its national policies and that children with albinism can exercise their rights without any discrimination;**

(b) **Address the root causes of violence, harassment and discrimination and provide adequate resources to implement the response plan to attacks against children with albinism;**

(c) **Prevent and combat killings, mutilations, infanticide, kidnapping of and attacks against children with albinism, protect and provide them with psychological support, redress, rehabilitation and legal assistance, and punish those responsible for such crimes;**

(d) **Strengthen medical, psychiatric and psychological assistance for children with albinism, provide training on albinism to medical personnel and ensure that sunscreen lotions, skin care and vision assistance are available free of charge.**

#### **Helplines**

28. **The Committee recommends that the State party strengthen and continue to provide adequate human, financial and technical support for the full and effective operationalization and accessibility of the national child helpline and invest in its intervention and outreach programmes.**

### **F. Family environment and alternative care (arts. 5, 9-11, 18 (1) and (2), 20, 21, 25 and 27 (4))**

#### **Children deprived of a family environment**

29. **Drawing the State party's attention to the Guidelines for the Alternative Care of Children (see General Assembly resolution 64/142, annex), the Committee emphasizes that financial and material poverty — or conditions directly and uniquely attributable to such poverty — should never be the sole justification for removing a child from parental care, for placing a child in alternative care or for preventing a child's social reintegration. In that regard, the Committee reiterates its previous**



recommendation (see CRC/C/MWI/CO/2, para. 144) and furthermore recommends that the State party:

(a) Implement, disseminate, enforce and raise awareness of the Children Homes and Orphanages Rules and Regulations (2005) and finalize, adopt and implement the alternative care guidelines;

(b) Ensure the registration and inspection of existing alternative care centres for children and that they operate in accordance with at least the minimum standards;

(c) Review periodically the situation of children placed in foster care and in institutions, and monitor the quality of care therein, including by providing accessible channels for reporting, monitoring and remedying the ill-treatment of children;

(d) Support and facilitate family-based care for children wherever possible, and establish a system of foster care for children who cannot stay with their families, with a view to reducing the institutionalization of children;

(e) Enforce the implementation of the deinstitutionalization policy by childcare institutions;

(f) Ensure that adequate human, technical and financial resources are allocated to alternative care centres and relevant child protection services, in order to facilitate the rehabilitation and social reintegration of children residing therein to the greatest extent possible;

(g) Establish and maintain a comprehensive and functional database on the number of children in alternative care for effective follow-up.

#### **Adoption**

30. The Committee reiterates its previous recommendation (see CRC/C/MWI/CO/2, para. 46) and furthermore recommends that the State party:

(a) Pass into law expeditiously the revised Adoption Act, raise awareness about the adoption procedures and regulations and promote and encourage domestic adoption;

(b) Consider ratifying the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

#### **Children in prison with their mothers**

31. The Committee recommends that the State party provide appropriate and adequate services and facilities in prisons for children of incarcerated mothers, including appropriate nutrition, health services and hygiene and accommodation.

### **G. Disability, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1)-(3) and 33)**

#### **Children with disabilities**

32. In the light of its general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to adopt a human rights-based approach to disability, set up a comprehensive strategy for the inclusion of children with disabilities and:

(a) Implement the Disability Act 2012 and corresponding national action plan, establish the Disability Trust Fund, identify strategies to deal with challenges experienced by children with disabilities and allocate adequate resources to the Department of Disability to implement the laws and policies effectively;

(b) Review the disability-related legislation and policies, particularly the 1971 Handicapped Persons Act, to ensure that they are aligned with the Disability Act and that the needs of children with disabilities are met;

(c) Establish national mechanisms for monitoring and reporting on disability, with particular focus on children with disabilities;

(d) Ensure that children with disabilities have access to inclusive early childhood care and education, early development programmes, health-care and other services, and ensure that such services receive adequate human, technical and financial resources;

(e) Adopt measures towards fully inclusive education;

(f) Collect and analyse data on the situation of all children with disabilities, disaggregated by, inter alia, age, sex, type of disability, ethnic and national origin and geographic location;

(g) Develop comprehensive campaigns to increase awareness among parents and relatives of children with disabilities, teachers and society in order to accept and respect the rights of such children.

#### Health and health services

33. In the light of its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health and taking note of target 3.2 of the Sustainable Development Goals to end, by 2030, preventable deaths of newborns and children under 5 years of age, the Committee recommends that the State party:

(a) Scale up immunization and address root causes to identify gaps in immunization, address chronic malnutrition and stunting, and reduce child mortality due to malaria, neonatal conditions and preventable diseases, such as pneumonia and diarrhoea, and develop a national health plan for 2017 aimed at reducing child and maternal mortality;

(b) Improve drug and health-system management, particularly at the local level, with special attention to remote areas, to address the shortage of drugs, medical supplies, food and medical staff and poor infrastructure;

(c) Enact the HIV/AIDS bill into law, implement the National Strategic Plan on HIV (2015-2020) and achieve universal coverage for antiretroviral treatment;

(d) Take urgent measures aimed at preventing sexually transmitted diseases, in particular HIV/AIDS among girls, including measures for eliminating the ceremonies and rituals leading to unprotected sex;

(e) Strengthen efforts to improve access to basic health-care services with trained health workers for children and pregnant women, especially in rural areas;

(f) Implement and apply the OHCHR technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age (A/HRC/27/31).

#### Adolescent health

34. The Committee notes the launch of the Malawi Family Planning Costed Implementation Plan 2016-2020. However, it is concerned at:

(a) The high number of teenage pregnancies;

(b) The lack of comprehensive age-appropriate education on sexual and reproductive health rights and family planning services, and the limited access to modern contraceptives;

(c) The criminalization of abortion, except when the life of the pregnant girl is at risk, leading to girls resorting to risky abortions;

(d) The weak enforcement of laws governing the production and sale of alcohol and drugs and the reported drug and alcohol addiction among children and adolescents, particularly among those in street situations.

35. In the light of its general comment No. 4 (2003) on adolescent health and development in the context of the Convention, the Committee recommends that the State party:

(a) Adopt a comprehensive sexual and reproductive health policy for adolescents and ensure that sexual and reproductive health education is part of the mandatory school curriculum both in public and private schools with special attention on preventing early pregnancy and sexually transmitted infections;

(b) Improve adolescent girls' access to reproductive health-care and related services and increase support for reproductive health and family planning services and access to affordable contraceptives and contraceptive methods;

(c) Decriminalize abortion in all circumstances and remove barriers to abortion, such as the requirement to report to the police before having an abortion in the case of rape, ensure girls' access to safe abortion and post-abortion care services, and ensure that the views of the child are always heard and given due consideration in abortion decisions;

(d) Review the Dangerous Drugs Act and Liquor Act and related policies to address child alcohol and drug consumption and provide children and adolescents with accurate and objective information and education on life skills for the prevention substance abuse, including tobacco and alcohol, and develop accessible and youth-friendly drug dependence treatment and harm reduction services.

#### Impact of climate change on the rights of the child

36. The Committee draws attention to target 13.B of the Sustainable Development Goals to promote mechanisms for raising capacity for effective climate change-related planning and management. In particular, it recommends that the State party:

(a) Ensure that its disaster risk management policy is disseminated and implemented with sufficient budget;

(b) Integrate disaster risk reduction into development planning;

(c) Document and register the persons affected, particularly vulnerable groups such as children, as part of the disaster response, to ensure that they receive appropriate and timely health, protection and other services;

(d) Increase children's awareness and preparedness for climate change and natural disasters by incorporating it into the school curriculum and teacher training programmes.

## H. Education, leisure and cultural activities (arts. 28-31)

#### Education, including vocational training and guidance

37. In the light of its general comment No. 1 (2001) on the aims of education, and taking note of target 4.1 of the Sustainable Development Goals to ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes, the Committee recommends that the State party:

(a) Eliminate the hidden cost of education, such as "development fees", as well as gender and regional disparities in gaining access to education;

(b) Recruit newly qualified teachers to reduce the ratio of pupils to teachers;

- (c) Address the high number of drop outs, particularly among girls, due to pregnancy, child marriage, poor sanitary conditions, poverty and family responsibilities;
- (d) Address the sexual abuse of children, especially girls, by teachers and peers;
- (e) Decentralize and simplify the re-admission process for adolescent girls returning to school after pregnancy and ensure they are given the appropriate support;
- (f) Make schools accessible to children with disabilities and provide them with infrastructure, teaching and learning materials that are disability-friendly;
- (g) Improve efficiency in the spending of resources allocated to the education sector;
- (h) Reinforce and develop programmes to encourage the training of female teachers.

#### Early childhood care and development

38. Taking note of target 4.2 of the Sustainable Development Goals to ensure that all girls and boys have access to quality early childhood development, care and pre-primary education, the Committee recommends that the State party allocate sufficient financial technical and human resources for the development and expansion of such services, particularly for girls, children with special needs, orphans and children in street situations, on the basis of a comprehensive and holistic policy of early childhood care and development.

### I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)-(d) and 38-40)

#### Asylum-seeking, refugee and migrant children

39. The Committee recommends that the State party:
- (a) Review its child refugee management policies, followed by sufficient awareness-raising on the existence and scope of the policy;
  - (b) Scale up the support and facilities for children in refugee camps, particularly by addressing the shortage of sanitation, education facilities, leisure activities and medical services and by providing children with the opportunity to continue higher education and have access to employment;
  - (c) Provide migrant and refugee children with adequate support, including safe homes, in conditions that meet their special protection and assistance needs;
  - (d) Put in place measures for family tracing and reunification;
  - (e) Consider withdrawing reservations to the 1951 Convention relating to the Status of Refugees, particularly on the right of association (art. 15), which limits the freedom of movement and place of residence, on public education (art. 22) and on naturalization (art. 34), which has been used to deny most of the applications by refugees to residence permits.

#### Economic exploitation, including child labour

40. While welcoming the State party's ratification of the International Labour Organization Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999 (No. 182), and the development of a national action plan on child labour for the period 2010-2016, the Committee reiterates its previous recommendation (see CRC/C/MWI/CO/2, para. 67) and furthermore recommends that the State party:

- (a) Finalize and implement its child labour policy and child protection policy to protect children from the worst forms of child labour;
- (b) Establish and operationalize the national child labour database;
- (c) Establish a referral mechanism between the Ministry of Labour and the Ministry of Gender, Children, Disability and Social Welfare to complement each other's work;
- (d) Allocate sufficient human, technical and financial resources to labour inspection in order to fully, regularly and effectively implement the laws and policies on child labour, particularly in the agricultural and mining sectors, and prosecute any perpetrators of violations relating to child labour.

#### Children in street situations

41. While welcoming the adoption of the 2014-2018 National Strategy on Children Living and Working in the Streets, the Committee reiterates its previous recommendation (see CRC/C/MWI/CO/2, para. 69) and furthermore recommends that the State party:

- (a) Take all measures necessary to ensure that children in street situations are provided with adequate food, clothing, housing, health care and educational opportunities;
- (b) Provide children in street situations with referral mechanisms to comprehensive and suitable care, recovery and reintegration programmes.

#### Sale, trafficking and abduction

42. The Committee reiterates its previous concluding observations (see CRC/C/MWI/CO/2, para. 73) and furthermore recommends that the State party:

- (a) Harmonize the punishment for the offence of child trafficking under the Trafficking in Persons Act and Childcare Protection and Justice Act;
- (b) Establish mechanisms for collecting data on cases of internal and cross-border trafficking of children, on investigations and on cases where perpetrators are prosecuted;
- (c) Establish mechanisms for ensuring that child victims of trafficking are compensated and provide adequate resources for social and rehabilitation services for victims.

#### Administration of juvenile justice

43. In the light of its general comment No. 10 (2007) on children's rights in juvenile justice, the Committee urges the State party to bring its juvenile justice system fully into line with the Convention and other relevant standards. In particular, it reiterates its previous concluding observations (see CRC/C/MWI/CO/2, para. 76) and furthermore recommends that the State party:

- (a) Raise the age of criminal responsibility to an internationally accepted standard and give the child the benefit of the doubt in the context of punishment, when their age is in dispute;
- (b) Ensure that juveniles who are deprived of liberty are detained separately from adults and males separately from females;
- (c) Ensure that children who are awaiting trial, if detained, are not held together with those who have been convicted;
- (d) Operationalize the child justice courts and ensure that conditions in reformatory centres and other facilities used to detain children meet children's health, educational and other needs;

(e) Use in practice the diversion mechanisms and alternatives to punishment provided by the Childcare Protection and Justice Act and ensure that judges, police officers, prosecutors, court staff, social workers and other relevant officials are duly trained in such processes;

(f) Improve the conditions in pretrial and post-trial detention and juvenile justice facilities and rehabilitation and integration programmes for children in conflict with the law.

#### **J. Ratification of the Optional Protocol to the Convention on a communications procedure**

44. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on a communications procedure.

#### **K. Ratification of international human rights instruments**

45. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, consider ratifying the following core human rights instruments to which it is not yet a party:

(a) The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;

(b) The International Convention for the Protection of All Persons from Enforced Disappearance;

(c) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;

(d) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

(e) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;

(f) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(g) The Optional Protocol to the Convention on the Rights of Persons with Disabilities.

#### **L. Cooperation with regional bodies**

46. The Committee recommends that the State party cooperate with the African Committee of Experts on the Rights and Welfare of Children of the African Union on the implementation of the Convention and other human rights instruments, both in the State party and in other African Union member States.

### **IV. Implementation and reporting**

#### **A. Follow-up and dissemination**

47. The Committee recommends that the State party take all measures appropriate to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the combined third to fifth periodic reports, the written replies to the list of issues and the present concluding observations be made widely available in the languages of the country.

## **B. Next report**

48. The Committee invites the State party to submit its combined sixth and seventh periodic reports by 1 September 2022 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014 (CRC/C/58/Rev.3) and should not exceed 21,200 words (see General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

49. The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document contained in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I) and paragraph 16 of General Assembly resolution 68/268.

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