UPR Pre-Session Statement on Malawi: Trafficking for Sexual Exploitation

Delivered on behalf of Equality Now & People Serving Girls at Risk
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The presentation will focus on 3 main issues as contained in our Statement

1. Sex trafficking and sexual exploitation

2. Access to justice for victims of sex trafficking

3. Protection of victims of sex trafficking
**Issue 1: Sex trafficking & sexual exploitation**

**Situation**
- Gender inequality and discrimination, and resulting poverty key drivers of sex trafficking in Malawi
- Women and girls are trafficked within the country and abroad: rural to urban, inland to lakeshore areas; and to and from neighbouring countries and beyond
- Increase in reports of women and girls sex trafficked from Asia into Malawi
- Increase in the practice of “Fish for Sex – Sex for Fish” in fishing communities, an act of sexual exploitation

**Progress since last review**
- Government enacted many laws and policies:
  - Prevention of Trafficking in Persons Act
  - National Action Plan against Trafficking in Persons
  - National Gender Policy
  - National Girls Education Strategy
  - Social Cash Transfer Programme

However implementation requires improvement and has not adequately addressed the problem
Recommendations

1. Establish programs that increase women’s skills and incomes, in order to reduce gender inequality, discrimination and poverty, in line with the SDGs targets and regional and international law ratified by Malawi.

2. Guarantee decent employment opportunities for women in fishing communities, in order to end “Fish-for Sex, Sex-for Fish”.
Issue 2: Access to justice for victims of sex trafficking

Situation
● Unnecessary delays in court proceedings in sex trafficking cases deny victims justice
● Example: In sex trafficking case, Thomas Bittoni versus The State 484 of 2018, where victim is 15 years old has been ongoing since April 2018, and hearings adjourned more than 10 times
● Example: In another case, Nepalese women victims united with accused trafficker, living in the same house and attending court together
● Without an effective criminal justice system traffickers and other offenders in the exploitation chain are not held accountable.

Progress since the last review
● Malawi passed the Prevention of Trafficking in Persons Act which has provisions to ensure prosecution of accused traffickers and ensure victims access justice
● The Malawi High Court declared Section 184 (1)(c) of the Penal Code unconstitutional for law enforcement to criminalize and detain prostituted women and girls, who may also be victims of sex trafficking

However, better implementation of laws and increasing capacity of criminal justice system is required
Recommendations

1. Through the Chief Justice’s Office, prioritize prosecution of sex trafficking cases and ensure that they are concluded within reasonable time and without undue delay.

2. Train law enforcement, prosecutors, and judicial officers to apply the Trafficking in Persons Act in all 4 regions of Malawi by 2022 in line with the National Plan of Action against Trafficking in Persons.

3. Ensure that law enforcement officers uphold the constitutional ruling to desist from detaining prostituted women and girls in line with the recommendations of the CEDAW Committee.
Issue 3: Protection of victims and survivors of sex trafficking

Situation
- No shelters have been established or designated as provided by the Prevention of Trafficking in Persons Act
- Non-designated CSO-run shelters have limited funding and some have closed down
- Or they have limited skills and capacity to address the psychosocial needs of girls and women
- Police station based Victim Support Units have limited staff and capacity to protect victims of sex trafficking
- No information on number of people who have received compensation from the Anti-Trafficking in Persons Find or supported through the National Referral Mechanism

Progress since the last review
- Government established a number of programmes:
  - One-Stop-Centres where victims of gender based and sexual violence receive range of support
  - Anti-Trafficking in Persons Fund established and has for the past two years received annual budgets
  - Standard Operating Procedures providing guidance for supporting victims and adopted
  - National Referral Mechanism also established

Protection for victims of human trafficking requires strengthening and should take into account the particular needs of victims of sex trafficking.

Equality Now
A just world for women and girls.
Recommendations

1. Establish designated-trafficking-shelters by 2022 that meet the needs of women and girls trafficked for sexual exploitation, including assigning qualified psychosocial counselors as mandated by the Trafficking Act.

2. Increase transparency in the administration of the Anti-Trafficking Fund by publishing annual disaggregated data on victims and survivors who have been supported by gender, age, location and form of trafficking at a minimum.

3. Increase annual budgetary allocations to the One-Stop-Centres.
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