



Save the Children

# VALIDATION WORKSHOP FOR CSO ALTERNATIVE MID-TERM UNIVERSAL PERIODIC REVIEW (UPR) REPORT

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## NGO COALITION ON CHILD RIGHTS

## MALAWI CSO MID TERM UNIVERSAL PERIODIC REVIEW REPORT



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## I. LIST OF ACRONYMS

|          |   |
|----------|---|
| ACB      | : Anti-Corruption Bureau                                    |
| CCPJA    | : Child Care Protection and Justice Act                     |
| CIA      | : Central Intelligence Agency (World Bank)                  |
| CSEC     | : Civil Society Education Coalition                         |
| CSOs     | : Civil Society Organizations                               |
| EFA      | : Education for All   |
| GoM      | : Government of Malawi                                      |
| HIV/AIDS | : Human Immune Virus/ Acquired Immuno-Deficiency Syndrome   |
| MEJN     | : Malawi Economic Justice Network                           |
| MoGDCSW  | : Ministry of Gender Disability Children and Social Welfare |
| NGO CCR  | : Non-Governmental Organizations Coalition on Child Rights  |
| TIP      | : Trafficking In Persons Act                                |
| UN       | : United Nations  |
| UNCRC    | : United Nations Convention on the Right of the Child       |
| UNICEF   | : United Nations Children's fund                            |
| UPR      | : Universal Periodic Review                                 |
| WASH     | : Water and Sanitation Health                               |

## II. ACKNOWLEDGEMENTS

The NGO Coalition on Child Rights in Malawi, hereinafter referred to as the ‘coalition’ is grateful to God for granting the members of the coalition a health life throughout the exact period of gathering information and writing of this report.

Further, the Coalition would like to express profound gratitude to Save the Children International (Malawi) for providing the financial and technical support the coalition required for the compilation of this report. The coalition is grateful to all the Civil Society Organisations and children who participated in the process of writing this report. The intensity of commitment of children during the consultations, validation and finalization of this report had been world class.

The coalition would like to express profound appreciation to all stakeholders across the country. You shared valuable information the coalition required to substantiate the assertions and recommendations which have been made in this report. The coalition is grateful for the partnerships which have been built in the interest of progressive realization of rights of children.

The coalition would like to say a big thank you to Executive Directors, Management and Staff of member institutions and Networks for giving all the support required to write this report. Of particular mention, the coalition is thankful to Member Networks for accepting to dedicate key person from their organization to serve in the Technical Drafting Team and Editorial Team respectively: Lucky Mbewe, Vice Chairperson of the Coalition, Henry Machemba – NGO CCR Secretariat, Leon Matanda – MHRYN, Robert Mkwezalamba – HRCC, June Kambalometore Mtila – MEJN, Linda Harawa – YCF, and Dalitso Kubalasa - MEJN.

The coalition specially acknowledges the indelible expertise of Donnex Bengo, Child Rights Governance Program Manager for Save the Children International. The coalition is immensely indebted to him for the technical support rendered throughout the processes of coming up with the report.

Finally, the coalition is thankful to the United Nation’s Committee on the Rights of the Child and the UPR Info for accepting the submission of this CSOs Alternative Mid-term UPR Report for Malawi. In order to grow the partnership, the coalition is building with the UPR Info, the coalition hereby makes statement of commitment that it will remain resolute to receive the concluding observation and carry out programming around them in the interest of all children in Malawi.

### III. EXECUTIVE SUMMARY

This Shadow Mid Term Universal Period Report is an account of the progress, which the CSOs have noted as effort by the State to put in place legal and policy instruments, mechanisms, systems and practice supporting the progressive realization of rights of children in Malawi. At the same, this report highlights the gaps that the CSOs have identified as setbacks, in conflict with what is planned to be achieved. Finally, this report helps the State to become aware of either options or other avenues available which if implemented will ensure that the State is constantly on course to anchor progressive realization of rights for children in the country.

The NGO Coalition on Child Rights - NGO CCR is deeply excited to play this role of providing checks and balances on the State in respect of the Convention on the Rights of the Child. It is imperative to emphasize that depth of analysis continue to grow by each passing day considering that the coalition continue to invest in the capacity of its members spread across the country in respect of knowledge and information management. As a coalition, it is pleasing to note that responsibility of preparing this report largely rested on the top quality information, which continue to be captured, processed and shared within the network with excellent precision.

As a coalition, it is a shared view that Treaty Reporting constitute solid and durable basis for the coalitions' focus areas variously Coordination of Members, Advocacy, Capacity Building and finally Reporting and Monitoring. As a top strategy, the coalition continues to place reliance on concluding observations in order to itemise and rank top issues deserving priority attention. Founded on this faith, the coalition would like to emphasize that this report represents great commitment to detail, is reasonably free from sensation, is factual and exudes balanced opinion regarding state of affairs on the ground.

The coalition extensively consulted its members regarding the topical issues to include in this report considering the guidelines provided. Across the nine (9) Chapters contained, the rationale was to highlight pertinent and burning issues which if dealt with will generate significant value towards progressive realization of rights of children.

NGO CCR recognizes the paramount importance of harmonizing the litany of expressive legal provision, which are presently not consistent with the amendment to the constitution. The coalition agrees that child marriage is indeed a human rights tragedy largely affecting the girl child. Any State which ignore the colossal damage lurking at the back of child marriage does so at own national peril. The paramount importance of being sensitive to children and persons with disability in times of natural disasters cannot be over-emphasized. Special protection for children in alternative care and those previously involved in armed conflict, trafficking in persons and child labour are matters that are presently seeking high-level indulgence. Good Governance to prevent corruption and redirect efforts to Public Financing for Children is an inevitable endeavour.

NGO CCR is submitting this Alternative Mid-term UPR report by Malawi Civil Society Organisations for consideration by the UN special Committee on the Rights of the Child – the UPR Info.



DESMOND NYUMA MHANGO  
**Chairperson – NGO Coalition on Child Rights**

## CHAPTER I: AGE AND DEFINITION OF THE CHILD

1. The State, through Parliament in February 2017 passed an Act to amend the Constitution on the age of the Child to which the President assented on 2nd April 2017 and published in the Gazette on 7th April 2017. This amendment has placed the age of the child as “a person under the age of eighteen”

### RECOMMENDATIONS

2. **With a view to easily identify children from adults, the State needs to be called upon to make birth registrations mandatory as the current National Identity Registrations are targeting persons above 16 years of Age. The state must take necessary action to popularize. The amendment which happened in 2017 regarding age of the child to the general public.**
3. **In line with the above amendment, the National registration exercise should be reviewed to ensure that children below 16 years are not discriminated from those in the 17-18-year-old bracket.**
4. **In line with this significant amendment, Malawi Government is required to amend all corresponding laws to comply with article 2 of the African Charter on the Rights and Welfare of Children and the amended Constitution.**
5. **In view of the amendment, there is need harmonize and expedite the process of harmonization and increasing the participation of CSOs child related laws and policies to reflect the current age of 18. There is a strong need to put in place mechanisms to ensure Enforcement of all child related laws and policies to conform to the age of the child.**

## CHAPTER II: CHILD MARRIAGE IN MALAWI

6. Child marriage remains a very critical issue for Malawi with girls under the age of 18 at a much higher Risk of pregnancy-related injuries such as fistulas among others. Child marriage, defined as a legal or customary union before the age of 18, threatens children's well-being and constitutes multiple violations of their rights. The Malawi Government in collaboration with its stakeholders and partners recognize that child marriages affects both the physical and reproductive health of the child but also contribute to high fertility which in turn exacerbate the problem of rapid population growth.
7. A number of efforts have been carried out to ensure reducing cases of child marriages in Malawi considering that it is a critical development issue for Malawi that affects many of the country's development goals, such as achieving universal primary education, maternal health, gender equality, Education for All (EFA) goals among others.
8. The Malawi Government recognizes child marriages as a danger to the physical and reproductive health of the child as such it has reformed its Constitution on the definition of age of the child from 16 to 18 and removed parental powers for granting any consent to marriages of any person below the age of 18.
9. In Malawi, child marriage is still a widespread problem. Child marriages are culturally, accepted and deeply entrenched in Malawi and any reforms that do not consider this fact are likely to be resisted. In 2014, UNICEF reported that nearly 50% of girls are married by age 18 compared to only 9% for boys. Child marriage rates are far higher in rural areas than in cities, averaging about 44%. The problem prevents girls from finishing school and often leads to early pregnancy, exposure to HIV and AIDS and high risk of maternal mortality.
10. The 2016 State of the World's Children report by UNICEF ranks Malawi as having the eleventh highest child marriage rate in the world, with nearly 1 in 2 girls married before the age of 18. Only 28 per cent of girls finish the full eight years of primary school and are often forced into early marriages, some as young as 9-10 years old. Between 2010 and 2013, 27,612 girls in primary schools and 4,053 girls in secondary schools in Malawi dropped out because of forced marriage. In addition to this, 14,051 primary school students and 5,597 secondary school students dropped out after becoming pregnant. It is estimated that half of the girls in Malawi will be married by their eighteenth birthday.
11. Currently, 33 percent of young women and girls between the age of 15 and 19 are in some form of permanent union. This exposes these young women and girls to a plethora of human rights violations i.e. Life, human dignity, health, education and development. In extreme cases, child marriages also expose girls to various forms of servitude, sexual abuse and exploitation. Girls are significantly

more likely than boys to be married off before the age of 18. Every year, about 14 million adolescent and teen girls are married, usually forced into the arrangement by their parents.

12. In 2012, UNICEF estimated that globally, almost 400 million women aged 20-49 (or 41% of the total population of women of this age) were married or entered into union while they were children (i.e., before 18 years old). It is also estimated that globally, some 700 million girls and women alive today were married off as children, and a further 280 million girls alive today will be married off by age 18 if current global action does not accelerate progress.
13. Among young women worldwide aged 20-24, around 1 in 3 (or 70 million) were married as children and around 1 in 9 (or 23 million) entered into marriage or union before they reached 15 years of age. If the present trends continue, by 2030, the number of child brides marrying each year would have grown by more than 14% annually from 14.2 million in 2010 to 15.1 million. However, addressing child marriages is a key priority for the Malawi Government that is committed to support girls in avoiding child marriage and delay having children.
14. The government is encouraging girls to finish school, which bring opportunities for skills and income to eradicate poverty for future generations. Gender equality and women empowerment ensures that girls have choices as to when and whom they marry. Reducing child marriages will reduce child mortality and disabilities related to child and teen pregnancy or childbirth. It will also improve maternal health that will reduce vulnerability to HIV/AIDS, malaria and other diseases.
15. The Malawi Government also launched a Strategic Plan to provide leadership, guidance and oversight in national efforts of eliminating the problem of child marriages in Malawi. The Plan articulates the key strategies that will be employed in this important undertaking, the management structure and roles of stakeholders in implementing the Plan in the next five years.
16. Furthermore, the Government of Malawi has also initiated a National Action Plan to end child marriages. This is a milestone in as far as commitment to end child marriages in Malawi is concerned.

## **RECOMMENDATIONS:**

**The following recommendations have to be implemented:**

17. **There seem to be very little progress in terms of amendment of the Penal Code so that it criminalizes all forms of sexual abuse of children regardless of sex of the child (Recommendations no 110.15 and 16 –UPR 2015). There is not much being done in as far as the implementation of the Marriage, Divorce and Family Relations Act including ensuring raising public awareness of the contents of the Act (Recommendations no. 110.21 and 23 – UPR 2015)**

- 18. The Government of Malawi has not done enough of awareness campaigns against child marriages let alone efforts done by non-state actors (Recommendation no. 116.66-UPR). The state has not done much in terms efforts to combat Violence against Women and Girls and forced marriages. Recommendation 110.83 –UPR 2015 notes that there is need for the state to continue efforts aimed at combating Violence Against Women, forced marriages among others.**
  
- 19. The Government of Malawi has not done much in terms action to respond to issues under recommendations 110.88,89,90 and 91 that calls for development and implementation of comprehensive National Action Plan to prevent and address the consequences of child marriages. Although some efforts have been done, but there is a lot of work to be done in order to prevent and address consequences of child marriages especially in rural areas.**
  
- 20. Interventions on ending Child marriage should not only target the girl child but rather be encompassing as currently Malawi is losing out on boy children.**

## CHAPTER III: INCREASED INSTITUTIONALIZATION OF CHILD CARE

21. The growth of institutional care as a viable form of childcare, over traditional forms of childcare such as kinship, foster care or family based care is one serious issue of concern for Malawi as a country. Research worldwide shows the detrimental effects of long-term institutionalization on the children's social, emotional and cultural well being.
22. Some of the effects include; children living in institutions have generally poorer development outcomes due to limited nurturing and individualized care between the child and the caregiver, children have difficulties to assimilate in their communities after reintegration, and they lose deep-rooted cultural norms, language, identity and property rights including land over the time they are in institutions.
23. Another heavily compromised concern is the issue of quality care for children in childcare institutions most of which are not registered with the MoGDSCSW and not working towards fulfilling standards of the MoGDSCSW. This scenario creates room for various forms of abuse to thrive more especially in those unregistered institutions.
24. The rate and ease at which childcare institutions are booming without proper registration procedures and permission from the MoGDSCSW is another cause for serious worry and urgent need for redress. For instance, from the MHRC survey in 2017 found that there were 198 residential Child Care Institutions as opposed to 168 in the year 2013.
25. The State passed the Child Care Protection and Justice Act (CCPJA 2010) which is one of the comprehensive child laws in the country. The Act provides a clear definition of which children need alternative care, and more importantly, the Act recognizes the role of the extended family as the provider of care where parents are absent deceased or incapacitated.
26. Regulations for the Act to guide fosterage, registration and management of the Childcare Institutions for temporary care of children in need of alternative care are not yet in place and there is limited popularization and implementation of the same.

### RECOMMENDATIONS

27. **State should profile the family as the best place for the growth and development of every child and invest in preventive services including family strengthening and capacity building to enhance parent's capacity to quality childcare in a supportive family environment.**

- 28. State should strengthen gatekeeping mechanisms and determine the most appropriate form care and alternative care for every child on a case-by-case basis. State should promote the UN guidelines on alternative care of children to ensure that removal of a child from the care of the family is viewed as a measure of last resort and for the shortest possible duration.**
- 29. State should improve their ability and capacity of their competent authorities to monitor the quality of alternative care provision through provision of sufficient standards and guidelines and adequate resource to ensure authorities have the practical tools and resources to fulfill their responsibilities.**
- 30. State should expedite the Child Care Protection and Justice (Institutional Foster and Alternative Care) regulations, which will provide direction on issues of registration as well as management of Child Care Institutions in the country.**
- 31. Expedite the Adoption Bill that has stalled yet been outdated, which will regulate international adoption in the country.**

## CHAPTER IV: MIGRATION OF CHILD SOLDIERS

32. The state party continues playing host to over 26 thousand refugees from countries such as Rwanda, Mozambique, Burundi, Somalia and in some cases, Ethiopia. This is through Dzaleka Refugee Camp in Dowa District, and Kapise in Mwanza District and Luwani in Neno District. However, Malawi holds reservations to 1951 Convention relating to the status of refugees, and its 1967 Protocol. The State is yet to accede to the 1961 Convention on the Reduction of Statelessness.
33. The state party non-committal to the guiding instruments before the international community should be reason enough to raise suspicion of its conduct in the management of refugees. This matter should be looked at together with crimes around the trafficking in persons for which the state party has enacted a Trafficking in Persons Act.
34. In the recent years, Malawi has experienced movement of children from other countries especially in East Africa in transit to other countries. On many occasions, these have been arrested and detained or imprisoned while others have been moved to refugee camps.
35. The state party fails to record if amongst the children, some of them might have been 'child Soldiers' coming from countries in armed conflicts. Some of the children vividly have traceable signs on their bodies, of suspiciously having been soldiers.
36. Such children need special attention due to trauma and emotional stress suffered in the course of being child soldiers. On the other hand, these same children deserve special protection against or their recruiters and masters. Finally, in the context of National Security, due to training received, these same children could pose threat to national security where they decide to serve as spies for intelligence of their home country.
37. Where the State Party does not register children as asylum seekers but broadly as refugees, some of the refugees are suspected to recruit children from countries of origin by cheating the children to go to Malawi where life is much more comfortable. CSOs have become aware that sophisticated refugees have become child traffickers using photographs of tall building to persuade unsuspecting children that life is all rosy on the other side.
38. CSOs is aware that children tricked in this manner are only registered at point of entry and go missing by the time they arrive at refugee camps. Children who enter the country without parents are provided with foster parentage, however, it unknown how these children are traced as growing and developing the children in respect of the UN Convention on the Rights of the Children based four fundamental principles, ensuring they are not abused, they attend school, and they enjoy full benefits of aligned consequential support from the refugee system.

39. Many other children have settled amongst Malawians in cities, Districts and Trading Centres across the country where they move with the children and at times the state party arrests parents of these children for illegal settlements.

### **Recommendations**

**40. The State should urgently consider ratifying and signing all Conventions and protocols relating to children in armed conflict as means of accountability to the international community as well as to state of origin.**

**41. The State Party should consider developing a comprehensive policy and implementation of programme to help with identifying and rehabilitation of children who might have been child soldiers and or are statelessness.**

## CHAPTER V: CHILD TRAFFICKING AND CHILD LABOUR

42. The state needs to be commended for enacting various pieces of legislation that seeks to protect children from trafficking including adopting strategies to curb the vice i.e. the Trafficking in Persons Act, established a National Coordination Committee against trafficking in persons, adopted a National Plan of Action against trafficking in Persons, Established the Trafficking in Persons Fund.
43. Unfortunately, due to high levels of poverty and the desire to seek for greener pastures, Malawian children, besides adults continue being trafficked locally- i.e. to work in the tobacco and tea estates and across the borders to south Africa and Europe where they end up having their rights violated.
44. Because of Poverty, ignorance, illiteracy, unemployment, porous borders, widespread corruption, gender discrimination and economic conditions that are fueling human trafficking.
45. Mid 2016 a van carrying 38 Children from Malawi was intercepted in South Africa on the way to the buyer, luckily the existing cooperation between the two states resulted n the children being repatriated back to Malawi.
46. Security remains a challenge for Most Malawian children as persons with albinism continue being trafficked, abducted or killed on beliefs that their parts poses special charms that can make people rich among other myths. The 2015 National Statistical Office survey revealed that 2,118,630 (38%) of children aged 5-17 years are involved in prohibited work, technically known as child labour.
47. Among working children, almost eight (79 percent) in every ten are in child labour. Step-son/daughters, children that were not related to household head or were live-in servants were more likely to be in child labor. Among children in child labour, 60 percent were in hazardous work. The results also indicate that out of the working children 8 percent were no longer in school and 5 percent have never attended school. For non-working children, the results show that 3 percent of the children were no longer in school whilst 10 percent have never attended school. The proportion of working children reportedly no longer in school was noted to be higher among females (9 percent) than males (7 percent).
48. There remain uncertainties on the State's position regarding the tenancy system that has fueled Child Labour. Despite a tenancy Bill being formulated, the state abandoned the same and called for all tenants to be treated as any other employees as provided in the labour relations act, unfortunately there remains no legislative support or order to this effect hence child labour continues being existing under tenancy system.
49. This is a confirmation that despite years of advocacy, awareness raising and withdrawing of children from child labour areas, the vice continues even more as the 2002 National Child Labour survey had pegged Child laborers at 37%.

## **RECOMMENDATIONS**

- 50. The state needs to enhance Law Reform and amendments i.e. expedite development of TIP National Policy, Harmonization of the following Legislation to facilitate effective applications of the TIP legislative framework; Immigration Act; Tourism Act; Extradition Act; Penal Code; Child Care, Protection and Justice Act. Budget Allocation: Malawi need to commit human resource to promote public, private and intensive community participation and pooling of financial and non-financial resources for anti-TIP interventions.**
- 51. Constituency awareness: members of Parliament need to embark on a massive public awareness and sensitization campaign. These should be a joint effort between Government of Malawi, Civil society, Media and all other stakeholders.**
- 52. Monitoring: Members of Parliament need to monitor the implementation of the National Plan of Action and the Trafficking in Persons Fund. Bilateral and multi-literal Cooperation's: Establish bilateral and multi-literal Cooperation's between source, transits and destination Countries.**
- 53. To fight Child labour families need to be provided with financial support to enable them to continue to care for their children but also become more self-sufficient and sustainable, as they will have more opportunities to invest in small income-generating projects. Hence, social cash transfers should target tenants and families of withdrawn children.**
- 54. The state should enhance collaboration with international partners and organizations i.e, UNICEF, ILO, USAID among others to strengthen response mechanisms where the state cannot single handedly afford. Malawi should ratify ILO convention 189 on decent work for domestic workers to free children from domestic labour.**
- 55. The State should strengthen enforcement mechanisms at all levels including at local and grassroots level.**
- 56. The State should put in place effective and efficient data management systems including those to do with cash transfers and monitoring of school attendance and exposure to hazardous work for children.**
- 57. The state should pronounce itself on the Tenancy system whether it is abolishing it or enact the tenancy Labour bill. The state should resource Ministry of Labour to recruit more labour inspectors to intensify Labour inspections and root our Child labour in all sectors of the society.**

## CHAPTER VI: CHILD RIGHTS, NATURAL DISASTERS AND HUMANITARIAN AID

58. Natural disasters in Malawi have become increasingly common. They are caused by flooding of rivers, and heavy rainfall, dry spell, whirlwind and heavy storms, crop insects, and fire which has become synonymous with burning of markets and residential homes as well as factories. Disasters cause hunger, displacement, water related diseases and infections, loss of property, injuries, and is traumatizing.
59. There exist areas declared by the state as Disaster Areas because at least disaster will strike every year, especially water related disaster and hunger. A Department of Disaster Risk Management exists in the Office of President and Cabinet to manage prevention and response to disasters.
60. Disaster Management Policies also exist giving guidance to standard management practices. Disasters have affected children in a way that schools get closed because they have been either destroyed or that school premises are occupied by the affected communities providing temporary that last long enough to disturb schooling activities.
61. Distribution of relief materials has considered households largely other than the special needs of children in fulfillment of the 'Best Interests of the Child' principle of the Convention on the Rights of Child (CRC). Actualizing figures of affected children and the actual effects and its gravity is not captured in the rapid assessments, hence causing likelihood of omissions of priority needs of children. Support is often restricted to material distribution and medicinal assistance and not psychological support that could be central in the recovery of the children from the devastations of the disaster. The response is short living yet the consequences are long lasting.
62. Informal settlements in urban areas of the cities of Blantyre, Lilongwe, Mzuzu, and Zomba have become common each year as it comes during rainy season caused by flash floods. Ever since the state party has not conducted civic education to alert settlers on the probability of these disasters let alone moving them into safer locations.
63. The state party has not developed the areas to mitigate the risks. Poor road infrastructure, with poor water drainage system, becomes serious cause of worry for children commuting to and from school leading into classroom absenteeism. Disaster response lacks lasting interventions to address psychological effects on children despite the approaches that emphasis on resilience to disasters.
64. The state party accomplishes assessments, has put down policies such as Flood Risk Management, Economic Vulnerability, Operational Guidelines on Disaster Risk Management, Disaster Risk Management Handbook, Communication Strategy, the Disaster Risk Management Policy, and the Disaster Risk Management Act 2015.

65. Notably, the state party fails to identify the specialty of children with distinct instruments. The inclusivity of children in the policies is inadequate for optimum consideration during events of disasters.

**Recommendations:**

**The State should ensure that Disaster risk management and environmental education is taught in schools across the levels of education systems in order to inculcate the values of prevention and response to natural disasters through efforts to preserve the natural environment and climate change.**

**66. The State should ensure that Children as special rights holders are visible in all processes responding to support needs during and after disasters including preventing school facilities from being used as holding shelters**

## CHAPTER VII: IMPACT OF POVERTY ON CHILD RIGHTS IN MALAWI

67. As an agrarian economy, CSOs observe that the State is not doing enough to invest in reasonably sound and progressive agricultural policies suitable to eradicate poverty at grass-root household level. Each year the agriculture sector is impaired by market overabundance, which cause depression of prices at the local level. In the recent years, 2016 and early 2017 the bleak and hopelessness of household dependent on agriculture were hit hard by adverse and spontaneous restriction on trading agricultural produce particularly maize.
68. In terms of job creation, the State has not invested in minimum requirements for persuading Foreign Direct Investment inflow. For instance, the State is in position 133 out of 190 on the Ease of Doing Business Index, which is prepared by the World Bank. This rank is self-explanatory that the State is heavily lagging behind in terms of creating conducive environment for creating jobs which in return could eradicate domestic poverty.
69. Since ratification of the international instruments of the Treaty bodies, the State has developed several Child related legislation and policies to implement children's rights. However, there has been significantly insufficient human, technical and financial resources and weak mechanisms to support implementation and monitoring of these legislation and policies for the maximum benefit of all children, especially the most deprived and marginalized.
70. Approximately 63 percent of all children in Malawi are deprived in two or more essential services such as education, nutrition, health and social protection. Between 2005 and 2010, the ultra-poverty headcount rose from 22.3% to 24.5% instead of declining. Recent study by World Bank revealed that over 30% of school going-aged children in Malawi do not enroll in Primary school that is universally free. Only 65.8% of children can comprehensively read and write by the age of 15 years old (CIA 2016).
71. Only 35% of children transition from primary to secondary school (33.5% for boys and 36.4% for girls), and of those, only 8% move on to tertiary education. Although the enrolment in Early Childhood Development has increased by 11% from 34% in 2010 to 45% in 2016, which is above most African countries, but quality issues have been raised.
72. The State does not have formal and sustainable bursary and scholarships schemes to keep children from under-privileged families, girls in particular. Due to domestic poverty, about 12 million are living below the international poverty line (\$1.25 a day) and approximately 14.3 million are living on less than \$2.00 a day, according to the Rural Poverty Portal, not many children are guaranteed transition to secondary and tertiary education and finally sustainable jobs. CSOs are concerned with failure by the State to tactfully break these cycles of poverty.

**In view of the fore going CSOs recommend the State as follows:**

- 73. The State should depoliticize and fair identification process of beneficiaries for both Malata Subsidy Program and the Farm Input Subsidy Program and Social Support Systems. More often than not, the most vulnerable and that in ultra-poor category are ignored and are therefore deprived in favor of political party sympathizers. The State should ensure that these public programs are managed by efficient, effective, just and fair systems and structures.**
- 74. The State should invest in aggressive and sustainable agricultural markets both locally and international to ensure that each cropping season is not marred by market glut. Long terms industrialization should be implemented to create jobs, which would in return fight crime in the country.**
- 75. The State should make appropriate investment in the Education Sector improving access to Tuition Fees and boarding cost for vulnerable and all other forms of marginalized children for one reason or another.**
- 76. The State to put sufficient human, technical and financial resources and strong mechanisms to support implementation and monitoring of Child related legislation and policies. State to increase investment in pro-poor Child sensitive social protection programmes in order to raise livelihoods of the population under the ultra-poor line.**

## CHAPTER VIII: DISABILITY FRIENDLY PUBLIC SOCIAL SERVICES

77. The Civil Society Organisations have become aware that the twin-track approach that the State has currently adopted is not sufficiently resolving the challenges of insufficient teachers for children with special needs. In the present approach, the State is only graduating a maximum of 80 teachers subsequently deployed to various schools across the country as specialized teachers for children with different forms of disabilities. On the other hand, Teachers Training Colleges are only incorporating a maximum of 60 Hours. to 'orient' teacher-training colleges about fundamentals only.
78. The CSOs are not convinced that the twin approach as detailed in the above will produce the numbers of expertise to cope up with the ever-growing demand for inclusive quality education. Due to growing enrolment number of children with albinism coupled by the growing number of persons with disability transitioning to secondary school or tertiary education, CSOs are even more concerned.
79. Emerging from Public Hearing on Corporal Punishment organized by the Malawi Human Rights Commission, CSOs are convinced that due to lack of skills to deal with learners with disabilities, the majority of them continue to suffer humiliation, mental torture, neglect and physical abuse. Whereas fellow learners can equally perpetrate these forms of violations. emotional parents or guardians are left with no any option other than withdraw their ward with disability permanently on grounds that the environment for learning is hostile and dangerous.
80. CSOs are concerned that due to inattention by the State to maintain public amenities that were tailor made to support the needs of persons with disability, the plight of children with different forms of disabilities is exacerbated.
81. CSOs have observed that the State has not adequately enforced and implemented the Disability Act a case of which would have confronted numerous challenges, which persons with disability are currently facing. For instance, construction of either public or private buildings such as schools, hospitals and shopping malls continue to be constructed.
82. Still on the implementation of the Disability Act, whereas this law guarantees remedies enforceable by the Court, not many, if any person with disability clearly enduring discrimination has accessed compensation. Building on the observation made in the above, CSOs observe that majority of private companies are liable to pay compensations to a great number of persons with disabilities for indirect discrimination due to the types of buildings being constructed.
83. The State has let down persons with disability by failing to roll out the Disability Trust Fund, which fundamentally was designed as a positive discrimination, or as recognition and therefore application of the principle of reasonable accommodation. The State is much obliged to ensure that persons with disability are self-sustainable socially and economically.

**CSOs make the following recommendations as follows:**

- 84. Notwithstanding the Disability Act does not provide for collection of solid and durable data and statistics, the State should ensure that programing for persons with disability is rooted on accurate figures. CSOs acknowledges that such comprehensive Information Management System in respect of persons with disability would even support inclusive humanitarian response in times of natural disasters.**
- 85. The State is commended for the Directorate of Disability at the Malawi Human Rights Commission. However, CSOs recommend increased funding to Directorate in order to closely and faithfully monitor the progressive realization of rights of persons with disability.**
- 86. The State should invest in Montfort Teachers Training College; expand the facility in order to grow its graduating capacity. The State requires increased number of specialized teachers than ever before.**
- 87. The State should introduce programs that would incentivize specialized teachers to render their services to Child Justice Courts in the vicinity.**

## CHAPTER IX: CORRUPTION AND PUBLIC FINANCING FOR CHILDREN

88. Malawi is currently ranked 122 out of 175 countries on the corruption rank, a drop from 85 in 2010. In 2013 a large scale collaborated money scandal coined as ‘Cashgate’, in which Malawian officials, private sector involved, abused their public offices, plundered millions and millions of dollars in aid money from a national budget whose 40% at the time was dependent on budgetary support from donor countries and international agencies.
89. As consequence thereof, many big Western donors have continued to withhold, demanding vehemently that the State demonstrate that all measures, systems and structural adjustments are adequately in place to prevent recurrence of Cashgate and that if aid is provided, funds will be used appropriately. Reportedly, the State overall loses close to 30% of its public resources each year due to corruption.
90. It is not surprising therefore, that Malawi’s performance on key indicators especially those related to Children is not at all appealing. For instance, the National Education Sector Plan (GoM, 2007) indicated that pupil teacher ratio in primary schools would come down to 45:1, the ratio is at over 70:1 in 2018. The plan envisaged pupil classroom ratio of 40:1, 2018 figures indicate ratios of 120:1 (CSEC, 2018).
91. The analysis of the 2016/17 National Budget has shown that the allocations to the social services did not meet the minimum international thresholds for health (was 8.3% instead of 15%) and education (was 12.7% instead of 20%) and there were insignificant allocations to the social welfare (0.3%), WASH (1.3%) and youth (1%) sectors (MEJN, 2017).
92. Only 23.6% of the 2016/17 National Budget was allocated to the social services that directly impact on the children and youth yet about 70% of Malawi’s population is youthful. The State established various Good Governance Institutions such as the Anti-Corruption Bureau – ACB, Finance Intelligence Bureau, National Audit Office, all prosecutorial agencies and a functional and effective Criminal Justice System.
93. In addition, the State has relevant, laws; policies and strategies have been developed and adopted by the various governments. Of particular mention is Corrupt Practices Act, The Penal Code Money Laundering and Proceeds of Serious Crime and Terrorist Financing Act and the National Anti-Corruption Strategy.
94. However, there is little or no political governance in the anti-corruption drive as on one hand it is a smokescreen, a way of appeasing donor while on the other hand using the anti-corruption law and instruments to inflict punishment and secure obedience or compliance from political opponents.

The CSOs acknowledge highlights of various studies on corruption in Malawi that it is on the increasing trajectory due to political patronage and nepotism.

**This alternative submission makes the following recommendations:**

**95. The State should put in place solid measures to plug out leakages of finances throughout the budget implementation process. Studies on corruption in Malawi have illuminated that high level corruption are prevalent in public procurement, Immigration, Revenue Authority, Judiciary and the Police. Adequate attention should be allocated to these areas.**

**96. The State should migrate towards enacting budgets that are responsive to exigencies for Public Financing for Children. Government should focus on outcome indicators that would tell the real story about the how wellbeing of a Child is being impacted by the Budget.**

**97. The State should implement recommendations that were made to review the Corrupt Practices Act. Implementation of the recommendation will free up oversight agencies. Appointments of key personnel should not be at the discretion of the president alone.**

