














JUNE 2024



MALAWI AFRICAN PEER REVIEW MECHANISM POPULAR SENSITISATION PROJECT



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Abbreviations and Acronyms

AAAA	Addis Ababa Action Agenda
ACB	Anti-Corruption Bureau
AfDB	African Development Bank
Aford	Alliance for Democracy
APRM	African Peer Review Mechanism
ART	anti-retroviral treatment
AU	African Union
BHP	basic health package
CAT	Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment
CDF	Constituency Development Fund
CHRR	Centre for Human Rights and Rehabilitation
CONGOMA	Council for NGOs in Malawi
COP	Conference of the Parties
CoST	Construction Sector Transparency
CPI	Corruption Perceptions Index
CRM	Country Review Mission
CRR	Country Review Report
CSAR	Country Self-Assessment Report
CSO	civil society organisation
DCT	Development Communication Trust
DPP	Democratic Progressive Party
DWCP	Decent Work Country Programme
EAT	Environmental Appeals Tribunal
ECD	early childhood development
EITI	Extractive Industry Transparency Initiative
GDP	gross domestic product
GER	gross enrolment ratio
HCI	Human Capital Index
HRCC	Human Rights Consultative Committee
HRDC	Human Rights Defenders Coalition

HSSP	Health Sector Strategic Plan
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPD	International Conference on Population and Development
ICT	information and communications technology
ILO	International Labour Organization
IPTE	Initial Primary Teacher Education
LDC	least developed country
LGBTQI+	lesbian, gay, bisexual, transgender, queer and intersex plus
MACRA	Malawi Communications Regulatory Authority
MCP	Malawi Congress Party
MCTU	Malawi Congress of Trade Unions
MEC	Malawi Electoral Commission
MEJN	Malawi Economic Justice Network
MGDS	Malawi Growth and Development Strategy
MHRC	Malawi Human Rights Commission
MIP	Mid-Term Implementation Plan
MISA	Media Institute of Southern Africa
MMR	maternal mortality rate
MoE	Ministry of Education
MoH	Ministry of Health
MOU	memorandum of understanding
MP	Member of Parliament
NACS	National Anti-Corruption Strategy
NCD	non-communicable disease
NDC	Nationally Determined Contribution
NEP	National Education Policy
NESIP	National Sector Investment Plan
NGO	non-governmental organisation
NMR	neonatal mortality rate
NOCMA	National Oil Company of Malawi
NSSP	National Social Support Policy

OGP	Open Government Partnership
PqTR	pupil-trained (qualified) teacher ratio
PTR	pupil-teacher ratio
PWA	person with albinism
PWD	person with disabilities
SADC	Southern African Development Community
SCTP	Social Cash Transfer Programme
SDG	sustainable development goal
SONA	state of the nation address
TB	tuberculosis
TEVET	Technical, entrepreneurial and vocational education and training
TEVETA	Technical, Entrepreneurial, Vocational Education and Training Authority
TSR	Treatment Success Rate
TTC	Teacher Training College
UHC	universal health coverage
UHCC	Universal Health Coverage Coalition
UTM	United Transformation Movement
WHO	World Health Organization
UDF	United Democratic Front
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization

What is the APRM?

The African Peer Review Mechanism (APRM) is Africa's premier governance self-assessment and promotion tool. Established in 2003, it aims to improve governance on the continent by fostering the adoption of policies, standards and practices that lead to political stability, economic growth, sustainable development and accelerated sub-regional and continental economic integration, through the reinforcement of best practices.¹

The tool emerged out of a growing acknowledgement that the continent's developmental deficits owed a great deal to failures of governance, something that only African countries, in partnership with civil society and the private sector, could remedy. Thus, the APRM was created and driven by Africans for Africans and is an autonomous agency within the AU system.

Through a series of voluntary governance 'peer reviews', member states diagnose deficiencies, propose solutions, share best practises and follow recommendations. As of January 2021, 40 countries on the continent had acceded voluntarily to the APRM.²

To begin participating in the APRM, a country's government signs a Memorandum of Understanding (MoU) with the continental APRM authorities. This indicates its willingness to undergo a review and its commitment to the process. The next step involves collecting information and documentation on the performance of government and other stakeholders in key areas. To manage this process, the country typically forms a multi-stakeholder APRM National Governing Council (NGC) and appoints Technical Research Institutes (TRIs) to carry out the technical aspects of the review.³

All sectors of society – including civil society groups, religious institutions, labour unions, business groups and the government – should contribute to answering questions on a wide range of issues. The APRM questionnaire guides the process by highlighting the country's performance in four broad areas: Democracy and Political Governance, Economic Governance and Management, Corporate Governance and Broad-Based

1 New Partnership for Africa's Development (NEPAD), *African Peer Review Mechanism (APRM): Base Document, AHG/235 (XXXVIII), Annex II* (Durban: AU, 2002), 1.

2 APRM, 'Continental Presence', <https://www.aprm-au.org/map-areas/>.

3 South African Institute of International Affairs (SAIIA) and Centre for Policy Studies, *Implementing the APRM: Views from Civil Society*, (Johannesburg: SAIIA, 2011), 11.

Socio-Economic Development. Issues include human rights, health care provision, the state of the economy, the role of the Judiciary and the behaviour of corporations.⁴

The results of the review are incorporated into a Country Self-Assessment Report (CSAR), drafted by the NGC and TRIs. The CSAR includes a National Programme of Action (NPoA) that outlines plans to address the problems identified in the review. Once the CSAR is completed, a Country Review Mission visits the country. The delegation of respected African experts conducts an independent study of the country and produces its own report. The delegation is led by a member of the APR Panel of Eminent Persons (APR Panel), a small body of highly respected Africans responsible for managing the APRM process across the continent. The APR Panel and its secretariat submit a draft Country Review Report (CRR) to the participating government for comments. Recommendations are suggested and the country is expected to amend its NPoA accordingly. A final CRR is then produced and presented to the Forum of the Heads of State for discussion and peer review. This body consists of the participating countries' leaders and typically convenes on the margins of AU summits. Following the forum's review, the country must agree to address the various problems identified. Other states undertake to assist the country in its efforts, and to take action should the country fall short of its obligations. Finally, the country must report annually on its progress in implementing the NPoA and prepare itself for subsequent reviews.⁵

4 SAIIA and Centre for Policy Studies, "Implementing the APRM", 11.

5 SAIIA and Centre for Policy Studies, "Implementing the APRM", 11.

CHAPTER 1

Introduction

Civil society organisations (CSOs) participating in the Malawi African Peer Review Mechanism (APRM) Popular Sensitisation Project (MAPS) from 2022 to 2024 identified and analysed what they deem to be the governance issues pertinent to the APRM. Participants felt there were challenges in each of these areas that require the attention of stakeholders to ensure that Malawi can attain its development aspirations.



Political and electoral governance

Malawi used a First-Past-the-Post electoral system until the 2019 election, whose results were annulled by the courts in 2020. This sparked a series of electoral reforms, including the introduction of run-off polls to ensure a clear majority. A number of other electoral issues also require attention, including voter apathy and election malpractices such as intimidation. There are also concerns about the role parties play in Malawi, as they sometimes act as vehicles for personalities, family dynasties or tribal agendas and can be marred by internal conflicts. In addition, there are concerns about transparency in party funding. Civil society recommends continuing with electoral reforms, making sure that these are implemented impartially and that voter education is prioritised. Political parties should function inclusively and with regard for the interests of the country as a whole.



Human rights

Malawi's constitution guarantees a wide range of rights and liberties, and the country is a signatory to numerous human rights treaties. In practice, however, it does not always live up to its commitments. Specific issues include the dominance of the executive, which undermines the principle of separation of powers; the failure to make important information available to the public; a failure to protect the rights and dignity of minority groups; and the shrinking of civic space. Civil society recommends that the government make sufficient resources available to ensure respect for and protection of human rights

and access to justice. In practice, the principle of separation of powers should also be respected. In addition, all stakeholders should advocate for and protect human rights.

The rights guaranteed by the country's constitutional and legal system are not always properly respected. Serious failings are evident in terms of a range of civil and political rights, including violence and harassment by law enforcement agencies. It appears as though there is a drift towards the undermining of human rights associated with democracy. The general state of poverty and development deficits in Malawi works against the attainment of various social rights, although some progress has been made. For example, there have been advances in respect of health services. Civil society recommends that the government domesticate and recommit to its human rights obligations and respect the institutions tasked with protecting them. All stakeholders should collaborate to popularise them and ensure that they are upheld.



Access to information

Despite Malawi's Access to Information Act, many citizens do not know how to access the information needed to further their rights. This inadequate understanding of the right to information extends to journalists and human rights defenders, while the institution meant to guarantee it – the Malawi Human Rights Commission – lacks the capacity and resources to do so. Important initiatives are under way by civil society and business to expand access to information. Civil society recommends that policies be introduced to facilitate access to information in Malawi, as well as a review of existing policies. The institutions responsible for making information available must be appropriately capacitated. All stakeholders should undertake sensitisation and awareness-raising efforts to ensure that people know their rights and that these are respected.



Corruption

While the government of Malawi acknowledges the problem of corruption and has attempted to put in place strategies to combat it, these are widely seen as ineffective. Official efforts have been supplemented by multi-stakeholder endeavours such as the Open Government Partnership and the Extractive Industry Transparency Initiative (EITI). The fight against corruption is hampered by failures in terms of access to information,

weak protection for whistle-blowers and unclear procedures and regulations for managing recovered assets. Civil society recommends that the government commit to the full implementation of anti-corruption legislation, complemented by new measures to address existing lacunae. At the same time, all stakeholders need to ensure appropriate ethical conduct and the expansion of cooperative initiatives to deal with corruption.



Social protection

Malawi is regularly afflicted by human-made and natural disasters and requires systems to address the resultant crises. The Malawi National Disaster Risk Management Policy of 2015 is meant to do this, but it is not being implemented effectively. To address climate vulnerability, appropriate measures such as the Climate Smart Enhanced Public Works Programme have been launched. In addition, a programme to distribute cash subsidies is being rolled out to try to tackle the direst poverty-related vulnerabilities. Civil society recommends that the government enhance disaster management, planning and response systems and provide more substantial support for Malawi's most vulnerable. Government should also increase amounts allocated to social protection and national resilience.



Education

Malawi experiences extensive challenges in terms of both access to education and the quality thereof. A World Bank study puts it thus: 'Children in Malawi can expect to complete 9.4 years of pre-primary, primary and secondary school by age 18, [but] when adjusted for quality of learning, this is only equivalent to 5.4 years.'⁶ Malawi has failed to implement free compulsory education. There is limited access to early childhood development (ECD), a relatively poor rate of transition from primary to secondary education and a low rate of secondary school completion. Most Malawians are unable to access higher levels of education, with consequences for their employment and earning prospects. Not enough is spent on education to address the country's needs and

6 UN Population Fund, UN Children's Fund, World Food Programme and UN Resident Coordinator Office, [UN Joint Programme on Girls' Education III: Learning for All in Malawi – Ensuring the Realization of Girls' and Boys' Rights to Quality, Inclusive and Equitable Education and Life Skills](#), Joint Programme Document (Lilongwe: UNFPA, UNICEF, WFP and RCO, November 2020).

it carries numerous hidden costs for Malawian households. Civil society recommends, among numerous other things, that the budget for education be raised to 6% of gross domestic product (GDP) and 20% of the national budget, and that the government develop plans to implement compulsory education.

Health

Healthcare in Malawi is regulated through a range of legal and policy instruments, while healthcare services are rendered by various public and private institutions. The availability and quality of healthcare are compromised by staff shortages in general and in specialised fields in particular. Per capita health expenditure is also below World Health Organization (WHO) guidelines, and the lowest in the region. In addition, the institutions that constitute the healthcare system are not well coordinated. Access to healthcare is also unevenly and unequally distributed across the country, depending on age, gender, socio-economic status and location. The healthcare system has shown itself to be susceptible to poor responses during pandemics and natural disasters. Civil society recommends increasing resource allocations to healthcare, improving health sector governance and dealing with coordination issues across the sector. All stakeholders should work to strengthen accountability systems.

Employment

Joblessness is a major problem, although the official unemployment rate has decreased to 5% in 2023 from 5.10% in 2022.⁷ To address the issue of joblessness, the Malawi government has made a commitment to create 1 million jobs. Unemployment particularly affects the youth, with youth unemployment at 6.7% in 2023.⁸ The government has implemented a Jobs for Youth project that seeks to promote youth entrepreneurship and employment. A lack of skills compounds unemployment and makes it difficult for people to escape the poverty trap. Civil society recommends that existing policy be reviewed in an inclusive and consultative manner with a view to formulating solutions that can be implemented. Youth must be involved in policy

7 Trade Economics, "Malawi Unemployment Rate", [https://tradingeconomics.com/malawi/unemployment-rate#:~:text=Unemployment%20Rate%20in%20Malawi%20averaged,%3A%20International%20Labour%20Organization%20\(ILO\)](https://tradingeconomics.com/malawi/unemployment-rate#:~:text=Unemployment%20Rate%20in%20Malawi%20averaged,%3A%20International%20Labour%20Organization%20(ILO))

8 World Bank, "Unemployment, Youth Total (% of Total Labor Force Ages 15-24) (Modelled ILO Estimate): Malawi", February 2024.

planning, and training and educational opportunities need to be expanded significantly. In November 2023, the government also made public the signing of an agreement with the Israeli government to send young people to Israel to work in various fields in so-called labour export deals.⁹



Climate change and environmental governance

Malawi has an estimated surface area of 118 484km² –including lakes – and a subtropical climate, with the cool-dry season between May and August and the hot-wet season between November and April.¹⁰ Owing to environmental and land degradation, coupled with changes in weather patterns, the country has been a victim of climate change-induced disasters. Natural disasters such as cyclones and frequent El Niño weather events highlight its vulnerability to climate change and other environmental risks. Drought is an especially severe problem, given Malawi’s dependence on agriculture. Human activities that have contributed to land degradation, pollution and deforestation have also affected current environmental challenges. While the country is endowed with vast natural resources, there have been governance challenges in this sector. These challenges and the changes in climatic conditions are being taken seriously by the government, as is evidenced in policies and related legislation. More, however, needs to be done in the natural resources sector. Civil society recommends strengthening the institutional and legal framework for environmental protection and management and enhancing the capabilities of the bodies tasked with managing these risks.

Active measures to combat environmental degradation must be undertaken. All stakeholders should be involved in coordinated action to deal with environmental risks. Environmental, social and governance mainstreaming and multi-stakeholder approaches should be embraced in all natural resource value chains, from community to national level. Environmental governance should be broad-based and not focus only on extractives (mining, forestry, oil and gas) and construction. Parliament should provide strong oversight over environmental and natural resource governance institutions and agencies. More lobbying of regional- and continental-level environmental and natural resource governance is required.

9 Charles Pensulo, “Apprehension in Malawi as Government Sends Workers to Israel Amid Gaza War”, Al Jazeera, December 1, 2023.

10 UN, “International Human Rights Instruments”, HRI/CORE/MWI/2021, January 11, 2013.

CHAPTER 2

The African Peer Review Mechanism

The APRM¹¹ has been widely praised as a key innovation for the continent in entrenching democracy and good governance and is an instrument to which AU member states¹² accede voluntarily. Launched in 2003, it is a self-monitoring mechanism intended to foster the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub-regional and continental economic integration. This is done by sharing experiences and reinforcing successful and best practice, including identifying deficiencies and assessing capacity-building needs.

The APRM is a commitment to African governance standards and a tool for implementing the codes and standards enshrined in the New Partnership for Africa's Development's Declaration on Democracy, Political, Economic and Corporate Governance and many other African governance-related declarations and instruments.

The overarching objective of the APRM is to promote good governance, predicated on regular participation, transparency, accountability, inclusiveness and openness. It is unique in both its scope and breadth, with the review process extending to all levels of government, the legislature, the judiciary, the private sector and civil society organisations (CSOs). It is intended to help address Africa's multiple governance challenges and developmental crises by encouraging introspection and dialogue on the state of governance and facilitating the development of innovative approaches to the deficiencies identified.

The core principle is that every review exercise carried out under the authority of the mechanism must be technically competent, credible and free of political manipulation. It is a non-adversarial learning process among peers that relies heavily on mutual trust among national stakeholders and among the states involved in the review process, as well as shared confidence in the process.

11 The APRM was initiated in 2002 and established in 2003 by the UN in the framework of the implementation of NEPAD.

12 The AU is a continental body consisting of 55 member states.

The APRM proceeds along two related axes. The first – to which this submission is specifically directed – is self-assessment. This is undertaken through an inclusive and consultative process among national stakeholders about a wide range of governance issues. These are set out in the Country Self-Assessment Questionnaire. The latter document provides an overall framework for the enquiry, organised along four broad thematic areas: democracy and good political governance; economic governance and management; corporate governance; and broad-based socio-economic development. Since the COVID-19 pandemic in 2020-2022, a fifth thematic area has been added, namely state resilience.

A normative framework is provided by the Standards. These are the various governance agreements, codes and treaties – global, African and regional, issued by such organisations as the AU, UN and Financial Action Task Force – that establish parameters for governance action.

Responses are collected, assembling both factual information and the varied perspectives of those concerned with any given issue. It is a great virtue of the process that all stakeholders are permitted to express themselves – in fact, they are encouraged to do so. It is in this spirit that this submission has been prepared. The responses collected in this manner are used to draw up a Country Self-Assessment Report (CSAR).

The second axis of the programme is continent-wide engagement. Part of this is a visit to the country undergoing peer review by a Country Review Mission (CRM). A CRM is headed by a member of the Panel of Eminent Persons – a group of respected Africans who act as drivers or guardians of the process. They are accompanied on the CRM by a team of experts who will engage both with the CSAR and directly with local stakeholders, before writing the Country Review Report (CRR). The CRR is a comprehensive response to the Questionnaire and an assessment of the country's issues, along with recommendations for reform (as well as identifying potential best practices for application elsewhere).

The CRR forms the basis of the actual peer review, which will take place at a meeting of the African Heads of State and Government. Typically held on the margins of AU meetings, this meeting gives other heads of state an opportunity to engage with the country under review. In theory, they can offer support for prospective reforms or hold accountable states that have refused to address governance deficiencies.

CHAPTER 3

Malawi and the APRM

Malawi acceded to the APRM in 2004. Although a number of states ignored the mechanism at the time – among others, Botswana, Namibia and Zimbabwe in Southern Africa – Malawi decided it was worth being ‘inside’ rather than ‘outside’.¹³ However, very little progress was made subsequently in assessing Malawi’s governance performance under the mechanism. This resonates with a broader trend where Malawi signed and ratified international protocols while little was done in terms of their domestication or implementation. A number of factors accounted for this state of affairs, including inadequate financing for implementation, the political environment and social and cultural factors. In addition, Malawian legislators, who should play a critical role in passing legislation that translates international agreements (the ‘Standards’) into domestic instruments, were often ill informed about these.

Malawi has since acceded to several regional and global human rights treaties that had been ignored in the pre-democratic era, and the country’s human rights record has shown tremendous improvement.

In 2022, the new administration under President Lazarus Chakwera renewed hopes for Malawi’s engagement with the APRM. Chakwera spoke as chairperson of the SADC regional bloc at its 42nd summit on 17 August 2022 in Kinshasa, the Democratic Republic of Congo. Here he emphasised the need to strengthen multilateralism, transparency and accountability, especially in the management of natural resources. These principles are central to the APRM. Malawi has since positioned itself for self-assessment and peer review of its governance systems and processes.

However, few Malawians are aware of the APRM, let alone its implementation processes. This is not unique to Malawi. Most Africans remain unaware of the APRM. According to Hansungule, one of the daunting challenges facing the AU is how to market itself, especially to Africans, who are its primary beneficiaries.¹⁴ In fact, African states as a whole

13 Michelo Hansungule, *Malawi and the African Peer Review Mechanism: A Bold Step Towards Good Governance?* (Pretoria: University of Pretoria, 2008).

14 Michelo Hansungule, *Malawi and the African Peer Review Mechanism: A Bold Step Towards Good Governance?* (Pretoria: University of Pretoria, 2008).

have no proper strategies to market themselves to their own people. The institutions and programmes of the AU, for instance, remain unknown to the very people for whom they have been established.

To help address this lack of awareness, the South African Institute of International Affairs has partnered with Malawian CSOs in popularising the APRM in the country. The Malawi Economic Justice Network (MEJN) is the secretariat for a group of CSOs that have formed an APRM Working Group under the Malawi APRM MAPS. MAPS also intends to be the catalyst for action on the part of Malawian government in the self-assessment process.

The organisations that contributed to this report are:

- Malawi Economic Justice Network (MEJN)
- Human Rights Consultative Committee (HRCC)
- Council for Non-Governmental Organisations (CONGOMA)
- Centre for Human Rights and Rehabilitation (CHRR)
- Civil Society Education Coalition (CSEC)
- EDUKANS MALAWI
- Malawi Human Rights Youth Network (MHRYN)
- Natural Resources Justice Network (NRJN)
- National Youth Network on Climate Change (MYNCC)
- Civil Society Social Protection Network (CSSPN)

This submission is meant to be a constructive, collective input by Malawian CSOs into the APRM process, and should be integrated with the CSAR and CRR when those documents are developed.

CHAPTER 4

Socio-economic context

According to the World Bank, Malawi's population stood at 19.7 million in 2021.¹⁵ The population is largely rural, with only around 18% of people living in urban areas.¹⁶ The average life expectancy is 64 years, against 61 for sub-Saharan Africa as a whole and 65 for least developed countries (LDCs).¹⁷

Significantly, Malawi has a youthful population. Some 43.2% of its people are between the ages of 0 and 14; 54.1% between 15 and 64 (with a bias towards the younger age groups); and only 2.7% are 65 or older.¹⁸ Any developmental endeavours should benefit the country's young people and provide opportunities for their future socio-economic mobility.

Human development

Classified an LDC by the World Bank, Malawi confronts deep developmental deficits. In 2020, it was ranked 174 on the Human Development Index out of 189 countries, with an index of 0.483. This is below the average of 0.513 for countries in the low human development group and the average of 0.547 for countries in Southern Africa.¹⁹

Poverty

According to a recent report published by the World Bank, 'Malawi remains a country of grinding, existential poverty that has shown none of the meaningful progress its sub-Saharan peers have demonstrated over the past 15 years.'²⁰ Around half of the population,

15 World Bank, "Population, Total: Malawi", <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=MW>.

16 World Bank, "Urban Population (% of Total Population): Malawi", <https://data.worldbank.org/indicator/SP.URB.TOTL.IN.ZS?locations=MW>.

17 World Bank, "Life Expectancy at Birth, Total (Years): Malawi", <https://data.worldbank.org/indicator/SP.DYN.LE00.IN?locations=MW>.

18 World Bank, "Population Ages 65 and Above (% of Total Population): Malawi", <https://data.worldbank.org/indicator/SP.POP.65.UP.TO.ZS?locations=MW>; World Bank, "Population Ages 0-14 (% of Total Population): Malawi", <https://data.worldbank.org/indicator/SP.POP.0014.TO.ZS?locations=MW>; World Bank, "Population Ages 15-64 (% of Total Population), Total: Malawi", <https://data.worldbank.org/indicator/SP.POP.1564.TO.ZS?locations=MW>.

19 UN Development Programme, *Human Development Report 2020: The Next Frontier - Human Development and the Anthropocene* (New York: UNDP, 2020), 243-244.

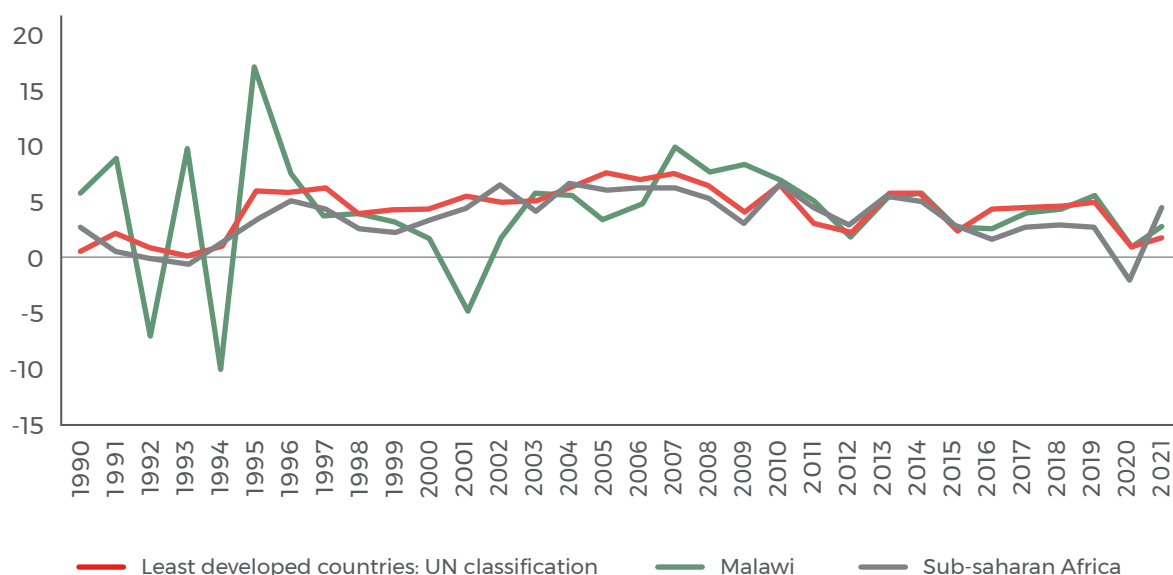
20 German Daniel Caruso and Lina Marcela Cardona Sosa, *Malawi Poverty Assessment: Poverty Persistence in Malawi - Climate Shocks, Low Agricultural Productivity, and Slow Structural Transformation* (Washington DC: World Bank Group, 2022), 28.

or 50.74% (2019 figures), lives below the national poverty line – a circumstance that has shown little improvement since 2010, when it stood at 52.42%. Close to three-quarters (73%) of the country lives below the international poverty line of \$1.90 a day.²¹

Poverty is particularly prevalent in the country's rural areas. Some 57% of the rural population lives below the national poverty line, as opposed to 19% of the urban population.²² Geographically, the Central Region has the highest percentage of people living in poverty (55.8%), followed by the Southern Region (51.0%) and then the Northern Region (32.9%). While extreme poverty has decreased in urban areas, it remains stable in rural areas.

Malawi's economic performance since the 1990s has been mixed. Particularly in the 2000s, it registered some positive GDP growth – in the latter part of the period, it outperformed sub-Saharan Africa and its LDC peers. Although the growth rate has dropped over the past decade, Malawi still performed better than sub-Saharan Africa as a whole (see Figure 1).

FIGURE 1 ECONOMIC GROWTH, 1990-2021



Source: World Bank, "GDP Growth (Annual %): Malawi", <https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=MW>

21 Caruso and Cardona Sosa, *Malawi Poverty Assessment*, 29, 162.

22 Caruso and Cardona Sosa, *Malawi Poverty Assessment*, 29.

However, while Malawi experienced high economic growth rates averaging 7% between 2005 and 2010, these were not egalitarian, inclusive or pro-poor. According to the World Bank report,²³

Growth has not been pro-poor and has in fact contributed to greater inequality within the country. Annualized income growth data between 2016 and 2019 show that income for the bottom 20% decreased during this period while it grew for the richest 20% of the population. Modifying the relationship between growth and poverty by addressing the country's low agricultural productivity and tackling its lack of economic transformation are therefore key to poverty reduction.

Inequality

Malawi experiences deep inequalities across many sectors, partly driven by corruption and the abuse of public resources. The gap between the rich and poor is ever widening. Malawi also experiences severe wealth inequality, with land inequality being even worse than consumption inequality. Nationally, wealth inequality has worsened over time and is more prevalent than consumption inequality. The Gini coefficient for wealth (as measured by household ownership of the following durable assets: radio, television, furniture, sewing machine, fridge, washing machine, bicycle, motorcycle and car) rose from 0.431 in 2004 to 0.564 in 2011, indicating growing inequality. (The closer a Gini score is to 1, the higher the inequality). Wealth inequality has significantly worsened over time in all three regions in Malawi.

There are also serious inequalities in the education sector. Access to education is unequally distributed, to the disadvantage of the poor. Although primary education is accessed by many people, including those living in poverty, the bias in favour of the rich grows with secondary school enrolment, and in tertiary education the dominance of the more affluent is clear.

In addition, Malawi experiences many other forms of inequality, including health inequality, where a shortage of drugs and poor health infrastructure disadvantage poor populations. Wealthy households and individuals can afford to pay for healthcare in private hospitals or for expensive treatment outside the country.

²³ Caruso and Cardona Sosa, *Malawi Poverty Assessment*, 40.

Youth

The country's youth confronts various exclusionary circumstances. Some 7.7% of those aged between 15 and 24 are unemployed (as opposed to 0.9% of the overall workforce).²⁴ A study released by the International Labour Organization (ILO) in 2015 found that around 7% of the country's youth (defined in this study as those between 15 and 29) had no education, and 47.3% had terminated their education early for economic reasons. The youth underemployment rate in this study was 77.5%, accounting for both those unemployed and those in irregular work.²⁵

The facilities that are meant to address this, such as technical and vocational training centres, are inadequate. The Technical, Entrepreneurial, Vocational Education and Training Authority (TEVETA) reports that, of the 300 000 applications for training it receives every year, it is only able to process 3 000.

Health and lifestyle issues feature prominently among Malawi's young people. Teenage pregnancy remains a significant problem – 29% of 15- to 19-year-olds become pregnant, and thus are more vulnerable to maternal death.²⁶ Sexually transmitted diseases, including HIV/AIDS, are widespread among this age cohort. It is reported that 46% of all new HIV infections occur in the 10-to-29-year age group, while reports by the National AIDS Commission show that 69% of sexually active young people have multiple partners.

More than 50% of the drug- and alcohol-related cases that come before the courts involve young people.

The level of adolescent fertility in Malawi is a social and a policy concern, especially when compared to other countries in sub-Saharan Africa. From the 2008 census, the age-specific fertility rate for adolescents is 0.193. This means that there are 193 births for every 1 000 women aged 15–19 years. This figure surpasses the 2010 WHO African Region estimate of 118 births for every 1 000 women aged 15–19 years. Thus, on average, an adolescent Malawian girl will have given birth to one child by the end of her adolescence.²⁷

24 World Bank, "Unemployment, Youth Total (% of Total Labour Force Ages 15-24) (modelled ILO estimate): Malawi", <https://data.worldbank.org/indicator/SL.UEM.1524.ZS?locations=MW>; World Bank, "Unemployment, Total (% of Total Labour Force) (National Estimate): Malawi", <https://data.worldbank.org/indicator/SL.UEM.TOTL.NE.ZS?locations=MW>

25 International Labour Organization, "Malawi: Work4Youth School to Work Transition Survey" (SWTS Country Brief, ILO, Geneva, October 2015).

26 Kristin Nash et al., "Our Girls Need to See a Path to the Future: Perspectives on Sexual and Reproductive Health Information Among Adolescent Girls, Guardians, and Initiation Counselors in Mulanje District, Malawi", *Reproductive Health* 16, no. 8 (2019).

27 National Statistics Office, *Youth and Children Analytical Report* (Lilongwe: NSO, 2008), 20.

CHAPTER 5



Political and electoral governance

The issues discussed here relate to the democratic and political governance thematic area, specifically:

» OBJECTIVE 1

Entrenching constitutional democracy and the rule of law

Question 1 Does the political system as practised in your country allow for free and fair competition for power and the promotion of democratic governance?

The issues discussed here relate to the democratic and political governance thematic area, specifically:

» OBJECTIVE 2

Encourage broad-based participation in development

Question 2 To what extent are the private sector and civil society involved in the design, formulation and implementation of development policies and strategies?

Introduction

In the 1990s, Malawi emerged from a period of single-party rule with great hopes that a democratic dispensation would provide a stable and productive mode of conducting politics, one that would include all voices and ensure accountability in governance. It would also provide a basis for resolving Malawi's significant socio-economic challenges. Yet electoral democracy has come with problems of its own and, over the past three

decades, the country has instituted reforms to address these. The relevant processes and the enduring challenges facing Malawi in this respect are set out below.

Electoral system

Malawi used the First-Past-the-Post electoral system in all elections from 1994 to 2019. The system produced mixed results, where presidential winners were declared based on a simple majority, with less than half of the total registered and valid votes cast. Under the system, a simple plurality was all that was required to win. There was no provision for run-off elections. This created a legitimacy issue, as Malawi's leaders were elected with relatively small shares of the overall vote. For example, in 1999 Bakili Muluzi won with 52%, trailed by Gwanda Chakwamba (representing the alliance of the Malawi Congress Party [MCP] and the Alliance for Democracy [Aford]) with 45%.²⁸ By contrast, Peter Mutharika won with 36.4% in 2014 and 39% in 2019 before the results were nullified.²⁹ The exception was the 2009 election, when Bingu wa Mutharika won by a landslide 66%, followed by the MCP's John Tembo with 30%.

The nullification of the 2019 presidential election results by the Constitutional Court on 3 February 2020³⁰ was an opportunity to reform the electoral laws. In a landmark ruling, the court interpreted the meaning of the term 'majority' to mean 50% plus 1 of the valid votes cast. This effectively shifted the electoral system to a more representative framework. Under the new system, incumbent president Peter Mutharika of the Democratic Progressive Party (DPP) lost to Lazarus Chakwera, who won by 58.57% after his MCP formed an alliance - the Tonse Alliance - with the United Transformation Movement (UTM) of Vice-President Saulos Chilima and eight other political parties.

Since then, Malawi has enacted a dozen electoral reforms aimed at deepening electoral accountability and achieving electoral justice. These reforms include the institutional strengthening of the electoral management body, the Malawi Electoral Commission (MEC), extending the deadline for lodging complaints and responding to petitions before the official release of election results. The electoral reforms have also resulted in the consolidation of the Parliamentary and Presidential Elections Act and the Local Government Elections Act into one piece of legislation, to improve its accessibility and consistency.

28 Tom Lodge, Denis Kadima and David Pottie, eds., *Compendium of Elections in Southern Africa* (Pretoria: Electoral Institute of Southern Africa, 2002).

29 Malawi Electoral Commission, "Presidential Polling Results for 2014 Elections", May 30, 2014.

30 Lameck Masina, "Malawi Court Nullifies May Presidential Election", *Voice of America*, February 3, 2020.

In addition, it put in place procedures for a run-off in a presidential election where no candidate manages to achieve the required majority in the first poll. The law states that the two highest-scoring candidates shall compete in a second poll, which must be conducted 60 days after the declaration of the results of the initial election.³¹ The new law has also made the polling day a public holiday to enable more people to vote, with voting starting at 6am and closing at 4pm. The Constitution Amendment Act has also formalised the name 'Malawi Electoral Commission', which means the institution will no longer be called the 'Electoral Commission'. The electoral body will consist of no fewer than four members and a maximum of six, excluding the chairperson. In another reform, the number of constituencies and parliamentary seats was increased from 193 to 228.

However, while Malawi has made considerable progress with the electoral reform agenda, several challenges remain. According to Afrobarometer surveys, the country is likely to experience an increase in voter apathy for several reasons, including unfulfilled campaign promises.³² In addition, the percentage of Malawians who agree that elections are the most appropriate way for choosing leaders has been decreasing for a decade, and stood at only 57% in 2017.³³ Furthermore, four in 10 citizens (42%) say 'elections sometimes produce bad results'.³⁴ Malawi is also experiencing low turnouts in by-elections. According to Afrobarometer, this can be attributed to 'a combination of factors relating to dissatisfaction with elections and politics in general: lack of interest or voter fatigue (22%), the feeling that voting makes no difference (17%), and the belief that elections are not free and fair (12%)'.³⁵

Election-related malpractices such as violence and intimidation also pose challenges to the country's electoral integrity. Although not as deeply entrenched and threatening as in some other countries, they do occur in Malawi and degrade the electoral environment. A report by Human Rights Watch in 2020 – calling for free and fair elections – provided several examples from the (then) ongoing campaign.³⁶

31 George Singini, "Parliament Passes Electoral Bills", *The Nation*, December 14, 2022.

32 Joseph Chunga, "Malawians Losing Confidence in Elections, Demand Reforms", *Afrobarometer*, Dispatch 148, May 30, 2017.

33 Chunga, "Malawians losing confidence".

34 Chunga, "Malawians losing confidence", 2.

35 Chunga, "Malawians losing confidence", 2.

36 Human Rights Watch, "Malawi: Ensure Free, Fair, Safe Elections", June 3, 2020.

Inclusivity and accountability in political parties

Political parties are key actors in multiparty systems. According to the Centre for Multiparty Democracy, Malawi currently has over 40 political parties, both registered and unregistered, while, according to the 4 January 2022 Notice by the Registrar of Political Parties, there are 13 registered political parties. While political parties are meant to act as vehicles for popular participation in public affairs, their most notable role in Malawi has been to give individuals access to public office. This latter function undermines the health of Malawian democracy, as set out below.

Political parties captured by elites and families

Elite capture and dominance by a few families has characterised the leadership of some of the country's parties. For example, the United Democratic Front (UDF), through which Bakili Muluzi was elected as the first president of Malawi in the post-1992 era, is regarded as a Muluzi family affair. Similarly, dynastic politics have characterised the DPP, a party that was formed by Mutharika when he succeeded Muluzi in 2004 as president. The DPP has been regarded as a Mutharika family party – Peter Mutharika took over the leadership from his brother Bingu and became president in 2014. Many believe that Joyce Banda (who was president from 2012–2014) is grooming her son Roy Kachale to take over leadership of the People's Party through strategic positioning in the Tonse Alliance, led by the MCP. Kachale has held key cabinet positions in the Chakwera administration. Aford is regarded as belonging to the Chihana family after its first president, Chakufwa Chihana, handed over the mantle to his son Enock Chihana.

Separation of powers

The transition from one-party rule to multiparty elections in Malawi marked the introduction of democracy, a process that has required focused attention to maintain and sustain.³⁷ In a democracy, each of the three arms of government (the executive, legislative and judicial branches) must observe the separation of powers to prevent the abuse of power. This helps to safeguard the rights of all citizens. For this to work in a constitutional democracy such as Malawi, the three arms need to respect the rule of law and ensure that no one dominates the others. This means that each of them should be subjected to accountability mechanisms.

37 USAID, "Democracy, Human Rights and Governance", <https://www.usaid.gov/malawi/democracy-human-rights-and-governance#:~:text=CITIZEN'S%20RIGHTS%20AND%20RESPONSIBILITIES%20EXERCISED,not%20been%20without%20its%20hurdles>.

As stated by the co-chairs of the International Bar Association's Human Rights Institute,³⁸

Malawi has held firm to the principles of democracy and the rule of law enshrined in the amended constitution. It is essential that these principles should now be observed and that the provisions of the Constitution for judicial review and peaceful settlement of differences according to law in independent courts should not be disturbed or interrupted. This is not only important for judges, lawyers and the political process. It is important for fundamental human rights of citizens and for the economic welfare of the people of Malawi.

The country has seen serious conflicts between political parties and the judiciary as a result of the flawed 2019 presidential and parliamentary elections, which resulted in the courts annulling them, citing compromised integrity. This was followed by protests against the then DPP for attacking Constitutional Court judges after their verdict. It was alleged that the DPP tried to resist the verdict by claiming the judges had been bribed to rule in favour of the petitioners.³⁹ Attempts to bribe the judges proved futile. Thom Mpinganjira, a prominent businessperson at the centre of the bribery allegations, was arrested. He has since been convicted and sentenced to nine years' imprisonment with hard labour.

The constitution sets out the roles and responsibilities of the three arms of government. In addition, their roles and responsibilities are guided by several policies, acts of Parliament and regulations. In terms of legislation, the presidency must assent or not to acts passed by Parliament. This creates an equilibrium between the two branches most directly involved in governance. The courts are empowered to judge on matters relating to the country's laws. At times, they have stepped in to preside over contentious matters, even when these have a direct bearing on the conduct and views of the other branches, such as declaring the 2019 presidential election null and void.⁴⁰

Malawi's president – ie, the executive branch – has a great deal of power, more than any other branch. Significantly, he or she has the power to appoint people to positions of influence. This compromises the separation of powers and tilts it towards the executive. To mitigate this, some appointments are made upon recommendations from the legislature or, in the case of judges, from the Judicial Service Commission.

38 Michael Kirby and Anne Ramberg, "Open Letter to the President of Malawi Concerning the Persecution of Judges of the Constitutional Court", International Bar Association, March 1, 2020.

39 International Bar Association, "IBAHRI Condemns President Mutharika's Continued Attacks Against Malawi's Judiciary", June 18, 2020.

40 Golden Matonga, "Malawi's Supreme Court Affirms Nullification of Presidential Election", *Mail & Guardian*, May 8, 2020.

The incumbent president has rightly observed that too much power has been given to the presidency and promised to review this.⁴¹ However, the country is yet to witness any powers of appointment being relinquished based on this pledge.

In addition, to ensure checks and balances between the three arms and other organs of the state, and to protect designated rights, Malawi has established several supplementary governance institutions. These include the Malawi Human Rights Commission, Anti-Corruption Bureau, Office of the Ombudsman and Director of Public Prosecutions. However, the independence of these organisations is questionable as they are subject to decisions made by the three arms of government. This means a new model for their functionality is needed to ensure they are not subject to the whims of the three entities.

Tribal politics and nepotism

The MCP is not regarded as a dynastic party, as the succession to key party positions is not concentrated in one family. However, the MCP's power base is the Central Region districts, notably Lilongwe and Kasungu, from where senior party leaders hail. This has created various challenges, since the MCP is widely viewed as a regional party whose national character only exists on paper. Other challenges include accusations that the MCP is practising politics of nepotism and regionalism, with appointments to key public positions appearing to favour people from the Central Region. These positions include the secretary to the president and cabinet, ministers of finance, agriculture, health, and local government, the chief of staff (director-general) of state residences and the inspector general of police.

This problem is not unique to the MCP. Regional politics and nepotism have also been associated with the DPP. The party's operations are concentrated in the Southern Region, with districts such as Thyolo, Mulanje, Phalombe and Chiradzulu regarded as its strongholds. The UDF, meanwhile, is associated with the Eastern Region, with Machinga and the lake district of Mangochi as its strongholds. Aford is viewed as a Northern Region party, although its influence in the region has recently had mixed fortunes.

An interesting feature that characterises the main political parties is their embeddedness in particular cultural groupings. The links between the MCP and the Chewa ethnic group are highly visible, while the DPP is associated with the Lhomwe. The UDF is regarded as being predominantly Yao.

41 Lameck Masina, "Malawi President Working to Trim Executive Powers", *Voice of America*, August 9, 2020.

This pattern follows the tribe to which the leader and other senior members of the party belong. Aford, for example, is associated with the Tumbuka tribes and other dominant Northern Region cultural groupings. However, while Chilima and his UTM party continue to exert considerable influence over Malawian politics, the party is not entangled in the politics of regionalism. The UTM has been able to mobilise support from across the national divide. Although Chilima is Ngoni by ethnicity, this does not seem to be the dominant identity of the UTM.

Intra-party conflicts

Political parties are also caught up in intra-party wrangles and challenges, mostly owing to the scramble for senior party positions. The lack of intra-party democracy has led to internal conflicts, with some political parties suffering heavy losses. The DPP recently emerged from divisions that rocked the party over leadership in Parliament after it had lost the 2020 presidential elections.

The leader of the opposition, Kondwani Nankhumwa, faced stiff resistance from other DPP members who favoured George Chabonda for the role. However, the courts settled the dispute and ruled in favour of Nankhumwa. Intra-party conflicts in the DPP escalated to a point where they threatened party unity and culminated in the formation of different camps, each supporting its favourite. These divisions are getting worse, as evidenced by the expulsion of senior officials from the party.

The UDF too suffers from intra-party conflict, with some factions favouring Atupele Muluzi's (the son of Bakili Muluzi) return from retirement from politics. This has created divisions with a faction that backs legislator Lillian Patel as UDF leader. Aford has also seen breakdowns in intra-party democracy as factions often emerge within the party to challenge the leadership of Enock Chihana as party president. The MCP too has had its fair share of intra-party conflict, where some camps have challenged Chakwera's leadership as party president. Former Kasungu legislator Alex Major has been at the forefront of mobilising voices calling for the replacement of Chakwera and other senior party executives. A lack of intra-party democracy contributes to weakened political systems and erodes the internal governance of political parties.

Transparency and accountability in political party funding

Accountability involving party funds is another critical challenge. Until recently, Malawi has had weak laws governing political party financing. However, the Political Parties Act of 2018 (amended in 2022) provides a mechanism for promoting transparency and strengthening accountability in party financing. It also sets out processes for the financing of electoral campaigns, outlawing handouts and other practices that create

unfair advantages for candidates. The act has strengthened the institutional framework by creating the office of the Registrar of Political Parties, filling a long-standing vacuum that had been filled by the Registrar of Companies in an acting capacity.

RECOMMENDATIONS

To address the political governance issues in Malawi, it is recommended that the government:

- Implement electoral reforms with impartiality. This would include:
 - » Providing adequate financing for the operations of the MEC and other actors instrumental to the reform agenda; and
 - » Giving increased support to continuous election-related and voter education.

Political parties should:

- Expand spaces for inclusivity where youth and women can take up senior leadership positions. This would help to address the problem of elite capture;
- Strengthen platforms for dialogue among political parties and electoral stakeholder engagement through multiparty liaison committees. These would assist in conflict management and help to address electoral violence. However, at present there is debate around the court pronouncement regarding the role of CSOs which, according to the Constitutional Court ruling, had no legal mandate to recommend or propose actions for implementation by the MEC (as in the case of the National Elections Consultative Forum, against whose activities the court had ruled);
- Establish mechanisms to strengthen their administration and accounting directorates, to enhance financial transparency and accountability;
- Ensure that their management bodies (such as governing councils, central executive committees, conventions and policy conferences) hold more regular internal meetings, in accordance with their party constitutions; and
- Strengthen linkages between party manifestos and Malawi's overarching development agenda. Parties need to invest in research and the generation of evidence for meaningful contributions to national debates. This includes establishing more linkages with regional, continental and global political think tanks that support the strengthening of democracy.

CHAPTER 6



Human rights

The issues discussed here relate to the democracy and good political governance thematic area, specifically:

» OBJECTIVE 1

Entrenching constitutional democracy and the rule of law

Question 2 What weight do provisions establishing the rule of law and the supremacy of the constitution carry in practice?

Question 3 To what extent does the executive respect the rule of law?

» OBJECTIVE 4

Promotion and protection of civil and political rights as enshrined in African and international human rights instruments

Question 1 What measures have been put in place to promote and enforce civil rights?

Question 2 What steps have been taken to facilitate due process and equal access to justice for all?

Question 3 How vibrant, independent and influential are civil society organisations in your country?

Question 4 To what extent does the state respect and protect the access to information rights of citizens?

» OBJECTIVE 8

Promotion and protection of the rights of vulnerable groups, including internally displaced persons, refugees and persons with disabilities

Question 1 Identify vulnerable groups in your country and outline measures your country has taken to promote and protect the rights of permanently disadvantaged or vulnerable groups including, but not limited to, internally displaced persons, refugees, and persons with disabilities.

Introduction

Human rights are at the heart of Malawi's democratic regime and its post-1994 constitution. The Bill of Rights set out in chapter IV of the constitution protects the rights to life, liberty, dignity, equality and freedom of expression, association and conscience. It also protects political rights, labour rights, women and children's rights and the right to privacy, among others.⁴² It attempts to promote socio-economic justice by safeguarding the rights to hold property, to engage in economic activity, to education and to development. These are fortified through rights of access to justice and legal remedies.

Malawi is also party to several regional and international protocols and conventions on human rights, including the African Charter on Human and Peoples' Rights under the AU, which it ratified on 17 November 1989. The UN conventions that Malawi has ratified include the 1948 UN Universal Declaration of Human Rights; the Convention on the Rights of the Child; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified in 1996; the International Covenant on Civil and Political Rights, ratified in 1993; and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming for the abolition of the death penalty.

In addition to such global treaties and its constitution, Malawi has laid a strong legal and policy foundation for the effective application of human rights.

⁴² Comparative Constitutions Project, "Malawi's Constitution of 1994 with Amendments through 1999", <https://faolex.fao.org/docs/pdf/mlw136089.pdf>.

Some of the relevant policies and legislation are:

- The Gender Equality Act of 2013;
- The Trafficking in Persons Act of 2015;
- The Access to Information Act of 2016;
- The Public Procurement and Declaration of Assets Act of 2016;
- The Child (Care, Protection and Justice) Act of 2010;
- The National Registration Act of 2010;
- The Mining Policy, 2013;
- The Marriage, Divorce and Family Relations Act of 2015;
- The Education Act of 2013;
- The Communications Act of 1998;
- TEVETA of 1999;
- The Land Act of 2016, and other related measures;
- The Mines and Minerals Act of 2019;
- The National Employment and Labour Policy;
- The Decent Work Agenda; and
- various electoral reform measures.

In 2017 Malawi also ratified the Convention for the Protection of All Persons from Enforced Disappearance. Other UN conventions it has ratified are the Convention on the Elimination of All Forms of Discrimination against Women; International Convention on the Elimination of All Forms of Racial Discrimination; International Covenant on Economic, Social and Cultural Rights; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ratified on 23 September 2022) and the Convention on the Rights of Persons with Disabilities (which Malawi signed in 2009).

It has not yet adopted or properly domesticated a few important treaties that speak to human rights. These include:

- The African Charter on the Values and Principles of Public Service and Administration;
- The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;

- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and
- The UN Declaration on Human Rights Defenders 1998.

The goal of Malawi's rights-based system of government is not just to shield people from abuse but also to enhance the quality of their lives. The right to development, set out in section 30 of the constitution, states that:

- 1 All persons and peoples have a right to development and therefore to the enjoyment of economic, social, cultural, and political development and women, children and persons with disabilities shall be given special consideration in the application of this right.
- 2 The State shall take all necessary measures for the realization of the right to development. Such measures shall include, among other things, equality of opportunity for all in their access to basic resources, education, health services, food, shelter, employment, and infrastructure.
- 3 The State shall take measures to introduce reforms aimed at eradicating social injustices and inequalities.
- 4 The State has a responsibility to respect the right to development and to justify its policies in accordance with this responsibility.

However, almost six decades since independence and three decades since the advent of democracy, Malawi still faces daunting challenges in making all this a reality. Many Malawians are unaware of their rights and the state's duties towards them. In addition, there are serious problems when it comes to the implementation and administration of constitutional guarantees. These include the failure to provide adequate protections for the following: the right to life and abolishing the death penalty (which was struck down by the Constitutional Court in 2021); the prohibition of torture; access to and administration of justice; the right to liberty and the security of persons; the rights of women and children; freedom of expression and access to information; and economic, social and cultural rights. There has also been a failure to address the unsatisfactory conditions in prisons and detention centres, as well as human trafficking. Additionally, the high level of poverty, at around 51% of the population, signifies a failure to uphold human rights and deliver on the promise of the constitution for most of Malawi's citizens.

Non-governmental organisations (NGOs) in the human rights sector, led by the HRCC and 'recognising that democracy and the effective protection of human rights provide

the foundation for lasting national development and social justice',⁴³ have reaffirmed their support for and participated in the development of the National Human Rights Plan of Action. The latter has informed actions in the area of human rights by civil society, the government and other stakeholders.

A case in point has been the reaction to the COVID-19 crisis. In April 2020, in response to the first reported cases of COVID-19 in Malawi, the government implemented several measures to contain the spread of the disease. These were lifted, reinstated and/or modified on several occasions to comply with the constitution and international human rights requirements (and to match changes in the trajectory of the pandemic). As the government had not imposed a state of emergency in 2020 – which would have allowed it to abridge certain rights – measures that restricted human rights were only valid insofar as they were (1) provided for by law; (2) for a legitimate purpose (eg, the protection of public health); and (3) both necessary and proportionate to the achievement of a legitimate purpose.⁴⁴

On 17 April 2020, the High Court ruled on an application by the Human Rights Defenders Coalition (HRDC) and granted an injunction restraining the administration from instituting a lockdown. It later declared some restrictive anti-COVID measures unconstitutional on the basis that they were not 'prescribed by law' and so violated the freedoms of movement, peaceful assembly and association, as well as the right to privacy. This decision pushed the Ministry of Health to adopt measures – beginning on 10 July 2020 – that then had to be suspended, as the previous order was still valid.

Specific areas of concern

Minority rights

Malawi is a signatory to several regional and global commitments relating to the equal treatment of all people. The constitution guarantees the fundamental rights of all Malawians to life, personal liberty, dignity and freedom. It also provides protection for the right to equality and non-discrimination on a few grounds. The UN's Sustainable Development Goals (SDGs), particularly SDGs 3, 10 and 16, make it clear that it is important for public institutions to provide services to members of minority and

43 Office of the High Commissioner for Human Rights, "National Plans of Action for the Promotion and Protection of Human Rights: Malawi", <https://www.ohchr.org/sites/default/files/Documents/Issues/NHRA/Malawi.doc>.

44 Grace W Mzumara et al., "The Health Policy Response to COVID-19 in Malawi", *BMJ Global Health* 6, no. 5 (2021); Juliet Charity Yauka Nyasulu et al., "COVID-19 Pandemic in Malawi: Did Public Sociopolitical Events Gatherings Contribute to Its First-Wave Local Transmission?", *International Journal of Infectious Diseases* 106 (2021).

vulnerable groups. Yet, despite the existence of these guarantees, groups continue to face abuse, including sex workers, prisoners and lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI+) people. This exclusion is fortified by existing laws, some of which date back to the colonial era.

A report published by Human Rights Watch had the following to say:⁴⁵

Chapter XV of the [Penal] Code, on ‘Offences Against Morality,’ contains several provisions that criminalize adult consensual same-sex conduct. Section 153 provides that any person found guilty of committing an ‘unnatural offence/ offence against the order of nature’ is liable to 14 years in prison, with or without corporal punishment. Section 154 punishes attempted unnatural offences with seven years’ imprisonment, and Section 156 punishes ‘gross indecency’ between males with five years in prison, with or without corporal punishment.

In January 2011,⁴⁶

former president Bingu wa Mutharika’s government enacted a new anti-homosexuality law... amending the Penal Code to extend the crime of ‘gross indecency’ to women. Section 137A provides that any female person who, whether in public or private, commits ‘any act of gross indecency with another female’ shall be guilty of an offence and liable to a prison term of five years.

The report describes a prosecution case against a male couple for same-sex sexual conduct:⁴⁷

[I]n December 2009, police in Blantyre arrested Steven Monjeza and Tiwonge Chimbalanga... Prosecutors charged them with ‘unnatural offences’ and ‘indecent practices between males’ under sections 153 and 156 of Malawi’s Criminal Code. In May 2010, a Blantyre magistrate court convicted them and sentenced them to 14 years in prison, the maximum sentence for ‘unnatural offences’.

The judgment means consensual same-sex sexual relations between adults are criminalised. It is on this basis that LGBTQI+ people and sex workers are victimised and

45 Wendy Isaack, “Let Posterity Judge: Violence and Discrimination against LGBT People in Malawi”, Human Rights Watch, October 26, 2018.

46 Isaack, “Let Posterity Judge”.

47 Isaack, “Let Posterity Judge”.

forced to hide, despite human rights organisations working to help change the status quo. In addition, members of these communities cannot easily access public services such as hospitals and markets out of fear. However, it should be noted that these laws are usually not enforced except in cases that have caught the public eye.

It is crucial to review legislation that prohibits discrimination and establish human rights police desks across Malawi. This will not only assist in promoting human rights but also ensure no one is left behind.

Civil and political rights

Civil and political rights are key to the functioning of a democratic society. They enable people to voice their opinions on contentious matters and prevent coercion. Perhaps most importantly, protection from the inordinate or abusive use of state force is foundational to a human rights culture. Section 19(3) of Malawi's constitution prohibits torture and cruel, inhuman or degrading treatment or punishment.⁴⁸ The CAT also prohibits such conduct and overrides Malawi's legislation in cases of conflict. The Criminal Procedures and Evidence Code criminalises mistreatment, intimidation or grave insult by a person in a position of authority. The following challenges have been noted in the period under review.

Arbitrary deprivation of life and other unlawful or politically motivated killings:

Some Malawians face the threat of violence without adequate protection from the state. The killing of persons with albinism (PWAs) is among the most serious human rights violations in Malawi. This is illustrated by the abduction and killing of Goodson Makanjira, a 14-year-old boy with albinism in 2019.⁴⁹ State-sponsored violence and police torture are also documented human rights violations in the country. This contradicts the constitution and international conventions that prohibit the use of torture or cruel, inhuman and degrading treatment or punishment. Excessive force and other unlawful means of coercion used by the police to extract confessions from suspects are known to be common occurrences in prisons, detention centres and police holding cells.

Perpetrators of violent abuses are often not held to account. They may occasionally receive administrative punishment, but it is common for investigations to be delayed, suspended or to remain inconclusive. For example, in February 2019, one of the six suspects in the Makanjira case referred to above, Buleya Lule, died while in police custody in Lilongwe, mere hours after the hearing. The Malawi Human Rights

48 Comparative Constitutions Project, "Malawi's Constitution".

49 Singayazi Kaminjolo, "Boy with Albinism Abducted in Dedza", *Nation Online*, February 14, 2019.

Commission (MHRC) found that Lule had been tortured, which was the immediate cause of death. The MHRC recommended that the officers involved be prosecuted and soon afterwards 13 officers, including onetime police commissioner Evalista Chisale, were arrested.⁵⁰

Sex workers also suffer human rights violations. These include being assaulted by police officers and being forced to trade sexual favours under threat of arrest. In addition, the rights of elderly people are frequently violated. In some communities, elderly people are killed on suspicion of practicing witchcraft.⁵¹

Torture and other cruel, inhuman or degrading treatment or punishment: In October 2019, the MHRC began an investigation into allegations that police officers had been involved in rapes in Msundwe, M'bwatalika and Mpingu in Lilongwe. The rapes had apparently been a retaliatory action following the killing of a police officer by a violent mob in Msundwe. A subsequent report by the commission found that officers had indeed raped 18 women and girls, some younger than 18. In August 2020, High Court Judge Kenyatta Nyirenda ordered the government to pay compensation to the victims and demanded that the police release an internal report into the matter. As of March 2023, the report had not been released and none of the police officers had been prosecuted.⁵²

Prison and detention centre conditions: Conditions in prisons are harsh and often unfit for a dignified life. Specific problems include overcrowding; bad sanitary conditions; inadequate food and potable water; unsatisfactory heating, lighting, etc.; insufficient healthcare; effective detention without charge; and the use of torture. According to a 2019 report by the Inspectorate of Prisons, Malawi's correctional facilities do not play a rehabilitative role. The courts, meanwhile, are not using their powers to review sentences.⁵³

In December 2020, it was estimated by the Malawi Prison Service that the prison population stood at 14 500, while the system was designed with a capacity of 7 000 in mind. The police also detain suspects in police cells beyond the legal limit of 48 hours,⁵⁴ while children held in in detention are often mixed with adults. On the other hand,

50 US Department of State, *2020 Country Reports on Human Rights Practices: Malawi*, <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/malawi/#:~:text=In%20February%202019%20Buleya%20Lule,Other%20Societal%20Violence%20or%20Discrimination>.

51 Mirriam Kaliza, "Witchcraft in Malawi: A Real Threat For the Elderly", *Deutsche Welle*, January 29, 2024.

52 US Department of State, *2020 Country Reports*.

53 US Department of State, *2020 Country Reports*.

54 US Department of State, *2020 Country Reports*.

despite their numerous problems, facilities designated for women and children are typically superior in quality to those for men. The International Organization for Migration has also indicated that migrants held in detention have seen an improvement in their conditions.⁵⁵

Pre-trial detention and arbitrary arrests: In Malawi, both the constitution and legislation protect people against arbitrary arrest, yet in practice this continues to be a human rights challenge. Some parts of the penal code (around ‘rogues and vagabonds’) that justified arbitrary arrests in the past have been declared unconstitutional. However, the police uses other legal pretexts to affect arrests, such as claims that someone’s conduct was likely to cause a breach of peace. (Prostitution in Malawi is legal, but living off the proceeds of this activity is not, and police officers often harass sex workers.)⁵⁶ It is estimated that some 18% of inmates are held in pre-trial detention.⁵⁷ As a 2015 report commented:⁵⁸

To reduce case backlog and excessive pre-trial detention, certain cases were directed to local courts and camp courts organized by civil society groups to expedite cases by having magistrates visit prisons to adjudicate cases. Paralegals gathered cases of pre-trial detainees awaiting trial for excessive periods, who were held unlawfully, or who had been granted bail but were unable to meet the terms set by the court. Magistrates, along with the court clerk and police prosecutor, worked through the list, granting bail to some, reducing bail for others, dismissing cases or setting trial dates.

Capital punishment: On 28 April 2021, the Malawian Supreme Court declared the death penalty unconstitutional and in violation of international human rights requirements. This ruling proceeded from a re-sentencing project – led by the Centre for Human Rights Education Advice and Assistance – that advocated the abolition of capital punishment. An official at the international legal charity Reprieve, Maya Foa, stated:⁵⁹

This ruling is the culmination of a re-sentencing project that has shown, beyond doubt, that abolishing the death penalty will benefit Malawi. The movement has been led by people whose voices are often left out of conversations about criminal justice: prisoners, victims of crime and communities who have seen the

55 US Department of State, *2020 Country Reports*.

56 US Department of State, *2020 Country Reports*.

57 US Department of State, *2020 Country Reports*.

58 US Department of State, *2015 Country Reports on Human Rights Practices: Malawi*, UN Refugee Agency, Refworld, 2016.

59 International Bar Association, “[IBAHR and Reprieve Welcome the Abolition of the Death Penalty in Malawi](#)”, May 20, 2021.

positive impact of giving people a second chance at life. Malawi's pioneering work has informed neighbouring countries undertaking progressive criminal justice reform; the recent decision is a milestone in Africa's rejection of the death penalty.

Rights of refugees, asylum seekers and persons of concern: Malawi accepts and hosts refugees and asylum seekers. The refugee facility at Dzaleka Camp had a population of over 47 000 in late 2020. Intimidation of refugees and asylum seekers (including those who have valid identity documents) by security personnel is a common occurrence. Many refugees are also forced to engage in sex work to survive in Dzaleka Camp, and there is serious gender-based violence at this facility. In addition, asylum seekers from the LGBTQI+ community struggle to register themselves, as their orientation falls foul of Malawian law. Refugees are also restricted from seeking employment or educational opportunities beyond the confines of the camp. They are thus largely dependent on food aid. However, small numbers of refugees have particular skillsets that qualify them for work permits. Access to basic services such as education, healthcare and water is limited because the camp is seriously overpopulated – it was designed for only 10 000 people.⁶⁰

Arbitrary or unlawful interference with privacy, family, home or correspondence: Malawi protects people from official invasion and interference with their privacy, although this is not always adhered to. One legal provision permits senior police officers to undertake searches without a warrant, provided they have reasonable grounds to believe they could not otherwise obtain evidence.⁶¹

Freedom of expression: Malawi's constitution recognises the right to freedom of expression. This includes freedom of the press. The media contestation around the 2019 elections helps to illustrate this. Following the May 2019 elections, as protests erupted, the government instituted measures to curtail free speech. In June 2019, the Malawi Communications Regulatory Authority (MACRA) prohibited call-in radio shows, saying that they were a forum for anti-government incitement. In August, radio stations were barred from broadcasting live from demonstrations. In September 2019, the Media Institute of Southern Africa (MISA) Malawi applied to the High Court for an injunction against the blanket ban on call-in programmes. Other media outlets joined MISA Malawi. In September, the High Court granted MISA Malawi's request and the ban was lifted temporarily. In May 2020, the court condemned the banning of radio stations'

60 US Department of State, *Malawi 2022 Human Rights Report*, 2023.

61 US Department of State, *2020 Country Reports*.

reporting on protests, arguing that this was an undue infringement of freedom of expression.⁶²

Violence and harassment: In early January 2020 three journalists were arrested at Kamuzu International Airport. The trio – Golden Matonga of *The Nation*, and Steve Zimba and Francis Chamasowa of Zodiak Radio Station – were there to cover the arrival of an election observation report from the EU delegation on the previous year’s elections. Charges of ‘conduct likely to cause breach of the peace’ were initially brought against them, although this was later changed to ‘disorderly conduct under the Aviation Act’. A few days later, the accused appeared in court, where they were informed the charges had been dropped.

Cases of direct violence against journalists are also known to take place. On 10 March 2020, four journalists were assaulted by officers at Lilongwe Police Station: they were identified as Hebert Katanda of Luntha Television, Malumbo Ngwira of MIJ FM, Julius Caleone of YONECO FM and Emma Zawanda of Timveni Radio. They had been present at the facility to report on the arrest of Timothy Mtambo, the then chairperson of the HRDC. Police officers used tear gas to disperse a crowd of protesters and then attacked the journalists.⁶³

Internet freedom: In terms of the 2017 Electronic Transactions and Cyber Security Act, ‘knowingly receiving and sharing unauthorized data’ is a criminal offence. Contravention of this law can result in up to five years in prison or a heavy fine. Using electronic communication tools to undermine the peace or privacy of another person is also a crime in terms of the act. Social media commentators and influencers have been arrested or cautioned for publishing unfounded claims or materials seen to be anti-government. These include activist Joshua Chisa Mbele, for circulating a list of allegedly corrupt government officials.

Freedoms of peaceful assembly and association: Malawi’s legal and constitutional provisions guarantee freedom of assembly, although, once again, this is not always properly respected. For example, on 9 March 2020, an arrest warrant was issued for the HRDC’s chair, Mtambo, its vice chairperson, Gift Trapence, and a prominent member, the Reverend MacDonald Sembereka. The allegations against them concerned violations of section 103 of the Police Act, which prohibits demonstrations within 310 feet of state residences, and section 124 of the Penal Code, which concerns inciting others

62 US Department of State, *2020 Country Reports*.

63 US Department of State, *2020 Country Reports*.

to break the law. This, in turn, related to calls previously made for protests against the government. The charges were later dropped.⁶⁴

Popular protest leader Bon Kalindo, who was also the youth director of the Tonse Alliance partner UTM, has been arrested several times since July 2021 on charges of unlawful assembly, publishing false statements, violence during demonstrations, slander and insulting the president. Some claim that these arrests are meant to silence him and prevent him from protesting.

Economic, social and cultural rights

Economic, social and cultural rights are at the heart of all activities geared at promoting and protecting human rights in Malawi. It is therefore encouraging to note that the commission has investigated cases relating to access to education, land, healthcare, water and sanitation, as well as sexual orientation. When this submission was being developed, the report on the auditing process of land and labour rights that had started in early 2021 had not been released yet. These rights are provided for in Malawi's constitution and were adapted from international human rights instruments, notably the International Covenant on Economic, Social and Cultural Rights and its optional protocol.

Labour rights: While Malawian workers enjoy favourable labour laws, including the right to embark on nationwide strikes (for example, teachers went on strike from January to April 2021), in July 2021 Parliament passed the Labour Relations Amendment Bill. This gives employers the right to deduct wages from striking employees. Parliament also progressively did away with the tenancy system (which had been used in the agricultural sector to allow smallholders to access land on larger farms but was blamed for fuelling child labour and abusive labour conditions) through the passing of the Employment Amendment Bill.

In terms of the Labour Relations (Amendment) Act, employees should be paid for the first three days of strike action each year, after which strikers forfeit their wages. It also allows the minister of labour to issue a declaration on essential services, and people engaged in this kind of work do not have the right to strike. Previously, such a declaration needed the assent of the Industrial Relations Court. The new law also does away with the requirement for employer and employee panellists in the Industrial Relations Court, instead mandating the chairpersons or their deputies to hear, determine and conclude all matters brought before the court.

64 US Department of State, 2020 Country Reports.

The Employment Amendment Bill has abolished the tenancy system and provides for the assimilation of all tenants into the formal sector, with formal contracts and employment requirements. It also provides for the provision of paternity leave to men.

The Labour Relations Act in particular has led to an uproar among workers and some members of the public, as so many issues have been attached to its amendment. The Malawi Congress of Trade Unions (MCTU), the largest federation of workers, supported by civil society, described it as draconian and barbaric legislation that seeks to muzzle organised labour. In essence, they argued, the recent strike by teachers was necessitated by the formulation of the act. Both the MCTU and the Employers' Consultative Association of Malawi, which are the custodians of labour law reviews under the Tripartite Labour Advisory Council, objected to the lack of consultation on the final bill before it was presented to Parliament. Despite promising workers and employers that he would consider their concerns once the bill was presented to him (when the parties met on 15 July 2021), the president proceeded to sign off on it on 9 October 2021.

The amendments are viewed as being unfair to workers as they do not provide for penalties for employers who fail to pay employees timeously.

While the Ministry of Labour defended the need to adopt the 'No Work No Pay' principle, workers demanded the complete withdrawal of the bill, as it would reduce the space for organised labour to press its demands. The International Trade Union Centre also added its voice to the outcry against the legislation. While the abolition of the tenancy system has not been opposed, guidelines must be developed to preserve the rights and interests of tenants already working in this way. Matters of compensation will also have to be considered, as most tenants have lived in this abusive state since the 1960s and have little to show for it. However, there is no mention of remedial action in the bill.

Right to education: Under the Malawi Education Act of 2013 (section 13), education is free and compulsory for children under the age of 18.⁶⁵ The new government has pledged to make sure every child goes to school and completes school, through legislation and guidelines on compulsory primary schooling.

This promise is yet to be fulfilled.

The *AfricaBrief* article reproduced in Box 1 provides a good overview of the educational situation in Malawi.

65 Laws.Africa Legislation Commons, "Malawi Education Act", <https://media.malawilii.org/files/legislation/akn-mw-act-2013-21-eng-2014-12-31.pdf>.

BOX 1 ANOTHER SONA? PRESIDENT CHAKWERA'S BROKEN EDUCATION PROMISES

Dr Limbani Nsapato, 2 February 2022

His Excellency President Rev Dr Lazarus Chakwera will this week be addressing the nation through the traditional state of the nation address (SONA) during the official opening of Parliament for the 2022/2023 fiscal year. As is often the case, the SONA is expected to detail the achievements of the President's government and make promises for the new fiscal year and beyond.

Often such speeches do not dwell much on broken promises. Since the nation will get the achievements anyway, I would like to challenge the President to do something expeditiously on broken promises in the education sector.

This challenge is based on the promises made in the president's maiden SONA of 4th September 2020, just 2 months after being sworn in as 6th Republican President on 6th July.

On 4th September 2020, the President gave a gargantuan speech, full of energy and attractive, flowery language. But most importantly, there were many promises, especially for the education sector, the sector that puts bread and butter on my table. A quick analysis shows that most of those promises have turned out to be empty. But I will highlight just a few which I consider very pertinent.

One of the biggest promises for education was: 'My administration is committed to ensuring that every child goes to school, stays in school, and finishes school. One way we will do this is by passing legislation and developing guidelines for implementing our manifesto promise to make primary school education compulsory.'

The Education Act (2013) provides in Section 13 that 'provision of primary education in government schools shall be free of tuition to all and compulsory for every child below the age of 18'.

Dr Chakwera's promise of passing new legislation and developing guidelines has been broken; we [have] neither new legislation nor guidelines for implementing the Education Act provision of ensuring that education is compulsory for every child below the age of 18. In addition, there are several gaps in resources, governance and management that are pushing learners about of the system.

Consequently, 5 million adults are illiterate and 3 million primary and secondary school-going- age children are out of school. Over the past 20 months that Dr Chakwera has warmed the presidential seat and catwalked on that red carpet 450 000 primary school learners and 71 000 secondary school learners have dropped out of school, while thousands of college and university students have turned out to be beggars at risk of dropping out due to lack of fees.

Primary school completion rate has declined from 53% in 2019 to 50% in 2021, while secondary school completion rate has declined from 21% in 2020 to 20% in 2021.

[The pass rate in MSCE has averaged 46.7% over the past two academic years, which is below the 58% average achieved since 2015 when the country adopted the global SDG #4. It is, therefore, evident that the administration has failed to ensure that every child goes to school, stays in school and finishes school.

In secondary education, the President promised the removal of the quota system of selecting students. He said, 'I want to assure all Malawians that while the previous administration made sure that its quota system was gone, my administration will make sure that it is dead.'

This promise was made after the previous regime had already removed the quota system only that some stakeholders were skeptical. Hence, in early months after making that promise government pledged during Secondary Education Technical Working Group meetings to embark on consultations around the selection system.

In addition, the Ministry asked the office of the Ombudsman to conduct an audit of the selection of 2019/20 primary education exams. More than a year later there is no information about the review of the selection system, and while the Ombudsman office completed the audit on the selection system, findings have not been made public or discussed with stakeholders.

The selection system has remained essentially as it was during the final year of the previous administration. We have also noted that to some extent form one national secondary school and university selection results have skewed more to the central region districts, which used to come third during national exams. In addition, thousands of students with better grades from some districts are being left out of secondary selection due to district-based selection for district boarding schools and CDSS [community day secondary schools].

Further, there is little being done to remove the school-related barriers that make it difficult for the majority of learners, especially girls, children with special needs, and children from rural areas and impoverished households, to compete on equal footing to warrant a pure merit-based selection system.

In the area of tertiary education, among others, the president promised to identify funding for the construction of Inkosi Mbelwa (Mombera) University for the study of animal science and increase enrolment in universities from 36 000 in the 2019/20 academic year to 48 000 in the 2020/21 academic year.

The promise has remained as it was on 4th September 2020. The two budgets passed in the August House for 2020/21 and 2021/22 have not allocated meaningful funding to complete the construction of the much-politicised Mombera University.

Mombera University remains a white elephant. In addition, public university enrolment has not increased by the promised numbers. The promise to increase public university enrolment from 36 000 to 48 000 meant an addition of at least 12 000 to the annual enrolment. In 2019/20 public university enrolment was 37 698. In 2020/2021 the enrolment figures were at 38 196. The difference between the two years is just 498.

Figures from the National Council for Higher Education show that in 2019/20 the number of students admitted to public universities was 6 379. The figure rose to 6 941 in 2020/2021. These figures show that the annual intake has only increased by 562. Clearly President Chakwera's administration has failed to add 12 000 students to the public university enrolment as promised in September 2020.

In the area of adult literacy, the President promised to increase the number of literacy centres and instructors to enrol at least 400 000 learners. In May 2021, there were around 10 000 adult education centres with an average capacity of 25 learners per class operating across the country. The number of centres has remained the same for the past five years, although there is [a] need for 70 000 centres.

The number of instructors (for English and Chichewa classes) has remained static over the past two financial years. In terms of English instructors, the number has been stuck at 1 345 since 2019/20.

For Chichewa the number has stood at 7 600. No movement. The adult literacy budget currently at 0.08% of education budget is far below the international

benchmark of allocating at least 3% of the education budget. On 22nd January 2022 an official from [the] Ministry of Gender, which coordinates adult literacy programmes in the country, told Zodiak Radio in a special report that adult literacy programmes are allocated just [MWK*] 60 million annually, not sufficient to expand the programmes and enrol more adults in the centres.

Enrolment in adult literacy classes was 141 756 in 2019/20. In 2020/21 it declined massively to 17 643, which cannot compare with the promise of 400 000 learners. Someone may attribute this to COVID-19, but evidently, it is another promise broken.

There is no quality education without happy teachers. To this end the administration of President Chakwera promised Malawians that it would 'improve the conditions of service for teachers by, among other things, providing them with decent housing; a predictable career and promotion structure; and clearing all salary and leave grant arrears'.

If you go to the schools, most teachers are very unhappy. They complain about low salaries, they complain about lack of decent housing, they complain about unpaid salary arrears and leave grants. In the context of COVID-19, teachers have been short-changed.

Government failed to fulfil a signed agreement of providing risk allowances in 2020/2021 amidst a failure to provide adequate personal protective equipment and ensure that each teacher is vaccinated against COVID-19. Most teachers do not live in decent housing.

As of end 2021, out of the 77 929 public primary teachers, just 17 364 (22%) had permanent teachers' houses. [The] majority (78%) of the teachers totalling 60 565 had no decent houses. Furthermore, teachers are exposed to heavy workload because of acute teacher shortage. With a qualified teacher-pupil ratio of 1:68 in 2020 and 1:62 in 2021 against the international benchmark of 1:40, many teachers in Malawi teach large classes.

As of 2021 at least 8 851 primary school teachers (10% of the total) have been teaching two or more standards instead of one per day, with some teaching up to an average of 90 periods a week, as is the case in Nsanje, Chikhwawa, Mzimba South, Mchinji, Lilongwe city, Mangochi and Zomba rural. The country needs to recruit an additional 52 459 teachers to reach a teacher pupil ratio of 1:40 and reduce the heavy workload. There are over 20 000 teachers sitting idle and yet trained from Initial Primary Teacher Education (IPTE) cohorts 13 to 17.

There is no plausible explanation as to why government decided to recruit only 5 000 teachers in 2021/22 amidst the heavy deficit, workload and bid number of idle teachers. Furthermore, the issue of salary and leave grant arrears remains unresolved, while teacher promotion remains elusive with around 50 000 teachers having worked in grades L, K and J.

On the issue of promotion, [the] majority of teachers have remained on grade L for at least four years while some have taught up to 32 years without promotion.

Most of the promises require substantial investment in the education sector. The global financing architecture is guided by benchmarks. In 2015 the UNESCO Incheon Declaration urged countries like Malawi to spend or exceed 6% of the GDP or 20% of the national budget towards education.

Moreover, in July 2021 both the President and his Minister of Education attended the Global Partnership for Education Replenishment Summit in London, where government promised to allocate at least 21% of its budget towards education. Even though government has allocated a lion's share of its budget to education the allocation falls short of the benchmarks.

For instance, in the 2021/22 financial year education was allocated the highest budget of at least MWK 327 billion. However, the lion's share translated to 17.5% of the national budget, and 4.4% of the GDP, way below the global benchmarks and the promises.

Moreover, the budget allocated was 50% below [the] MWK 646 billion projection set out in the National Education Sector Investment Plan (2020–30), a medium-term blueprint for achieving Malawi 2063.

To conclude, it is important for the president to repair the damage caused to the education system through broken promises. As he said during the 4 September SONA, education is a catalyst for national development, and 'we must develop the capacity of our citizens by giving them skills that are competitive in the fast-changing world'.

The capacity of citizens will not develop through one promise after another, but through action, action and more action.

* Currency code for the Malawian kwacha

Source: Limbani Nspapato, "Another SONA? President Chakwera's Broken Education Promises", *AfricaBrief*, February 2, 2022

Right to health: In addition to the constitutional guarantee of the right to health, Malawi adopted a robust Health Sector Strategic Plan II (HSSP II) 2017-2022, which outlines objectives, strategies, activities and guiding resources for 2017-2022. The HSSP II draws on the progress made under HSSP I (2011-2016) and aims to address those goals that were not met under the previous iteration. Key objectives include ‘universal health coverage of quality, equitable and affordable health care with the aim of improving health status, financial risk protection and client satisfaction’.⁶⁶ In addition, the HSSP II also prioritises ‘the provision of a basic health package (BHP) and health systems strengthening for efficient delivery of the BHP’.⁶⁷

Strategic implementation areas under the HSSP II include:

- health service delivery;
- socio-economic determinants;
- infrastructure and medical equipment;
- human resources;
- medicines and medical supplies;
- health information systems;
- governance; and
- health financing.

According to the WHO, Malawi⁶⁸

is characterized by a heavy burden of disease evidenced by high child and adult mortality rates and a high prevalence of diseases such as tuberculosis, malaria, HIV/AIDS and other tropical diseases... Furthermore, evidence suggests that there is a growing burden of non-communicable diseases.

Some 8.8% of the population aged 15-49 years is estimated to be infected with HIV/AIDS, with 10.8% women and 6.4% men. Some 34 000 new HIV infections are believed to arise every year. The incidence of tuberculosis (TB) has declined over the past decade, but the prevalence rate remains high at 363/100 000 in the general population. The geographical spread of TB is similar to the distribution of HIV in Malawi. In 2017, the malaria incidence

66 Government of the Republic of Malawi, “Health Sector Strategic Plan II (2017-2022)”, April 2017, 9.

67 Government of the Republic of Malawi, “Health Sector Strategic Plan II”.

68 World Health Organization, “Cooperation Strategy at a Glance”, May 2011.

was 323 per 1 000 people. This was a 33% reduction from 484 per 1 000 in 2010. Non-communicable diseases (NCDs) are increasing, with some 33% of adults aged 25–64 having hypertension and 5.6% being diabetic.

About 5 000 new cases of cancer are reported annually. Endemic neglected tropical diseases are schistosomiasis, lymphatic filariasis, onchocerciasis, human African trypanosomiasis, trachoma, leprosy and soil transmitted helminths. Lymphatic filariasis and onchocerciasis have been eradicated after years of drug treatment.

Given Malawi's total fertility rate of 4.4, it has among the highest population densities in sub-Saharan Africa.⁶⁹ However, as a senior official with the UN Population Fund remarked:⁷⁰

In a country with one of the highest adolescent birth rates in Africa – one in three girls have had a baby by the age of 19, and one in two girls are married before the legal age of marriage, which is 18 years – the provision of accurate and timely information to adolescent girls and boys is having a positive effect.

In dealing with the obstacles to improved healthcare and healthcare outcomes, Malawi needs to address insufficient financing, widespread poverty and illiteracy, and unsatisfactory institutional capacity. Maternal mortality in Malawi is still among the highest in Africa. Obstetric complications result in numerous deaths, often from bleeding. Delays in seeking care, an inadequate referral system and shortages of the necessary medication and equipment place the lives of expectant mothers at risk.⁷¹

A contribution on the development-oriented website Reliefweb comments:⁷²

In November 2019, at the Nairobi Summit celebrating 25 years of the International Conference on Population and Development (ICPD), Malawi adopted ten bold commitments, which reaffirmed their promise to create a society in which every woman and girl can exercise her rights and choices, by

69 Anthony Jeckson Malunga, "Joint Participation of Women and Men as Gender Mainstreaming Code in Family Planning: A Malawian Perspective", in *Gender in 21st Century: Multidisciplinary Reflections on Struggles and Progress*, ed. Dhanya Mohanan (Bhilai: OrangeBooks Publication, 2021), 1.

70 Julitta Onabanjo, "Hope in the Warm Heart of Africa: Malawi's Commitment to Sexual and Reproductive Health and Rights for All", UNFPA, November 12, 2020.

71 WHO, "Cooperation Strategy".

72 Onabanjo, "Hope in the Warm Heart".

2030. This included pledging to end child marriage, reducing unmet need for family planning to under 11 per cent, and decreasing maternal deaths to 110 per 100 000.

Following Malawi's democratic transition of power in 2020, the new Tonse Alliance administration has committed to continuing the momentum of the ICPD agenda and achieving the 10 commitments made in Nairobi. On 3 November 2020, Malawi launched its National ICDP25 Steering Committee chaired by Minister of Health Khumbize Kandodo Chiponda. This demonstrates a strong commitment to champion sexual and reproductive health and rights, to prioritise young people and to ensure the necessary financial investment to fulfil the ICPD agenda. Lessons learned in the 25 years since the ground-breaking Cairo Conference have given the Malawi National ICDP25 Steering Committee the necessary markers to develop a roadmap that will advance efforts to reach the goals of zero maternal deaths, zero unmet needs for family planning, zero new HIV infections and zero gender-based violence and harmful practices.

Cultural rights: Malawi's constitution and legal system recognise the rights to culture and heritage, although this is imperfectly implemented. It is party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which means it is bound to respect people's and communities' ability to 'freely participate' in cultural life, as well as the cultural, religious, and language rights of 'ethnic, religious or linguistic minorities'. Malawi has also made a commitment to implementing the 2030 Agenda for Sustainable Development and to align its legal framework with the ICESCR.

Cross-cutting issues affecting human rights

In addition to the issues related to the three groups of rights discussed above, Malawians experience a number of other rights-based challenges. These include:

- high levels of corruption at all levels of society, including the political elite;
- arbitrary arrest and detention;
- trafficking in drugs and persons;
- discrimination against LGBTQI+ persons – the government lacks a clear position on the rights of LGBTQI+ people, as the moratorium imposed seven years ago is outdated;
- discrimination against persons with disabilities (PWDs) (this includes public and private buildings being inaccessible to PWDs) and the lack of relevant assistive devices;
- political violence;

- discrimination in the workforce against women, a high unemployment rate and poor wages;
- inadequate funding for governance institutions (eg, the Ombudsman and Law Commission), resulting in their failure to recruit staff and provide the services required by the public;
- a lack of transparency and accountability in the judiciary, resulting in questionable determinations and inordinate delays in the conclusion of cases;
- the failure to adopt the ILO's Social Protection instrument to guarantee a comprehensive social protection scheme for Malawi;
- continued energy challenges (between July 2017 and mid-2020, the power supply dropped from 300MW to 100MW, with businesses closed or production reduced, coupled with the high costs of using standby generators);
- health and sanitation issues, such as inadequate medication in hospitals, with patients being referred to pharmacies or private clinics;
- failures to protect the environment – the government adopted the 2030 Agenda and its 17 SDGs in 2018, yet it still has not succeeded in implementing the relevant legal framework and related policies; and
- children's rights – these are still not fully guaranteed in the aftermath of the COVID-19 pandemic, when schools were closed, there was a failure to prioritise ECD and access to healthcare was restricted.

As a result of these (and numerous other) issues, the UN has made over 120 recommendations for Malawi to address in its concluding observations on the African Commission on Human and Peoples' Rights, which underscored the grave challenges the nation faces.

Positive developments and opportunities

Malawi has shown a recognition of the importance of democracy and protection of human rights as crucial ingredients for social justice and sustainable development. The country has moved to embrace the provisions of various human rights conventions. In pursuit of this goal, it has enhanced coordination and collaboration with partners both within the country and abroad. Malawi has also created several structures to advance human rights, in line with the recommendations of the Vienna Declaration and Programme of Action of the 1993 World Conference on Human Rights. It is encouraging that the country is up to date with its reporting obligations to treaty bodies, such as

the UN and AU. This is an opportunity to address current and emerging challenges as identified by the various reviewing structures. However, the government is yet to ratify the Optional Protocol to the CAT and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa.⁷³

Malawi has also established several bodies to advance its human rights agenda, such as the MHRC and a dedicated human rights section within the Ministry of Justice and Constitutional Affairs. A Human Rights Action Plan has also been drawn up. However, greater commitment is needed to implement these measures.

In addition, the government has created offices for civic education and seen some notable successes in overcoming taboos and advancing human rights. For example, the people of Nkhotakota North-East Constituency elected Overstone Kondowe, a PWA, as their representative in the Malawi National Assembly in October 2021. Prior to that, he was 'the president's special advisor on persons with albinism and disabilities'.⁷⁴ In law enforcement, the Malawi Police Service made history by recruiting two officers with albinism in 2022.⁷⁵ These steps, plus numerous other examples, have turned rhetoric into reality in upholding human rights at various levels.

The three branches of government have played critical roles in upholding and protecting human rights. The National Budget has allocated funds to the empowerment and protection of vulnerable groups, including people with albinism, women, girls and children. The Disability Fund implements relevant action plans and provides housing; there are funds for rolling out social protection interventions in selected districts and the commissioning of police stations in remote areas; and other funds are aimed at specific interventions in the ministries of agriculture and education, among others.

Some initiatives relate to the review of legislation. The government has reviewed labour legislation and the Pensions Act, which will now allow men to go on paternity leave every three years for at least two weeks on full pay; women to have adequate time for breast feeding; and employees to access pension funds much earlier than had been the case. The judiciary has been sentencing perpetrators of gender-based violence to maximum or severe sentences. National human rights-related institutions such as the MHRC, the Office of the Ombudsman, the Malawi Police Service, the Malawi Prison Service, the Anti-Corruption Bureau and the Ministry of Justice and Constitutional Affairs

73 African Commission on Human and Peoples' Rights, *Concluding Observations and Recommendations on the 2nd and 3rd Combined Periodic Report of the Republic of Malawi, 2015-2019* (Banjul: ACHPR, 2022).

74 Tife Sanusi, "Malawi MP Makes History as First Elected With Albinism", *Global Citizen*, November 15, 2021.

75 Baxter Mkumba, "Rights Activist Says Malawi Police Making Progress on Inclusion", *Malawi24*, March 15, 2022.

in general have been able to act on human rights abuses, although not comprehensively in some instances. Sensitisation has been a routine initiative, although the country continues to struggle with human rights abuses at family, community and national level. For these structures to work effectively, resources are critical, and they remain inadequate.

CSO networks now have greater capacity to interpret human rights as they relate to various development sectors and to advance human rights in those sectors. Some CSOs also have representatives in government-led task forces or committees, contributing directly to human rights policy. This has enhanced accountability in addressing human rights concerns in various sectors. The robust and progressive print and electronic media – a requisite for transparency and citizen empowerment through knowledge and information sharing – continues to support the realisation of human rights.

The MHRC plays a much bigger role than before and the Ministry of Justice and Constitutional Affairs has shown an openness to acting on its recommendations. Some notable developments and observations include the following:

- Malawi is up to date with its reporting obligations to treaty bodies, eg, the UN and AU. This has given the country an opportunity to address current and emerging challenges rather than dealing with old and difficult situations;
- The development of the Human Rights Action Plan, an all-inclusive document seeking to coordinate efforts in the area of human rights;
- The development of the Business and Human Rights Action Plan, which has provided a framework that can guide responsible and sustainable investments based on UN Guiding Principles on Business and Human Rights;
- Cabinet approval of the National Employment and Labour Policy, as well as the Decent Work Agenda, which seeks to promote sustainable and rewarding jobs for Malawians;
- Enhanced capacity of human rights networks and the establishment of joint CSO platforms eg, the National Advocacy Platform, Multistakeholder Group of the Construction Sector Transparency Initiative for Malawi and the Integrity Platform, which seek to consolidate the work being done in these areas;
- The submission to Parliament of laws around electoral reform, including the Constitutional Amendment Bill, the Presidential, Parliamentary and Local Government Election Bill, the Assumption of Office of President (Transitional Arrangements) Bill, the Electoral Commission (Amendment) Bill and the Elections Management Fund Bill;

- The amended Anatomy Act, which provides for more punitive penalties for human traffickers, including those involved in the selling of body parts;
- The establishment of the Human Rights Section within the Ministry of Justice and Constitutional Affairs, which is the interface between civil society and the commission;
- Continuing support from development partners such as the EU and Irish Aid to reduce overcrowding in prisons and guarantee inmates' rights;
- A growing consciousness within society that is slowly moving people to speak out on matters of national concern, including by joining demonstrations over social and human rights;
- Increased resources and staffing for protection services;
- The operationalisation of the Access to Information Act;
- The enactment of the Public Procurement and Declaration of Assets Act, which seeks to set conditions for public officers' accountability and transparent dealings in public tendering; and
- The robust print and electronic media, which is a requisite for transparency and citizen empowerment through knowledge and information sharing.

Challenges

Some public officials are perceived to apply human rights selectively. The rights of especially activists, campaigners and human rights defenders have not been fully upheld. The recruitment of key activists into government positions has had a negative side, in that it has weakened the civil society base, with long-term impacts on activism in Malawi.⁷⁶ Civic space is shrinking at local and national level. The NGO Law of 2001 and the subsequent 2022 amendment, along with the 2018 NGO Policy and directives on project-based memorandums of understanding (MOUs) and district network MOUs, have not been well received in some quarters of civil society and media institutions. This is because of the multiple registration tiers, the regulatory role given to the NGO Regulatory Authority and the cumbersome process in generating the MOUs. One civil society activist warned a few years ago that, despite the advances in human rights and civic freedoms, 'the government has demonstrated vestiges of intolerance towards key human rights and freedoms, especially against critical human rights defenders and civil society'.⁷⁷

⁷⁶ CIVICUS, "Malawi Makes Good Reforms on Civic Space but New NGO Policy Sidelines Human Rights CSOs", March 28, 2017.

⁷⁷ CIVICUS, "Malawi Makes Good Reforms".

Concerns were raised regarding the ‘superficial’ consultations that led to the formulation of the instruments, the fines that will accrue to NGOs and the powers granted to the NGO regulator. Although these instruments are meant to protect the resources that CSOs mobilise on behalf of the country’s people, it is crucial to ensure fundamental freedoms are not infringed upon in the course of implementing the regulatory framework. Human rights abuses demonstrate the need for greater efforts to uphold and protect such rights. There are many examples that illustrate the compromised state of human rights implementation in Malawi, highlighted by monitoring bodies such as the Universal Periodic Review and African Commission on Human and Peoples’ Rights. These include:⁷⁸

- Continued abuse – including killing, maiming and abductions of PWAs across the country;
- High levels of youth unemployment, aggravated by unfulfilled campaign promises, a general recruitment freeze in the public service and inadequate investment in production in the economy;
- A backlog of criminal cases, which results in suspects being on remand for more than the maximum sentence period for their alleged crime;
- Perceived favouritism in the judiciary, with suspicious injunctions, bail decisions and adjournments, as well as corruption and a lack of access to courts, suggesting that some in the country are less privileged than others;
- Cases of child labour in households and farms in pursuit of cheap labour;
- Unreleased reports by commissions of enquiry on killings and abductions, delaying the resolution of human rights violations for decades;
- Lack of access to Members of Parliament (MPs) for most of the population, as MPs tend to demand parliamentary standards of logistics when invited to public engagements;
- Devaluation of the Malawi kwacha by 25% in 2022, which has heightened the cost of living (increasing the prices of goods) in the context of high levels of poverty, without a proper cushioning mechanism;
- Harassment of officials and activists who stand in the way of malfeasance, such as the arrest of Anti-Corruption Bureau (ACB) Director Martha Chizuma on 6 December 2022 and her subsequent suspension (the ACB director was accused of divulging official

78 See UN Human Rights Council, “Universal Periodic Review: Malawi”, <https://www.ohchr.org/en/hr-bodies/upr/mw-index>.

information to a third party, but the Office of the Director of Public Prosecutions has since withdrawn all cases against her);

- Delayed and sporadic implementation of the 2022/23 growing season, with the Affordable Input Programme expected to have a negative impact on the right to food;
- Compromised independence of some offices in the public service, which has resulted in a lack of trust by the people of Malawi – these offices include the ACB, Office of the Ombudsman, Director of Public Prosecutions and Malawi Police Service;
- Continued sidelining of the boy child in projects advanced by public and private institutions. In other communities, the trend is to disempower the boy child, particularly those from poverty-stricken households. There is need to balance matters to avoid such discrimination;
- Unlawful infliction of injuries on suspects by the Malawi Police Service, coupled with arbitrary arrests and detention. Such brutal acts undermine the professionalism of police officers and their duty to uphold human rights;
- Harsh prison conditions characterised by overcrowding and detention without trial. The Legal Aid Bureau should continue facilitating trials, as demonstrated during the Chilungamo (Justice) project supported by the EU;⁷⁹
- Cases of mob violence against the elderly, mostly based on witchcraft allegations;
- Sexual exploitation of children, including early and forced marriage, as reported by the Malawi Police Service (through Victim Support Units) and the Department of Social Welfare Services;
- Discrimination against LGBTQI+ persons, most of whom do not declare their status for fear of ostracism, violence and ridicule;
- Harmful traditional or cultural practices that impede the realisation of human rights;
- Poor access to basic social amenities such as education, health, water and electricity;
- Trafficking in persons, as evidenced by the dozens of women stranded in various parts of the world, including the Middle East, Europe and South Africa;
- Discrimination against PWDs in public spaces and through structures that do not consider their needs. The unavailability of assistive devices for PWDs aggravates the discrimination; and
- A lack of ‘decent’ work (with a particular impact on women), a high unemployment rate and poor wages, with the majority of Malawians earning less than \$2 a day.

79 EU External Action, “[EU Launches a Justice and Accountability Programme in Malawi](#)”, July 24, 2018.

RECOMMENDATIONS

To address human rights and human rights institutions in Malawi, it is recommended that the government:

- Provide adequate financing and technical support for governance and human rights institutions. This will enable them to engage with human rights concerns and to coordinate their efforts for the common good;
- Ensure access to justice – this should not be interrupted, to avoid frustrating citizens waiting for justice. A particular emphasis should be placed on those behind bars awaiting trial;
- Provide vulnerable citizens with basic social benefits and functional facilities. This includes expanding and maintaining a progressively expanding infrastructure and social protection system;
- Ensure respect for the principles of separation of power. This can be done by scaling back the president's powers of appointment – as the incumbent has pledged. Ultimately, this depends in a conscious effort by governance actors.

All stakeholders should:

- Assist in raising awareness and empowering citizens to demand and protect respect for their rights. Support from development partners, government, trade unions and CSOs should be directed towards raising awareness around good citizenship and respect for rule of law and the imperative of respecting one another's human rights. This should include regular engagement among stakeholders on national issues and policy to allow them to participate in national development;
- Where possible, influential stakeholders such as development partners and government should support the work of NGOs and CSOs in the area of human rights through CONGOMA, NICE Trust and other national entities that promote and defend human rights;
- Establish joint national forums to consolidate and develop strategies towards popularising internationally adopted programmes and principles that benefit Malawians. Such strategies should include Malawian delegations to AU and UN forums, as well as exchange missions to study best practices globally;

- Popularise and advocate for the implementation of the SDGs and Agenda 2063. Proposed initiatives under these initiatives should be supported, financed and taken to the public as joint efforts by the state and civil society. Specific to Agenda 2063, efforts should be made to realise its calls, as it seeks to nurture transformative leadership that will empower the broader population and defend the right to inclusive growth. This strategy calls for the realisation and implementation of the National Human Rights Plan and for reporting to treaty bodies by the state and civil society;
- Fight poverty, corruption and the conditions in which they thrive. The state needs to show its commitment to providing social services for its people, which will enable citizens to live a better life. Demands for better roads, health services and facilities, clean and safe water, electricity, finance, land and other social amenities must be heeded. The provision of these will not only curb the deleterious effects of poverty (such as trafficking) but also move the nation to at least a middle-income economy status;
- Guarantee and work towards the removal of discrimination, which afflicts large parts of the population. This is consonant with Malawi's constitution. It is crucial that people be allowed to enjoy their rights whatever their status in terms of religion, disability, health, standing in society, education or sex, among others;
- Conduct civic education to ensure that Malawians are aware of their rights and their own responsibilities in good citizenship;
- Simplify, popularise and translate important documents into local or vernacular languages and ensure that they are comprehensible to all Malawians. These include Malawi 2063, the AU's Agenda 2063 and the SDGs;
- Promote enhanced participation in national and international commemorations, such as Human Rights Day and Women's Day. These raise awareness of human rights and could help to encourage joint implementation strategies for the attainment of particular human rights goals;
- Enhance national systems' capacity for monitoring human rights. Urgent measures should be taken to ensure effective and independent monitoring of the implementation of all treaties on human rights to which Malawi is party, as well as the national instruments. Multi-stakeholder engagements on human rights reports should be sustained, hinging on joint monitoring mechanisms with clearly formulated indicators to gauge progress (or the lack of it). While observing their independence, a point of congruency is required for all public institutions on human rights in order to harmonise reporting based on statistical evidence;

- Empower NGOs, labour unions, professional organisations, human rights defenders and community structures such as village and area development committees (together with sector-based community groups) to facilitate the collection of data and reporting. No form of intimidation should be tolerated, to avoid derailing the fight against human rights abuses;
- Expand the pool of opportunities and investment to enable people to live a fulfilling life and to help build a culture and nation of resilience founded on the principles of trust, accountability and patriotism. Citizens need to support development initiatives in their communities and show interest in events taking place in their surroundings;
- Scale up the domestication and implementation of all human rights conventions, charters and protocols that have been ratified, such as the AU Maputo Protocol for preventing unsafe abortion and protecting the rights of women, and the promotion of sexual and reproductive health rights of Malawian youth;
- Ratify and domesticate instruments such as the Convention Concerning Decent Work for Domestic Workers as well as social protection floors – the goal should be decent jobs for all and enhanced social protection systems in Malawi;
- Adequately fund and support governance institutions that have a bearing on human rights, eg, the Human Rights Commission, ACB and the Ombudsman, to enable them to address challenges facing the enjoyment of these rights;
- Empower the Malawi Human Rights Commission with quasi-judicial powers, moving it from a body with the power only to make recommendations to one that that can make actions binding;
- Strengthen protection of minority rights by abolishing laws that criminalise same-sex marriages or infringe on the rights of LGBTQI+ people and other key populations;
- Protect prisoners' rights by expanding space in prisons and providing food that meets basic nutritional standards;
- Increase the capacity of state security institutions to curb killings of PWAs, and provide PWAs with safe homes and security alarms;
- Curb all harassment and intimidation of journalists and prosecute those who violate media freedoms. MISA should also scale up training on responsible journalism;
- Strengthen the protection of rights of refugees and asylum seekers by providing humane conditions in designated refugee camps, guaranteeing their socio-economic rights and providing adequate health and education facilities;

- Increase monitoring of elderly persons, provide greater security and strengthen the penalties for people who violate their rights through violence and murder;
- Widen the scope of reforms and accountability in the Malawi Police Service to curb state-sponsored violence and politically motivated police actions. Specifically, police staff need training and modern policing equipment that align the service with the rule of law and democratic principles;
- Invest heavily in programmes that popularise, simplify, translate (into indigenous languages) and raise awareness of all human rights-related legal and policy frameworks;
- Expand access to justice in all relevant systems, eg, in the magistracy, child justice and industrial relations.
- Ensure people are able to live healthy, disease-free lives. Access to clean and potable water and decent, productive employment is fundamental if Malawi is to recover from COVID-19-related damage. While it makes both health and political sense for everyone to be vaccinated, it is the state's responsibility to ensure that mandatory vaccination does not violate people's right to freedom of choice and that they are not subjected to medical tests without their consent. There has to be a balance between safeguarding lives and promoting human rights;
- Conclude and bring to justice all cases on remand as a way of de-congesting prisons while providing justice to the suspects; and
- Increase funding to the Industrial Relations Court and other justice institutions to promote people's access to fair and just determinations.

Civil society should:

- Enhance collaboration and networking, as well as consultation with relevant government organs for a coordinated defence of human rights in Malawi. It is necessary to deliberately empower NGO/CSO coordinating structures and capacitate human rights organs such as the HRCC; and
- Push for a review of the amended labour laws. Trade unions and likeminded institutions such as the HRCC must mobilise to engage the president in reviewing the labour laws, so as to ensure a win-win situation for workers, unions and employers. The HRCC should proceed with the dialogue it sought with the president towards the realisation of this objective.

CHAPTER 7



Access to information

The issues discussed here relate to the democracy and good political governance thematic area, specifically:

» OBJECTIVE 4

Promotion and protection of civil and political rights as enshrined in African and international human rights instruments

Question 4 To what extent does the state respect and protect the access to information rights of citizens?

Introduction

Access to information is vital for accountability, providing the means to hold public officials and institutions to their commitments. It is also crucial in the fight against corruption and in raising the quality of public service delivery, as citizens are able to monitor and evaluate the government's actions.

Closely related to accountability is the importance of information in improving the state of democratic governance. Access to information promotes transparency, participation and informed decision-making. This could lead to enhanced democracy, with citizens having the knowledge to participate in the democratic process. It also encourages people to participate in civic life, including engaging with the government, CSOs and other institutions.

Since information enables people to understand their lives and the drivers behind their problems, access to information helps marginalised and vulnerable communities to formulate strategies for their social and economic well-being. Access to information is thus a factor in social justice and reduced inequality.

Access to information also fosters learning, and resolving access-to-information challenges would ensure that young people have the critical resources required to pursue their education. This could involve access to textbooks, research materials and educational resources. Furthermore, access to information would enable young people to make informed decisions about their careers, including which industries are growing, which skills are in demand and where to find job opportunities.

State response to these challenges

The government has taken steps to address these issues. Some of the initiatives that have been implemented to improve access to information in Malawi include:⁸⁰

- **Access to Information Act:** In 2017 (enforceable from 2020), the government passed the Access to Information Act, which guarantees the right to access information held by public bodies. This act has been a significant step towards promoting transparency and accountability in the government.
- **Open Data Initiative:** In 2013, the government launched the Open Data Initiative to ensure public access to government data. This initiative provides data on various aspects of the country, such as health, education and the economy, and has made it easier for researchers and the public to access information.
- **National Information and Communications Technology Policy:** In 2013, the National Information and Communications Technology Policy was adopted to promote the use of technology to enhance access to information and communication.
- **National Archives of Malawi:** The national archive is responsible for preserving and providing access to historical and cultural records. It has implemented measures to improve access to its collections, such as digitising records and making them available online, although this has not yet started.⁸¹
- **Electronic Transactions and Cyber Security Act:** This act was enacted with the intention of allowing electronic transactions, establishing the Malawi Computer Emergency Response Team, criminalising certain computer-related offences, regulating investigations related to information and communications technology (ICT) and collecting and handling electronic evidence.

80 Centre for Human Rights, "Webinar: Assessing Implementation of Access to Information Legislation", YouTube, April 27, 2023.

81 National Archives of Malawi, "Overview", <http://www.sdn.org.mw/ruleoflaw/archives/overview.html>.

While these measures have been commendable, there have been shortcomings in their implementation. The framework is not in itself problematic and is applied in conjunction with Malawi's Penal Code. This lists offences against public order in relation to the authority of the government. For example, 'seditious intention' can involve an intention 'to bring into hatred or contempt or to excite disaffection against the person of the President, or the Government' or⁸²

to bring into hatred or contempt or to excite disaffection against the administration of justice in the Republic; or... to raise discontent or disaffection among the subjects of the President; or... to promote feeling of ill-will and hostility between different classes of the population of the Republic.

This wide-ranging definition can be used to suppress civil liberties, not least of which is expression and the flow of information. Several citizens, including journalists and other members of the media, have been arrested and charged with disorderly conduct, sedition, insulting the president, criminal libel and conduct likely to cause breach of peace. There has been widespread concern that the authorities have victimised Malawians by denying them valuable information. For example, MACRA has been gagging media houses for the failure to comply with certain rules and regulations, shutting down media houses and banning programmes. The Malawi Revenue Authority has targeted Blantyre Newspapers Ltd and Times Group for failure to pay all their taxes.⁸³ Many public officials entrusted with making information available have shown a lack of capacity and preparedness. Coupled with poor record-keeping and organisation of information, it has been an uphill task to collect credible and timely information. In addition, the national frameworks have not resolved the prohibitive costs associated with mining information from diverse sources. Few Malawians have access to the internet and even broadcasters complain about high data costs, a situation that has a bearing on the quality of information shared with citizens.⁸⁴

Malawians are also not adequately protected against cybercrime and the abuse of electronic communication. Cyber bullying, unauthorised access to personal and confidential information, the dissemination of child pornography, hate speech and disinformation or actual sabotage have been perpetrated. Furthermore, intrusive snooping by the government has challenged Malawians' human rights, and there

82 Government of Malawi, *Penal Code*.

83 "MRA Demands K493m from Malawi Newspaper Giant BNL Times", *Nyasa Times*, December 19, 2013.

84 Jimmy Kainja, "Malawi Telcos Further Reduce Data Prices but Affordability Concerns Remain", CIPESA (blog), May 20, 2021.

have been cases of mail, phone calls, emails and other forms of communication being intercepted without the knowledge or consent of individuals.

These concerns are exacerbated by a culture of secrecy and silence (sanctioned by the Official Secrets Act as well as Part VI of the Access to Information Act), which seeks to stop the free flow of information. Some public officers have used this law to deny information by qualifying it as confidential. Other laws with provisions that affect the right to privacy, freedom of expression, freedom of opinion, economic activity and access to information include the Protected Flag, Emblems and Names Act, the Printed Publications Act, the Censorship and Control of Entertainment Act, the Preservation of Public Security Act and the Protected Places and Areas Act.

The lack of awareness of and education about the right to access information is a significant challenge in Malawi. Despite the existence of the Access to Information Act, many people are unaware that they have the right to request information or of the procedures for doing so.⁸⁵ This prevents individuals from accessing important information that could be essential to their daily lives or decisions, and about development issues that affect them. For instance, many people are not aware that they can request information from government agencies or other public bodies, including information about government programmes and services, public contracts and other matters of public interest. This lack of awareness also extends to journalists and CSOs, who may not be aware of the right to access information or may face obstacles to obtaining information that is essential for their work.

Limited oversight is another challenge that affects the effective implementation of the Access to Information Act in Malawi. The MHRC is responsible – along with the Ministry of Information and Digitalisation⁸⁶ – for overseeing the implementation of the law and ensuring that public bodies comply with their obligations to provide information. However, the MHRC struggles to effectively monitor and enforce compliance with the law. One of the main challenges is that it does not have sufficient financial, human or technical resources to carry out its oversight functions effectively. For example, it lacks the staff and expertise necessary to investigate complaints about refusals to provide information or to conduct audits of public bodies in respect of their compliance with the law.⁸⁷

85 Ezilon Kasoka, “The Malawi Access to Information Act: An Effective Tool to Control Government Corruption?” (MA Thesis, International Anti-Corruption Academy, 2022), 44.

86 Centre for Human Rights, “Webinar: Assessing Implementation”.

87 Malawi Human Rights Commission, <http://www.mhrcmw.org/>.

Implementation challenges

A number of reports and studies by expert bodies have described how Malawi's 'access to information' framework has failed to live up to its promise. The Open Government Partnership's Independent Reporting Mechanism report for Malawi (2016–2018) highlighted several difficulties in the implementation of the Access to Information Act. The report noted that public officials sometimes did not respond to requests for information or provided incomplete or inaccurate information. It also found that some public bodies did not have the necessary capacity or resources to respond to requests for information in a timely manner, and that there was limited public awareness about the right to access information.⁸⁸

A study by MISA in 2017 found that some government officials and civil servants were not aware of the act or did not understand its provisions. The study also found that some public bodies did not have adequate systems in place to manage information requests, which led to delays in responding to requests or refusals to provide information. In a 2019 report, the African Commission on Human and Peoples' Rights noted that the MHRC, which is responsible for monitoring and enforcing compliance with the act, faced several challenges, including limited resources and capacity. It also noted that there was limited public awareness about the right to access information, particularly in rural areas.

In addition, there are several barriers to access to information, which include limited internet access, high data costs and limited awareness of the right to information. In 2021, the MHRC simplified the act's regulations. However, owing to resource constraints, it has not been able to popularise the regulations and hence address the gap in public knowledge.

Non-state initiatives

Some companies in Malawi are implementing corporate social responsibility programmes that involve information sharing with local communities. For example, some mining companies have provided information on their environmental and social impact assessments to local communities. Certain businesses also provide information to the public through their websites and social media platforms. NGOs in Malawi have been working to promote access to information, including providing training to journalists and the public on the right to access information. NGOs have also been

88 Paul L Kwengwere, *Independent Reporting Mechanism (IRM): Malawi End-of-Term Report 2016-2018*, Open Government Partnership, https://www.opengovpartnership.org/wp-content/uploads/2019/03/Malawi_End-Term-Report_2016-2018_for-public-comment.pdf.

involved in advocating the implementation of the Access to Information Act and pushing for the establishment of an independent oversight body to monitor compliance with the act.

RECOMMENDATIONS

In order to address the problems around human rights in Malawi, it is recommended that the government:

- Promote policies that facilitate access to information in Malawi, which might include reviewing existing policies, strengthening them and drawing up new ones if those in existence are deficient;
- Capacitate the MHRC to ensure that it has the necessary resources to carry out its oversight functions effectively. This could include providing additional funding, training and technical support to the commission, as well as strengthening its independence and protecting it from political interference. Additionally, the government could work to improve collaboration and cooperation between the MHRC and public bodies to facilitate the exchange of information and promote compliance with the law;
- Improve the availability of data through the Open Data portal: there should be more information, more types of information and better quality of information that is updated more regularly;
- Improve the implementation of the Access to Information Act by providing more training and resources to public officials and increasing public awareness of its provisions;
- Allocate sufficient resources to support the implementation of the act and related policies. This could involve providing resources for the training of public officials, the creation of digital archives and the provision of equipment and infrastructure to support the processing of information requests;
- Ensure effective monitoring of compliance with the 'access to information' policy is promoted and supported, financially and technically;
- Sharpen the relevant legislation and provisions to reduce the subjective grounds on which information requests may be refused. The government should avoid using broad or vague grounds to deny access to information requests. The act

should provide specific grounds for denying access to information, and public officials should only use such grounds when doing so. Clear and concise laws and policies ensure a better environment for application and oversight;

- Strengthen the Access to Information Act. In its current form, it has various limitations and loopholes that need to be addressed. For instance, there are no administrative penalties for public officials who ignore or refuse requests to provide information, and the grounds for denying access to information are too broad. New policies could address these issues and strengthen the enforcement mechanisms of the MHRC;
- Increase funding for research and for those institutions doing work on access to information; and
- Promote open data. Malawi could develop policies that encourage public bodies to proactively publish data in a machine-readable format. This would make it easier for citizens, researchers and journalists to access, analyse and use such public information. This approach could also help promote accountability and transparency.

Civil society should:

- Collaborate on, advocate and monitor the effective implementation of the Access to Information Act, and support the MHRC in carrying out its oversight functions.

All stakeholders should:

- Undertake public education and awareness-raising efforts about the right to access information. This could include targeted campaigns to inform people about their right to request information, how to make a request and what types of information they are entitled to receive. The government, CSOs and other stakeholders should also work to improve public education efforts by providing information and training to journalists and other information intermediaries, as well as by collaborating with local organisations and community leaders to ensure that such information is reaching all parts of the population. Another way to address the lack of awareness and education is to incorporate information about the right to access information into the school curriculum, so that students learn about this important right and how to exercise it. This could help to ensure

that the next generation of Malawians are informed and engaged citizens who are equipped to participate in democratic processes and hold their government accountable;

- Assist in improving access to information for marginalised groups, such as women, PWDs and people living in rural areas. The government should take steps to ensure that information is provided in accessible formats and languages, and that there are targeted efforts to reach these groups.
- Invest in technology infrastructure that supports access to information, such as expanding internet connectivity, creating digital archives and digitising public records. This could make it easier for citizens to access information, especially those in remote areas. Government could also invest in accessible technologies or devices that could give PWDs equal access to public information.

CHAPTER 8



Corruption

Corruption is recognised as a cross-cutting issue throughout the APRM Questionnaire. The issues discussed here relate to the democracy and good political governance thematic area, specifically:

» OBJECTIVE 5

Ensuring accountable, efficient and effective public service delivery at the national and decentralised levels

Question 2 What is the state of corruption in the public sector?

The issues discussed here also relate to the economic governance and management thematic area, specifically:

» OBJECTIVE 4

Fight corruption and money laundering

Question 1 What measures have been taken by your country to fight corruption in public procurement and with what results?

Question 2 What are the main forms of money laundering prevalent in your country? What measures have been taken by your country to fight money laundering? With what success?

Introduction

In Malawi, as elsewhere, corruption has had a devastating effect on social and economic development. In 2013, Malawi experienced probably its worst financial scandal involving systematic corruption by government staff at the country's seat of government – the so-called 'Cashgate scandal'. The scandal exposed many weaknesses in public

finance management and also in the fight against corruption. Since then, the Malawi government, supported by various stakeholders, has put in place several mechanisms to curb corruption. Despite these efforts, however, there is a growing perception that corruption remains prevalent and that anti-corruption efforts have been inadequate.⁸⁹

Scale of corruption

Corruption and the theft of public funds is endemic in Malawi. According to an article in *Foreign Policy*,⁹⁰

Between 2009 and 2014, the country is estimated to have lost around \$723 million to fraud and corruption. Malawi is estimated to lose some 30% of public funds in its annual budget to corruption. In a recent example that illustrates the problem, Malawi's High Court gave a preservation order for property amounting to \$2.1 million owned by Norman Chisale, a bodyguard to former President Peter Mutharika.

Chisale is also facing multiple charges, ranging from the accumulation of unexplained wealth to abuse of office.⁹¹

Public perceptions of corruption

Malawi has a reputation as a country in which corruption flourishes. This is reflected in Transparency International's Corruption Perceptions Index (CPI). In the 2022 CPI, the country scored only 34 out of 100 points (100 being the cleanest possible) and ranked 110 out of 180 countries. Malawi's CPI score and rankings over time have not shown much improvement.⁹² In addition to the perceptions of corruption in the country, efforts to counter it have been perceived as weak, with the ACB seen as 'ineffective and politically compromised'.⁹³

89 Joseph J Chunga and Raphael Nedi, "Malawians Dissatisfied with Government Efforts on Corruption, Want Swift Action against Corrupt Officials", *Afrobarometer Dispatch* 522, May 26, 2022).

90 Madalitso Wills Kateta, "How Corruption Derails Development in Malawi", *Foreign Policy*, May 21, 2021.

91 "Corruption Getting Worse in Malawi, ACB Report Shows", *Malawi24*, March 21, 2008; Pemphero Musowa, "Chisale Loses Preservation Order Case", *kulinji.com*, January 26, 2022.

92 Transparency International, "Our Work in Malawi", <https://www.transparency.org/en/countries/malawi>.

93 Freedom House, *Malawi: Freedom in the World 2021 Country Report*, <https://freedomhouse.org/country/malawi/freedom-world/2021>.

A 2022 Afrobarometer Survey suggests that the public feels that a great deal of work remains to be done in the battle against corruption. The majority of Malawians (66%) believed that corruption had increased over the previous year, with 57% saying that it has increased ‘a lot’. Corruption is also viewed as having influenced the distribution of COVID funds: some 57% of respondents indicated that ‘a lot’ of the funds allocated to dealing with the pandemic had been misappropriated through corruption.⁹⁴ Among public institutions, the police were viewed as the most corrupt in the country. Some 42% of respondents said that ‘most’ or ‘all’ police officers were compromised by corruption. There is also a sense that, under the Tonse Alliance government, anti-corruption efforts have deteriorated since the previous DPP-led administration, with 54% saying that this was the case.⁹⁵

Despite commitments over the past decade to deal with the issue, ongoing scandals cast doubt on the efficacy of these measures. In recent years, senior government officials have been implicated in various instances of alleged corruption, which cast doubt on the current administration’s commitment and capacity to curb corruption. For instance, in April 2021, an audit report on the use of COVID-19 funds revealed gross mismanagement, abnormal allowances, wastefulness and inaccurate records (to the tune of some \$7.9 million). One cabinet minister was fired as a result of the scandal.⁹⁶

Further, in a case involving Malawian-born UK businessman Zuneth Sattar, several high-ranking government officials have been implicated in corruption and it is expected that a several more are being investigated in relation to the same case. In another case involving the selection of oil suppliers to the National Oil Company of Malawi (NOCMA), another cabinet minister, an MP and a presidential advisor were fired for allegedly interfering in the procurement process.⁹⁷

Corruption also manifests in many different forms, beyond the grand and organised corruption cited above. As a report by Transparency International remarks, ‘In Malawi, the appointment of public officials has long been characterised by clientelism and patronage.’⁹⁸ Cases of so-called ‘petty corruption’ – small-scale malfeasance, such as demanding a payment to process a document – have also been reported. This seems

94 Chunga and Nedi, “Malawians Dissatisfied”, 2.

95 Chunga and Nedi, “Malawians Dissatisfied”, 2.

96 Lameck Masina, “Malawi President Fires Cabinet Minister Over COVID Funds”, *Voice of America*, April 19, 2021.

97 Lameck Masina, “Malawi’s Corruption Monitor Arrests Cabinet Minister, Two Other Officials over Fuel Deals”, *Voice of America*, August 10, 2021.

98 Roberto Martínez B Kukutschk, “Overview of Corruption in Malawi” (Transparency International, Berlin, 2014), 4; Gabriela Camacho and Matthew Jenkins, “Overview of Corruption and Anti-Corruption Efforts in Malawi” (U4 Anti-Corruption Resource Centre and Transparency International, Bergen and Berlin, 2022), 6.

particularly prevalent among public officers with low levels of authority, such as police officers, hospital staff, court clerks and community and traditional leaders.⁹⁹

Anti-corruption efforts have been hampered by the ‘poor working relationship’ among law enforcement agencies such as the ACB and the Office of the Director of Public Prosecutions.¹⁰⁰ This situation could render the two institutions ineffective in their management of corruption cases that need to be investigated and prosecuted. Although efforts to restore a good working relationship have been made, the outcome is yet to be seen.¹⁰¹

Yet, despite the rising level of corruption and related challenges in the mechanisms to address it, some milestones have been achieved in recent times. For instance, in an effort to fulfil its electoral campaign pledge, the new Chakwera administration increased the ABC’s budget allocation in the 2020/2021 financial year.¹⁰² By mid-2020, there was an increase in petitions and corruption reporting to the ACB, mainly led by the HRDC. Further, in the second half of 2021, the country witnessed the high-profile arrests of public officials on corruption charges, including a former cabinet minister.¹⁰³

Corruption has also damaged Malawi’s global standing. The illegal arrest of the ACB’s director-general, Chizuma, has damaged its image and reversed efforts to counter corruption. On 6 December 2022, Malawians woke up to the shocking news that the police had raided and arrested the ACB director at around 4am. Later, it transpired that the arrest had its origins in a complaint by former Director of Public Prosecutions Steve Kayuni. A public outcry and pressure from development partners subsequently forced the state to withdraw all charges against Chizuma. The president suspended Kayuni from duty for what is claimed to be abuse of office on a legal matter, which he should have pursued in his personal capacity without involving state agencies.¹⁰⁴ Strong statements made by the diplomatic community, led by US Ambassador David Young, condemning Chizuma’s unjustified arrest sent a clear signal of development partners’ dissatisfaction with the extent of corruption in the country.¹⁰⁵

99 Government of Malawi, Anti-Corruption Bureau, *The Anti-Corruption Bureau Newsletter*, 20, no. 15 (2021): 32.

100 Seraha Makondesa Chilora, “Amended Law or Not, ACB, DPP Need Good Relations”, *The Times* (Malawi), August 6, 2022; Frank Namangale, “DPP Still Holds Grip on ACB”, *The Nation* (Malawi), September 18, 2022.

101 Earlene Chimoyo and Jayne Kaonga, “Chakwera Calls for Unity Among ACB Chief, DPP, AG”, *CapitalFM*, February 23, 2023.

102 Happy Njalam’mano, “ACB Gets Extra Funding”, *Zodiak Malawi Online*, August 24, 2020.

103 Suzgo Chitete, “Minister Msukwa Faces ACB Arrest”, *The Nation* (Malawi), December 31, 2021.

104 Earlene Chimoyo, “It’s Kayuni vs Chizuma”, *CapitalFM*, <https://www.capitalradiomalawi.com/2022/12/06/its-kayuni-vs-chizuma/>.

105 Lameck Masina, “US Deeply Concerned About Malawi’s Hindrance of Corruption Fight”, *Voice of America*, February 9, 2023; US Embassy in Malawi, “US Embassy Statement on Malawi’s Fight Against Corruption”, February 8, 2023.

Official anti-corruption framework

Realising the social and economic implications of corruption, the country has put in place several institutions, policies and systems to address the challenge. Malawi boasts a robust legal and policy framework for fighting corruption. It has signed and ratified the UN Convention Against Corruption (in 2004 and 2007 respectively). The country also subscribes to regional anti-corruption conventions and treaties, such as the AU Convention on Preventing and Combating Corruption and the SADC Protocol Against Corruption.

The main legal instrument for anti-corruption in Malawi is the Corrupt Practices Act (1995), which establishes the ACB and ‘criminalises attempted corruption, extortion, active and passive bribery, bribing a foreign official, and abuse of office’.¹⁰⁶ Other legal instruments include:

- Malawi’s penal code, which criminalises active and passive bribery;
- The Public Officer’s Declaration of Assets, Liabilities and Business Interests Act (2013), which requires all public officials to disclose their assets within three months of being appointed or elected;¹⁰⁷
- The Public Finance Management Act (2003);
- The Public Procurement Act (2003), which requires procurement regulations to provide thresholds for the use of procurement methods, bid evaluation procedures and contract management;¹⁰⁸
- The Public Audit Act (2003), which expands the powers of the National Audit Office and the Auditor General so they can undertake performance reviews and audits. They may also seek assistance for specialised audits where required;¹⁰⁹ and
- The Financial Crimes Act (2017), which establishes an independent and autonomous Financial Intelligence Authority to prevent, investigate and combat financial and related or consequential crimes.¹¹⁰

106 Farzana Nawaz, “Overview of Corruption and Anti-Corruption in Malawi” (Expert Answer, U4 Anti-Corruption Resource Centre and Transparency International, Bergen and Berlin, 2012), 6.

107 Kukutschk, “Overview of Corruption”, 7.

108 Kukutschk, “Overview of Corruption”, 7.

109 Kukutschk, “Overview of Corruption”, 7. The weakness though is the lack of independence of the office of the Auditor General as the Director General is appointed by the President but reports to Parliament from where he or she also draws an annual budget. Experience has shown that the executive can deliberately avoid the appointment or removal of a Director General.

110 Blackhall’s Laws of Malawi, “Financial Crimes Act (Act 14 of 2017)”, <https://malawilaws.com/bulletin/principal-legislation/bulletin-2017.html>.

The ACB was established in 1995 by an Act of Parliament. It has a mandate under the Corrupt Practices Act (1995) to undertake various activities to prevent, investigate and prosecute corruption offences.¹¹¹ Other important institutions are the Office of the Ombudsman, which is empowered to investigate suspected cases of maladministration in the public sector and to recommend corrective actions; and the Public Procurement and Disposal of Assets Authority, established in 2017, and which is mandated to exercise oversight on procurement in the public sector. Then there are the National Audit Office, whose mandate is to audit institutions to ensure transparency and accountability in managing public funds and assets; the Office of the Director of Public Officers Declaration, which exists to receive and to verify the declarations of assets, liabilities and business interests of public officer bearers; and the Financial Intelligence Authority, which is tasked with combatting financial crimes.¹¹²

The country launched the National Anti-Corruption Strategy II (NACS II) in 2019, as a holistic approach to fighting corruption. After the Cashgate scandal, various changes to the legal and policy framework were made, including:

- an amendment to the Corrupt Practices Act to introduce new regulations for the appointment of the director-general of the ACB. This was to ensure the independence of the bureau's leadership; and
- an amendment to the Corrupt Practices Act in 2022 to remove the requirement to seek consent from the Office of the Director of Public Prosecutions for prosecutions;¹¹³ and
- an amendment to the Courts Act to introduce the Financial Crimes Division.

Multi-stakeholder initiatives

Multi-stakeholder initiatives partner the government with the private sector and civil society – and possibly other actors – to seek a ‘common good’ governance outcome, holding one another accountable in the process. Several of these operate in Malawi. The construction and procurement sectors are among the corruption hotspots. To enhance transparency, in 2008, the government joined a multi-stakeholder group called the Construction Sector Transparency (CoST) initiative. CoST helps to scrutinise construction projects financed by public money to assure quality and ascertain value for money. As a multi-stakeholder process, CoST involves government, private sector, civil society

111 UN Office on Drugs and Crime, *Country Review Report of Malawi* (Vienna: UNODC, 2017), 8.

112 Camacho and Jenkins, "Overview of Corruption", 13–15; Government of Malawi, *Strategic Plan 2017–2022* (Lilongwe, Malawi: Financial Intelligence Authority, June 2017), ii.

113 Camacho and Jenkins, "Overview of Malawi", 12.

and development partners. Currently, in a demonstration of political will and support, Chakwera is its patron and the CoST Malawi Champion.

Another initiative aimed at promoting transparency is the Open Government Partnership (OGP), an international transparency and accountability programme that Malawi joined in July 2022.¹¹⁴ Malawi's National Action Plan (2023–2025) aims to strengthen anti-corruption and public sector reforms, among other things.¹¹⁵ Chakwera issued the directive when he hosted the National Anti-Corruption Conference, adding that the OGP enables the use of international tools and standards to prevent corruption instead of dealing with its aftermath.¹¹⁶

Malawi signed the EITI in 2014 to increase transparency and accountability in mining, forestry and other extractive resources. The EITI champions systematic disclosures by mining companies in terms of taxes remitted to government while the government publishes the revenue it receives. One of the transparency mechanisms is the release of annual reports that are collectively compiled by the government, private sector, CSOs and development partners.

The voices of communities living in mining areas are increasingly captured as part of the EITI process through CSOs and self-mobilisation initiatives. Malawi has achieved a 'moderate score' in the implementation of EITI standards. Specifically, it has made some progress in stakeholder engagement, transparency, outcomes and impact.¹¹⁷

Current challenges in fighting corruption in Malawi

Recent corruption and public finance mismanagement scandals, such as the misuse of the COVID-19 funds, 'mis-procurement, corruption and mismanagement' at the Electricity Supply Corporation of Malawi and the awarding of fuel contracts at NOCMA, highlight serious gaps in the country's efforts to fight corruption and the abuse of public office.¹¹⁸

114 Yamikani Yapuwa, "President Chakwera Directs Activation of Open Government Partnership", *Malawi Voice*, July 25, 2022.

115 Government of Malawi, Office of the President and Cabinet, *Malawi National Action Plan for the Open Government Partnership 2023–2025* (Lilongwe, Malawi: Office of the President and Cabinet, 2022).

116 Yapuwa, "President Chakwera Directs Activation".

117 Extractive Industries Transparency Initiative, "Malawi Has Achieved a Moderate Overall Score in Implementing the 2019 EITI Standard", October 12, 2022.

118 Fazila Tembo, "ESCOM loses K14bn to Mis-Procurements and Corruption", *Nyasa Times*, January 19, 2022; Shorai Mopiwa, "Fuelgate: Buluma Raises Serious Corruption Allegations at NOCMA", *Malawi24*, November 16, 2022.

Disclosure and access to information

Transparency is foundational in fighting corruption. Inadequate or the complete lack of transparency in the management of public affairs poses serious risks to preventing or combatting corruption. One contentious issue is the enforcement of the Political Parties Act, especially in terms of the obligations of political parties to declare their sources of financing.¹¹⁹ The public and the media continue to raise concerns about difficulties in accessing this vital information. Further, while the Access to Information Act is now operational, there have been concerns about the allocation of funds to the MHRC for overseeing the implementation of the law (See chapter on access to information).

Whistle-blower protection

Whistle-blower protection is insufficiently addressed by the country's legal framework. While several laws make provisions for whistle-blower protection, there is no comprehensive, standalone law that provides overarching guidelines on protecting people who report corruption.

Management of recovered assets

While several law enforcement agencies are following up on illegally acquired wealth and attempting to ensure that such wealth is recovered, the government is yet to establish regulations on access to and use of such recovered assets. The Financial Crimes Act (2017) provides for the establishment of a Confiscation Fund, which would handle all finances and assets recovered from financial crimes, including corruption. To date, mechanisms for managing such assets have not been set up. Further, the process to develop such regulations, if any exists, has not been open for input from the public or interested parties.

Apart from the challenges cited above, the NACS II identifies other serious stumbling blocks in the fight against corruption:¹²⁰

- complex and cumbersome procedures;
- lack of a culture to hold duty-bearers accountable;
- informal networks that promote nepotism and favouritism;
- institutional gaps;

¹¹⁹ Camacho and Jenkins, "Overview of Malawi", 5.

¹²⁰ Republic of Malawi, *National Anti-Corruption Strategy II 2019-2024* (Lilongwe: Republic of Malawi, 2020), 9-11.

- capacity challenges in law enforcement agencies;
- inadequate resources in the fight against corruption;
- weak coordination between agencies;
- a perception that there is little political will to curb corruption;
- poor remuneration for public officers; and
- officials living beyond their means.

RECOMMENDATIONS

In order to address corruption in Malawi, it is recommended that the government:

- Commit to the full implementation of the Access to Information Act;
- Put in place all institutional requirements to facilitate the implementation of the Political Parties Act, especially to enforce compliance in the disclosure of party financing;
- Improve the relationship between the ACB and various other state agencies, such as the Director of Public Prosecutions and police;
- Provide sufficient resources and political support to the ACB to allow it to do its work without fear or favour;
- Expedite the process in developing a standalone law for whistle-blower protection;
- Expedite the process in developing regulations for the management of recovered assets, including the use of the Confiscation Fund;
- Strengthen anti-corruption institutions through adequate funding, coordination mechanisms and legal instruments for the effective investigation, prosecution and adjudication of cases involving crimes of corruption;
- Cut red tape and enforce applicable laws to deal with corruption; and
- Strengthen monitoring and performance management systems in public institutions.

All stakeholders should:

- Promote ethical conduct, whether in the state, in the private sector or among private citizens;
- Strengthen multi-stakeholder initiatives to deal with corruption and foster probity in particular sectors;
- Encourage the development and implementation of practical tools to enable non-state actors to identify and denounce corruption; and
- Promote collaboration and peer review of activities through multi-stakeholder anti-corruption initiatives.

CHAPTER 9



Social protection

The issues discussed here relate to the broad-based sustainable socio-economic development thematic area, specifically:

» OBJECTIVE 1

Promote and accelerate broad-based sustainable socio-economic development

Question 1 Describe the policies and strategies formulated by your country to promote and accelerate broad-based sustainable socio-economic development.

Introduction

Malawi regularly faces disasters, both natural and human made. These include floods, droughts, landslides, earthquakes, pest infestations, disease outbreaks and fires. The intensity and frequency of disasters are on the increase, owing to climate change, high population growth, urbanisation and environmental degradation. These disasters disrupt people's livelihoods, endanger human and food security, damage infrastructure and hinder socio-economic growth and development. They exacerbate poverty among both rural and urban households and erode the country's ability to attract investment in key sectors. It is, therefore, important to address the risks disasters pose to socio-economic development. Similarly, disadvantaged households need livelihood support when faced with such threats.

Social security is a human right, and social protection interventions are the policies and programmes designed to address poverty and vulnerability at all stages.¹²¹ The Malawi National Disaster Risk Management Policy of 2015 was developed for the effective implementation and coordination of disaster management programmes and activities, along with the Disaster Risk Management Manual. However, neither hazards nor vulnerabilities are well defined, making it difficult to design appropriate early warning systems. Furthermore, there is limited risk knowledge at grassroots level, especially in areas without disaster risk reduction projects. Few sectors have the requisite knowledge about the disaster risks relevant to them.

The government continues to scale up the implementation of social support programmes aimed at protecting the livelihoods of the poor and vulnerable. The 2022/23 financial year saw the significant scaling-up of the Climate Smart Enhanced Public Works Programme, which increased its coverage up to a targeted 435 000 households. It was expected to reach 524 000 households in the 2023/2024 financial year.

In order to improve the effectiveness of social protection programmes, the government is facilitating the implementation of an Integrated Safety Net Programme through the accelerating implementation of the Unified Beneficiary Registry, which collects socio-economic and demographic information on households. This will ensure a harmonised and coordinated targeting framework for various social protection programmes, enhancing efficiency and eliminating multiple access by some beneficiaries. Additionally, the government and its development partners have signed a multi-donor trust fund to support implementation of the integrated social protection programme.

To help vulnerable groups, the government, in collaboration with the World Bank, has intensified resource mobilisation for the Social Support for Resilient Livelihoods Project, which aims to improve resilience among 'poor and vulnerable populations and [strengthen] the national platform for safety nets'.¹²² The government makes allocations in the national budget towards social protection. For example, the sector's share of the total national budget has increased significantly, from MWK 44 billion (\$25.3 million) (0.26%) for the 2022/2023 financial year to MWK 81 billion (\$46.7 million) (0.46%) in the 2023/2024 financial year. The increase is a result of four new programmes:

- government subvention to the Malawi Red Cross Society;
- disability mainstreaming;

121 See International Labour Organization, "Chapter 5: Social Protection", <https://www.ilo.org/100/en/story/protection/>

122 World Bank, "Malawi: Social Support for Resilient Livelihoods Project", 2019.

- social welfare and childcare services; and
- probation and rehabilitation services.

The inclusion of children with disabilities in different activities, social services such as the construction of houses for households with PWA and, perhaps most importantly, the Social Cash Transfer Programme (SCTP) are significant. The SCTP is described as follows:¹²³

The Malawi Social Cash Transfer (Mtukula Pakhomo) is an unconditional transfer targeted to ultra-poor, labour constrained households.¹²⁴ The main objectives of the SCTP are to reduce poverty and hunger, and to increase school enrolment. The programme began as a pilot in 2006 in Mchinji District and was subsequently expanded to an additional six districts in 2007.

According to the Malawi Social Cash Transfer Programme Strategic Plan 2022–2027, the programme has reached 303 000 beneficiary households.¹²⁵ The SCTP has a particular impact on children, as households receiving the SCTP are likely to have children and young adult members. Some 35% of such household members are aged between 10–24 years. Around a third of children in SCTP-eligible households are orphans.¹²⁶ Globally (as in Malawi), as one source phrased it,¹²⁷

[t]he ongoing COVID-19 pandemic has placed a great deal of pressure on national social protection mechanisms, especially those non-contributory social transfers that are targeted at the poorest and most vulnerable members of society. While there is no precedent for COVID-19, it is clear that this pandemic will both expand the need for social protection for many individuals, while simultaneously undermining the capacity of the social protection delivery systems by affecting staff or damaging systems. Social protection programmes will have an integral role in mitigating the welfare impacts of this global shock.

123 The Transfer Project, “Malawi’s Social Cash Transfer Programme: A Comprehensive Summary of Impacts”, Research Brief 03, November 2017.

124 The SCTP is “unconditional” despite needing to graduate beneficiaries, when it has old beneficiaries listed as a labour constraint and will remain as such for the rest of their lives.

125 Government of Malawi, *Malawi Social Cash Transfer Programme Strategic Plan 2022–2027* (Lilongwe: Ministry of Gender, Children and Community Development, 2022), 2.

126 Government of Malawi and UNICEF, *Addressing Lifecycle Vulnerabilities of Beneficiaries in the Malawi Social Cash Transfer Programme* (Lilongwe: University of Malawi, UNICEF and University of North Carolina, 2020), 2–3.

127 Madhumitha Hebbar and Laura Phelps, “Rapid Literature Review: Social Protection” (COVID-19 Series, Maintains, Oxford, April 2020), 4.

Legal and policy frameworks

The National Social Protection Policy draws on several other public sector policies and programmes that focus on Malawi's socio-economic development.¹²⁸ Thus, it has been substantively informed by provisions that government set down to achieve sustainable economic growth and development. The National Social Protection Policy therefore has its origins in a number of instruments:

The Malawi constitution: The constitution guarantees the right to development and related social, cultural and political rights and the state should enact measures to eradicate social injustice and inequalities. This is the basic driver of the country's social protection agenda.

Malawi 2063: The Malawi 2063 vision centres on the theme of an 'inclusively wealthy and self-reliant nation'. It recognises social protection as an enabler of development in all sectors. In respect of human rights, cultural diversity and social cohesion, Malawi 2063 emphasises that the marginalised and disadvantaged need to become active participants in the design and implementation of development plans.¹²⁹

10-Year Priority Interventions for Malawi 2063: In the 10-year Priority Interventions, social protection is acknowledged under Enabler 5 (Human Capital Development). Specifically, it prioritises interventions in health and nutrition in order to scale up 'social protection programmes that are catalytic and transformative in nature leading to resilient communities'.¹³⁰ It also covers social protection as an outcome under the broader rubric of social welfare.

Malawi Growth and Development Strategy: The Malawi Growth and Development Strategy (MGDS III) is the medium-term development framework for achieving the aspirations of Malawi 2063. Social protection in the MGDS III falls under the development area of 'Disaster Risk Management and Social Support'. The long-term

128 The SSP has been under review during this time and is likely to be renamed to possibly "Social Protection Policy". One important weakness of the SSP and its implementation is its focus only on Social Cash Transfers, and has deficiencies in providing for children whose allocations fail to match with fees and education demands given that schools demand user fees from all enrolled children, including in the case of children living with HIV and AIDS and malnourishment, coming from poverty stricken families.

129 Government of Malawi, National Planning Commission, *Malawi 2063* (Lilongwe: National Planning Commission, 2021), 30.

130 Government of Malawi, National Planning Commission, Annual Progress Report 2021-2022, *Malawi 2063 First 10-Year Implementation Plan (Mip-1)* (Lilongwe: National Planning Commission, 2023), 82.

goal covering social support is ‘to reduce vulnerability and enhance the resilience of the population to disasters and socio-economic shocks’.¹³¹

National Disaster Risk Management Policy: The objective of the National Disaster Risk Management Policy is ‘to create an enabling framework for the establishment of a comprehensive disaster risk management system for Malawi’. One of the key areas is to promote ‘a culture of safety and resilience among disaster risk management stakeholders’. It is thus an asset in social protection.¹³²

The National Gender Policy: The National Gender Policy (2015) aims to ‘strengthen gender mainstreaming and women empowerment at all levels in order to facilitate attainment of gender equality and equity in Malawi’¹³³ and to empower the participation of women in development processes.

National Resilience Strategy: The National Resilience Strategy envisions a ‘country free of chronic vulnerability, and food and nutrition insecurity, where sustainable economic development creates opportunities for everyone, and where people are resilient to economic and environmental shocks that affect their lives and livelihoods’.¹³⁴

The National Decentralisation Policy: The National Decentralisation Policy (1998) was put in place as a mechanism for empowering local communities to participate in the decisions that affect them, especially in the improvement of their welfare. It brings government closer to the people for quality service delivery and for popular participation in local governance and development, and ensures equitable and sustainable development.¹³⁵

National Nutrition Policy: The goal of the policy is to have a well-nourished population that is able to contribute effectively to economic growth and prosperity. The policy seeks to prevent undernutrition, with an emphasis on children under five, adolescent girls, school-going children, pregnant and lactating women, people living with HIV/AIDS and other vulnerable groups. It promotes school feeding, school health and nutrition programmes as a strategy for integrating high-impact, nutrition-specific and nutrition-sensitive interventions in the education sector.

131 Government of Malawi, *The Malawi Growth and Development Strategy (MGDS) III (2017-2022)* (Lilongwe: Government of Malawi, 2017), 55.

132 Government of Malawi, *National Disaster Risk Management Policy* (Lilongwe: Government of Malawi, 2015), 5, 7.

133 Government of Malawi, *National Gender Policy* (Lilongwe: Government of Malawi, 2015), 15.

134 Government of Malawi, *National Resilience Strategy (2018-2030)* (Lilongwe: Government of Malawi, 2019), ii.

135 Government of Malawi, *The National Development Policy* (Lilongwe: Government of Malawi, 1998).

National Education Policy: The National Education Policy advocates the promotion of the school feeding programme and interventions in school health, water, sanitation and hygiene, HIV/AIDS, gender and education.¹³⁶ The policy mainstreams nutrition within school curricula, implements nutrition-sensitive interventions that improve classroom education and aims to keep adolescent girls and young women in schools.¹³⁷

National Employment and Labour Policy: The National Employment and Labour Policy advocates decent work conditions, of which social security is a key component.¹³⁸ The UN's Decent Work Agenda was established to promote sustained, inclusive and productive employment for all.

Malawi Decent Work Country Programme: The overall goal of the Malawi Decent Work Country Programme (DWCP) 2020–2023 is to contribute to 'the national development agenda through improved gainful secure and rights-based employment for youth, women and men'.¹³⁹ The Malawi DWCP priority areas include employment creation and the promotion of sustainable jobs, the ratification and application of international standards and fundamental principles and rights at work, and enhancing and extending the coverage and quality of social protection.

Other policy documents, acts and reports: The National Protection Policy is informed by a range of other national and sectoral policies, acts and reports, including those dealing with the following: HIV, youth, food security, orphans and vulnerable children, reproductive health, early childhood care and development, land and environment, disability and labour.

Linkages with the private sector and other non-state actors

The societal challenges to which social protection responds are beyond the ability of the state to handle on its own. Hitherto, the private sector has not been a major participant in implementing the 2012 National Social Support Policy (NSSP), although the latter does call for greater involvement of agencies outside the public sector to assist in achieving its aims.

136 Government of Malawi, Ministry of Education, Science and Technology, *National Education Policy* (Lilongwe: Ministry of Education, Science and Technology, 2013).

137 Government of Malawi, Ministry of Education, Science and Technology, *National Education Policy*.

138 Government Of Malawi, Ministry of Labour, Youth, Sports and Manpower Development, *National Employment and Labour Policy* (Lilongwe: Ministry of Labour, Youth, Sports and Manpower Development, no date).

139 Government of Malawi, Ministry of Labour, *Malawi Decent Work Country Programme, 2020 to 2023* (Lilongwe: Ministry of Labour, ILO, Employers Consultative Association of Malawi and Malawi Congress of Trade Unions, no date), 4.

Global context

Along with Malawi's domestic drivers of social protection measures, the country's agenda is shaped by the international instruments to which it subscribes. These include the SDGs and the AU's Agenda 2063.

In addition, Malawi subscribes to the UN Convention on the Rights of the Child, the UN Convention on the Rights of Persons with Disabilities, the AU's Policy Framework, the Universal Declaration of Human Rights and the UN Declaration on Social Progress and Development.

Social protection in Malawi

The NSSP is the overarching policy that guides implementation of social protection programmes. It is meant to be operationalised through the second Malawi National Social Support Programme (MNSSP) II (2018–2023). The MNSSP II prioritises five thematic areas, namely consumption support; resilient livelihoods; shock-sensitive social protection; linkages between social protection and other programmes; and strengthened social protection systems.¹⁴⁰

The social protection sector in Malawi is characterised by social assistance programmes, covering 21.3% of the population.¹⁴¹ Contributory social security schemes, on the other hand, are much more limited in coverage and restricted to the formal sector. Less than 1% (as of 2016) of the population participates in programmes that provide old-age contributory pensions (including survivors and disability coverage) and social security and health insurance benefits (including occupational injury benefits, paid sick leave, maternity and other social insurance).¹⁴² Social protection has received unsatisfactory budgetary allocations, has limited reach and lacks proper implementation action plans. As a result, the policy that has been implemented (NSSP 2012–16) has not led to a comprehensive and integrated social protection framework.

140 Government of Malawi, Malawi National Social Support Programme II (MNSSP II) (Lilongwe: Government of Malawi, 2018).

141 ILO, "Social Protection: Malawi", <https://www.social-protection.org/gimi/ShowCountryProfile.action?iso=MW>.

142 IndexMundi, "Malawi: Social Insurance Programmes", <https://www.indexmundi.com/facts/malawi/social-insurance-programs>

Challenges

Disaster management and relief

Malawi has recently been hit by climate change-induced cyclones (Anna in 2019, Gombe in 2020 and Freddy in 2023) as well as disease outbreaks such as COVID-19. In 2022–23, it faced a cholera outbreak. Policies such as Malawi 2063 and MNSSPII have a direct and indirect bearing on social protection as it relates to disaster relief.

Difficulties have arisen in targeting policy beneficiaries, with no clear guidelines or processes on how this is done and when it should be terminated; weak monitoring and evaluation processes; and programme financing issues. To address these challenges, Parliament enacted the Disaster Management Bill on 12 April 2023. This was assented to by the president in June 2023. It seeks to provide guidelines on disaster management issues, for example, relief distribution and management and relocation of persons in disaster-prone areas. According to Minister of Justice Titus Mvalo,¹⁴³

The Bill creates committees at local council level for risk disaster management, it also creates committees of disaster risk management at community level. So, it is a very structured arrangement to make sure that when disaster happens there should be coordination between these committees on how to handle disasters.

Social protection

Social protection interventions face a number of challenges. First, while poverty remains much higher in rural than urban areas, between 2017 and 2020 there was an increase among urban dwellers. Urban dwellers, however, are not eligible for cash assistance under the SCTP. Second, the approach used to identify beneficiaries is inadequate as it leaves behind significant vulnerable (and eligible) populations in some of the poorest districts. There are large gaps in coverage: despite the fact that over 20.5% of the population is classified as ultra-poor, only about 7% of the national population received social support in the 2021/22 financial year.¹⁴⁴ Third, the monetary value of the cash transfers is affected by inflationary pressures and erodes over time. For example, in 2021, the average SCTP monthly transfer value of MWK 9 500 (\$12) came to about 25% of what it had been worth in 2020.

143 Mike Kalumbi, "Parliament Passes Disaster Risk Management Bill", *Malawi24*, April 23, 2023.

144 UNICEF, "Social Protection: Malawi Budget Brief" (UNICEF Malawi, Lilongwe, 2021–2022), 4.

RECOMMENDATIONS

It is recommended that the government:

- Institute a strengthened, people-centred early warning system to enhance disaster management, planning and response;
- Enhance official preparedness for response to and recovery from disasters, providing cash transfers to households that are hit by disasters and the means for communities to mitigate and rebuild. The involvement of major industries and utilities such as power and water providers and communication services is crucial;
- Provide improved support for vulnerable Malawians. This would include:
 - » Ensuring better targeting mechanisms for social support beneficiaries;
 - » Broadening and scaling up social support programmes and packages;
 - » Ensuring the sustainability – from domestic sources – of social support packages;
 - » Engaging the private sector and other non-state actors in the provision of social support; and
 - » Expanding the Social Cash Transfer to address poverty and deprivation among ultra-poor and labour-constrained households.
- Establish a National Old Age Social Pension Programme and develop the National Old Age Social Pension Programme Implementation strategy.

All stakeholders should:

- Work to improve the resilience of communities to disasters, which would involve strengthening the capacity of law enforcement personnel in safeguarding the human rights of vulnerable groups; enhancing the preparedness of households and disaster risk management committees for effective response and recovery; making available funding for public works programmes; increasing the asset base and production capacity of poor and vulnerable households; and ensuring adequate and appropriate access to public health, healthcare and social services.

CHAPTER 10



Education

The issues discussed here relate to the entirety of the broad-based sustainable socio-economic development thematic area.

Introduction

Education is regarded as being crucial in turning Malawi into ‘an inclusively wealthy and self-reliant industrialised upper-middle-income country by the year 2063’.¹⁴⁵ Governance in the education sector is therefore important to increase access, equity and quality, especially for youth and disadvantaged rural populations. The country has much ground to make up for in the educational space. As a World Bank study notes: ‘While children in Malawi can expect to complete 9.4 years of pre-primary, primary and secondary school by age 18, when adjusted for quality of learning, this is only equivalent to 5.4 years.’¹⁴⁶ Human capital outcomes are low, as¹⁴⁷

Malawi ranks 172 out of 189 countries on the 2018 Human Development Index and 125 out of 157 countries on the Human Capital Index (HCI). According to the latest HCI, a child born in Malawi today will be 41% as productive when she grows up as she could be if she enjoyed complete education and full health.

145 Government of Malawi, National Planning Commission, *Malawi 2063*, i.

146 Salman Asim, *Project Information Document: Malawi Education Reform Program (MERP) - P174329* (Washington DC: World Bank, 2021), 4.

147 Asim, *Project Information Document*, 4.

Institutional and policy framework

The Ministry of Education (MoE) is the lead policy anchor in education provision in Malawi. The MoE is meant to coordinate the roles of other actors, such as faith-based organisations and the private sector. Other ministries, including those responsible for youth, gender and labour, are involved alongside the MoE in the provision of both formal and non-formal education. ECD is implemented with policy leadership by the Ministry of Gender, Community Development and Social Welfare. ‘The Ministry of Youth and Sports leads in the provision of sports and other services targeting out-of-school youths, while the Ministry of Labour takes the lead in the provision of technical education and vocational training.’¹⁴⁸

The education sector is governed by the National Education Sector Investment Plan (NESIP) 2020–2030 and the National Education Policy (NEP), in alignment with the Malawi Implementation Plan-1 of Malawi 2063. The policy prescriptions include the Free Primary Education, Re-admission Policy and National Grade Promotion Policy. Other recently initiated policy developments in the education sector include the Higher Education Policy, National Open and Distance e-learning Policy and National Education ICT Policy. The educator sector policies are anchored in the UN SDGs, particularly SDG 4, whose focus is to ‘ensure inclusive and equitable quality education and promote lifelong learning opportunities for all’.¹⁴⁹

Education is a human right falling under article 26 of the Universal Declaration of Human Rights. On the continent, the AU’s Continental Education Strategy for Africa (2016–2026) intends ‘reorienting Africa’s education and training systems to meet the knowledge, competencies, skills, innovation and creativity required to nurture African core values and promote sustainable development at the national, sub-regional and continental levels’.¹⁵⁰

Malawi 2063’s first 10-year (2020–2030) Mid-Term Implementation Plan (MIP-1) considers human capital development an enabler and promises highly knowledgeable people with relevant, quality education that incorporates a strong element of academic excellence and technical and vocational skills fit for the labour market.¹⁵¹ These promises are expounded in the country’s NEP, released in 2016 by the Ministry of Education,

148 Government of Malawi, Ministry of Economic Planning & Development and Public Sector Reforms, *Annual Economic Report 2021* (Lilongwe, Malawi: Department of Economic Planning and Development, 2021), 109.

149 UN, Department of Economic and Social Affairs, “Goals: 4”, <https://sdgs.un.org/goals/goal4>.

150 AU, *Continental Education Strategy for Africa 2016-2025* (Addis Ababa: AU, 2021), 21.

151 Government of Malawi, National Planning Commission, *Malawi 2063 First 10-Year Implementation Plan (MIP-1)*, Annual Progress Report 2021–2022 (Lilongwe: Government of Malawi, 2023), 75–80.

Science and Technology, and the National Education Sector Investment Plan (NESIP) 2020–2030. ‘Malawi’s education policy agenda outlined in the 2016 NEP and the 2020–2030 NESIP is oriented towards achieving equitable access while improving the relevance, quality and governance and management of the education sector.’¹⁵²

The education system comprises three years of preschool, eight years at primary level, four years at secondary level and four years at university level.¹⁵³ Education programmes fall into various sub-programmes and departments, including ECD; primary, secondary and higher education; teacher education; inclusive education; technical, entrepreneurial and vocational education and training (TEVET); adult literacy; school health and nutrition and HIV; and support services. The implementation of education programmes runs across various ministries, coordinated by the MoE.

By the end of 2022 the country had 6 750 primary schools, 2 538 secondary schools, 26 higher education institutions, 15 teacher training colleges and 10 000 adult literacy centres. The education institutions enrolled at least 6 million learners, the majority of whom were at primary (4 943 633), ECD (524 893), secondary (441 102) and university (56 624) levels. But, as one commentator noted, about ‘5 million adults are illiterate and 3 million primary and secondary school going-age children are out of school’.¹⁵⁴ The 2022 pass rates in national examinations were Primary School Leaving Certificate of Education (83.2%), Junior Certificate of Education (73.07%) and Malawi School Certificate of Education (58.4%). While the education policy envisions quality education for everyone, there are serious problems in terms of access, equity, relevance, financing and governance that have to be surmounted on the road to 2030.

Issues confronting education in Malawi

Failure to implement compulsory education

Compulsory basic education has been adopted by many countries, alongside free education up to high-school level. In Malawi, the government adopted a free primary education policy soon after the transition to multiparty democracy in 1994. Compulsory education is provided for within the policy framework, but implementation has been a

152 Limbani Bartholomew Eliya Nsapato, ‘An Examination of Managerial Perceptions and Strategic Choices in Addressing Dependence on Donor Aid in Financing Education In Malawi’ (PhD thesis, University of Lusaka, 2020), 1. plainCitation: ‘Limbani Bartholomew Eliya Nsapato, ‘An Examination of Managerial Perceptions and Strategic Choices in Addressing Dependence on Donor Aid in Financing Education In Malawi’ (PhD Thesis, Lusaka, Zambia, University of Lusaka, 2020).

153 Government of Malawi, Ministry of Education, *2022 Malawi Education Statistics Report (EMIS)* (Lilongwe: Ministry of Education, 2022).

154 Limbani Nsapato, ‘Another SONA? President Chakwera’s Broken Education Promises’, *The AfricaBrief* (substack), February 2, 2022.

challenge. The constitution provides for compulsory education in the early grades, while the Education Act of 2013 stipulates in Section 13 that ‘provision of primary education in government schools shall be free of tuition to all and compulsory for every child below the age of 18’.¹⁵⁵ In the September 2020 SONA, Chakwera vowed to implement compulsory education, saying,¹⁵⁶

My administration is committed to ensuring that every child goes to school, stays in school, and finishes school. One way we will do this is by passing legislation and developing guidelines for implementing our manifesto promise to make primary school education compulsory.

Three years down the line, neither the legislation nor the guidelines have been put in place to implement compulsory education.¹⁵⁷

The failure to ensure compulsory education is negatively affecting the many Malawian children and adults who remain illiterate. Moreover, there are reportedly high absenteeism rates, high dropout rates, low completion rates and high failure rates in national examinations.

ECD is a key government priority, structured around the National Early Childhood Development Policy of 2017. Investment in ECD has a profound impact on brain and cognitive development, with longer-term effects on health, learning, skills gain and lifetime earnings. The available data indicates that there are 12 220 functioning ECD centres across Malawi, while the NESIP envisages 14 720 ECD centres by 2025.¹⁵⁸

Poor transition from primary to secondary schooling

Free primary education has been pursued since 1994 and has boosted primary school enrolment. Although the government has made concerted efforts in expanding the number of secondary schools and the infrastructure in existing secondary schools, relatively few children make the transition to that level. A government report notes the following in defining transition rates:¹⁵⁹

155 Nsapato, “Another SONA?”.

156 Nsapato, “Another SONA?”.

157 Nsapato, “Another SONA?”.

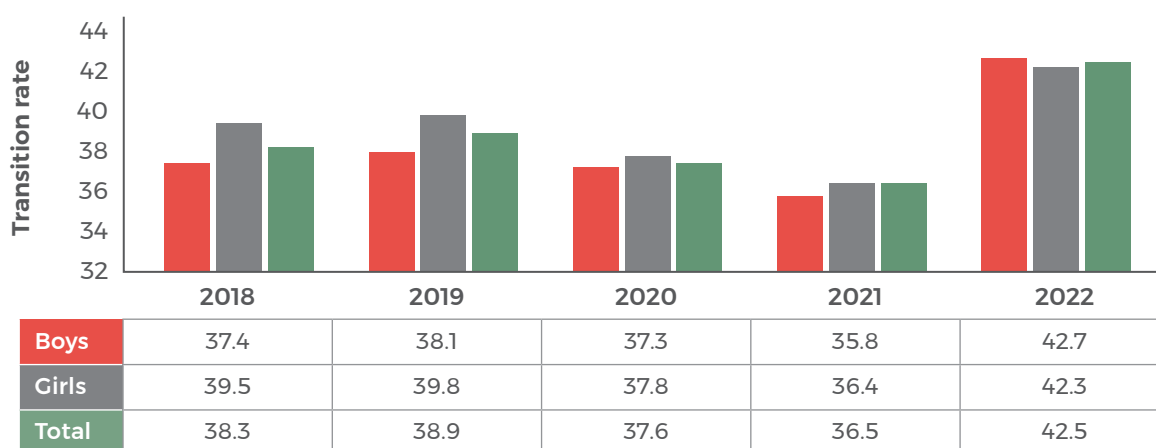
158 Government of Malawi, Ministry of Education, *National Education Sector Investment Plan 2020–2030* (Lilongwe: Ministry of Education, 2020), 79.

159 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 48.

UNESCO defines the Transition Rate as the number of pupils (or students) admitted to the first grade of a higher level of education in a given year, expressed as a percentage of the number of pupils (or students) enrolled in the final grade of the lower level of education in the previous year. The purpose of this indicator is to convey information on the degree of access or transition from one cycle or level of education to a higher one, in this case from primary to secondary school. High transition rates indicate a high level of access or transition from one level of education to the next. They also reflect the intake capacity of the next level of education. Inversely, low transition rates can signal problems in the bridging of two cycles or levels of education due to either deficiency in the examination system or inadequate admission capacity in the higher cycle or level of education, or both.

In 2021/2022, the secondary school gross enrolment rate (GER) was very low at 24.3, compared to a GER at primary of 113.9.¹⁶⁰ While primary enrolment was registered as 4 783 093 in 2021/2022, only 441 102 learners were enrolled in secondary school at the same time.¹⁶¹ There is definitely a transition rate problem, as shown in Figure 2.

FIGURE 2 TRANSITION RATES BY SEX, 2018-2022



Source: '2022 Malawi Education Statistics Report (EMIS)', 49

160 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, xii.

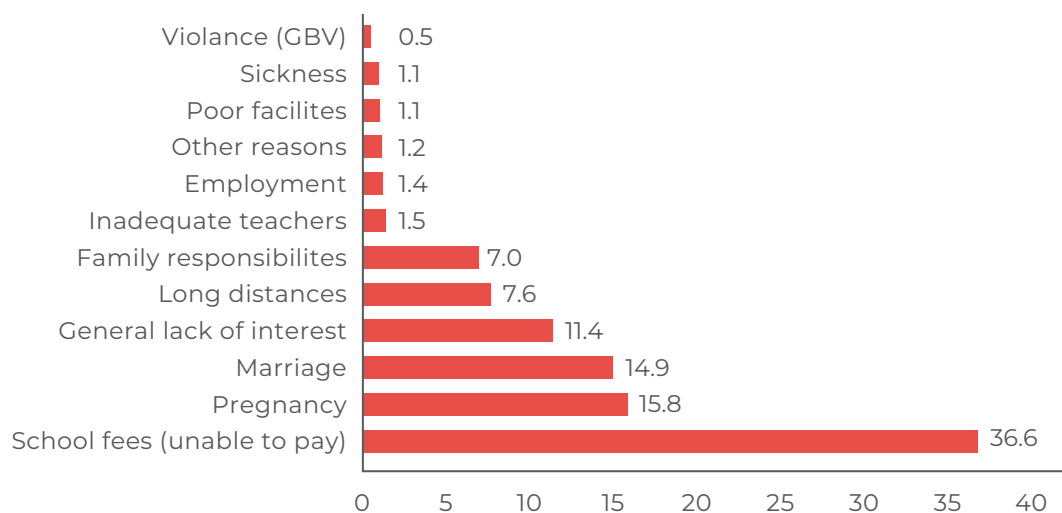
161 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, xii.

From the figure it is clear that, in 2022, the primary school transition rate was 42.5%, with 42.7% for boys and 42.3% for girls. Ideally, there should be a 100% transition rate, that is, everyone who is qualified to go to secondary school should do so. It is thus necessary to increased investment in the secondary education subsector to allow greater access. It is also important to act on policy regarding the use of technology in education, which might expand access through online provision.

Low secondary school completion rate

In Malawi, despite efforts to expand access to secondary school, the completion rate, in 2022, at secondary school level was an average of 19.4%, with boys at 21.1% and girls at 17.9%.¹⁶² Ideally, between 80% and 100% of children enrolled should be able to complete secondary education. Every Malawian suffers from this failure, as money meant to develop the country is being spent on dropouts and repetitions. For instance, the Malawi Education Statistics Report says that '[t]here were a total of 23 063 dropouts in the 2020/21 academic year... Of these, 13 973 were female students representing 61% while 39% dropouts were male students.'¹⁶³ Several factors contribute to the dropout

FIGURE 3 DROPOUT REASONS



Source: '2022 Malawi Education Statistics Report (EMIS)', 72

¹⁶² Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 106.

¹⁶³ Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 71.

rate, including a lack of money for school fees, pregnancy, marriage, lack of interest in school, long distances and family responsibilities¹⁶⁴ (See chapter on children).

Poor access and performance for children with disabilities

In 2017, the government developed the Inclusive Education Strategy (2017–2021) and the National Disability Mainstreaming Strategy and Implementation Plan 2018–2023. This was done to ensure implementation of the provisions in the UN Convention on the Rights of Persons with Disabilities and the Malawi Disability Act of 2012. The act defines ‘disability’ as a ‘long-term physical, mental, intellectual or sensory impairment, which, in interaction with various barriers, may hinder the full and effective participation in society of a person on equal basis with other persons’.¹⁶⁵ PWDs make up at least 10% of the national population. According to UNICEF Malawi, ‘the 2018 Population and Housing Census reports that there are 1 566 670 persons [in Malawi] with at least one type of disability, aged 5 years and older’.¹⁶⁶

Government policy commits to ensuring equitable access to education at all levels, but inclusion problems persist, particularly affecting children with disabilities (special needs). Exam performance data also shows that children with disabilities have lower pass rates in national examinations. Furthermore, there is a need for school environments within which learners with disabilities can receive education appropriate to their needs. Education Management Information System reports and the outcomes of the 2022 National Conference on Inclusive Education in Lilongwe show that issues of accessibility for children with diverse needs – as well as the need to provide adequate teaching and learning materials – received considerable attention. It is concerning that ‘the proportion of schools not accessible during the rainy season has increased from 31.4% recorded in 2020/21 to 33% recorded in 2021/22’.¹⁶⁷

Violence against and prejudice towards PWAs have also kept many children with disabilities out of school. Owing to inaccessible school facilities, the number of school-going children with special needs dropped from 173 715 in 2019 to 164 130 in 2022.¹⁶⁸ ‘The number of learners with special learning needs has been decreasing at an average [rate] of 1.8% from 2018 to 2022’.¹⁶⁹ At primary level, the proportion of learners

164 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 72.

165 Ahmad Mmadi and Tapiwa Kelvin Mutambirwa, “Leaving No One Behind: Ensuring Children with Disabilities in Malawi Have an Equal Chance in Life” (Disability Budget Brief 2022/2023, UNICEF Malawi, Lilongwe), 2.

166 Mmadi and Mutambirwa, “Leaving No One Behind”, 4.

167 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 6.

168 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 15.

169 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 15.

with special needs decreased slightly, from 3.47% in 2020 to 3.32% in 2022, while at secondary it decreased from 2.3% in 2019/2020 to 2.1% in 2022, according to the National Statistic Office Household Survey, 2018.

Moreover, there is little funding for disability challenges. For instance, in 2022 the disability budget in the Ministry of Gender, Community Development and Social Welfare shrunk by 44%, largely driven by the termination of the Disability Mainstreaming programme. In a bid to empower and protect PWDs and PWAs, the government allocated 'MWK 100 million(\$57,600)... to the Disability Fund and MWK 300 million (\$173,000) for the implementation of the Action Plan for the Protection of People with Albinism... In addition, MWK 500 million (\$288,000) has been allocated under the Ministry of Lands for the construction of houses for people with albinism.¹⁷⁰ The 2022/23 budget allocated MWK 642 million (\$370,000) to special needs education, which was '46% of the MWK 1.4 billion (\$807,000) the MoE requested for the procurement of TLMs [teaching and learning materials] for special needs learners'.¹⁷¹ The analysis above shows that there is a great need to pay particular attention to special needs education. Failure to address such issues means further marginalising vulnerable children.

Shortage of teachers

Policy frameworks by the UN, AU and the Malawi government place emphasis on engaging adequate numbers of teachers to improve the quality of education at all levels. Internationally, countries should attempt to ensure a teacher-pupil ratio of 1:40, although locally the government committed through the NESIP to achieve a ratio of 1:60.¹⁷² The government is trying to recruit teachers and reduce the ratio of pupils to teachers, but it remains high. As part of the measures to reduce the ratio, the government increased IPTE recruitment from 3 671 in 2020/2021 to 8 970 in 2021/2022, more than doubling the number.¹⁷³ This is commendable, although the focus is now more on recruiting auxiliary teachers on a temporary basis. COVID-19 placed a great deal of stress on the teaching profession. The pandemic necessitated learning in decongested classes, which exacerbated the demand for teachers. As a stop-gap measure, the MoE recruited and deployed about 3 270 auxiliary teachers¹⁷⁴ in 2 047 primary schools with a high enrolment to enable learning in less congested conditions.

170 Mike Kalumbi, "Malawi Finance Minister Presents K2.84 Trillion Budget", *Malawi24*, February 18, 2022.

171 Mmadi and Mutambirwa, "Leaving No One Behind".

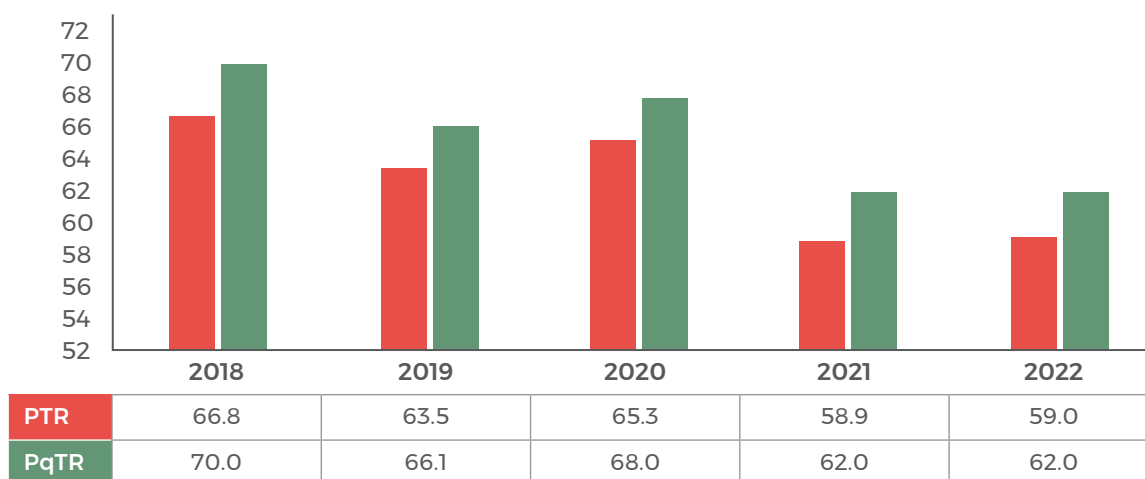
172 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 39.

173 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, xii.

174 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 128.

‘There are at least 25 000 primary teachers who have been trained in teacher training colleges [TTCs] but can’t be recruited due to wage bill ceilings.’¹⁷⁵ The pupil-teacher ratio (PTR) was reduced from 63.5 in 2019 to 59.0 in 2022, while the ‘pupil trained (qualified) teacher ratio’ (PqTR) was reduced from 66.1 in 2019 to 62.0 in 2022.¹⁷⁶ Furthermore, even though the annual teacher attrition rate is estimated at 3% , ‘The number of teachers increased from 76 442 in 2018 to 8 798 in 2022, representing an 11% increase overall.’¹⁷⁷ Figure 4 shows the progress in lowering the ratios since 2018.

FIGURE 4 TREND IN PUPIL-TEACHER RATIO AND PUPIL-QUALIFIED TEACHER RATIO



Source: ‘2022 Malawi Education Statistics Report (EMIS)’, 39

From the figure it is apparent that the PTR has been reduced from 66.8 in 2018 to 59.0 in 2022, while the PqTR has dropped from 70.0 in 2018 to 62.0 in 2022. There is still a long way to go in reaching the international benchmark of 40:1, but the trend shows a positive direction. The government needs to recruit at least 50 000 additional teachers to reach the international benchmark of 1:40. There is also a need for periodic promotion of teachers using transparent criteria. Furthermore, to motivate teachers, the ministry should try to clear long-standing arrears in terms of promotions and the late payment of salaries.

¹⁷⁵ Limbani Eliya Nsapato, “Decolonize Education Financing Now! Reject IMF Wage Bill Policies”, Global Campaign for Education (blog), June 5, 2023.

¹⁷⁶ Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 39.

¹⁷⁷ Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 35.

With regard to recruiting female teachers, the government increased the training of female teachers, especially under IPTE, from 1 741 in 2020/2021 to 4 245 in 2021/2022.¹⁷⁸ Owing to an increase in the number of female student teachers in TTCs, in 2022 ‘there were slightly more females enrolled in TTCs at 56%... of the 2022 enrolment’.¹⁷⁹ There is still room for improvement, given that the system has more male teachers than female. Out of a total of 84 798 primary school teachers, 38 896 are female teachers compared to 45 902 male – a gap of 7 006.¹⁸⁰ In addition, within TTCs, 67% of the teaching staff are male while females make up 33%.¹⁸¹ To expedite the training of teachers, ‘construction of three TTCs in Chikwawa, Rumphu and Mchinji... [are] at an advanced stage... [T]he new TTCs... have the maximum capacity’ of increasing teacher recruitment and training intake by 40%.¹⁸²

Student dropouts

The dropout challenge has been noted in a number of government reports since 2015. Currently, dropout rates remain high in Malawian schools. At primary level, the ‘dropout proportion’ has increased from 3.4% in 2020/2021 to 4.7% in the 2021/2022 school calendar.¹⁸³ On the other hand, at secondary level, the school ‘dropout proportion’ has declined from 9.7% in 2020/2021 to 5.9% in 2021/2022.¹⁸⁴ It seems as though the dropout rate among girls remains relatively higher in both primary and secondary school.¹⁸⁵ This can be ascribed to early marriage, hunger, COVID-19 long distances and poverty, leading to a failure to pay fees. The repetition rate is also high, which increases chances for learners to drop out. Repetition rates increased from 24% in 2018 to an average of 25% in 2022 (26% boys and 24% girls) against a policy target of 14% (15% for boys and 13% for girls). Additionally, the completion rate in primary schools remains low, at 50% in 2020/2021 and 56% in 2021/2022.¹⁸⁶ The completion rate is even lower at secondary school level, hovering at 19.8% in 2020/2022.¹⁸⁷ In ECD, the ‘GER for early child

178 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, xii.

179 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 114.

180 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 30.

181 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, 117.

182 Government of Malawi, Ministry of Economic Planning & Development and Public Sector Reforms, *Annual Economic Report 2021*, 112.

183 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, xiii.

184 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, xiii.

185 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, xiii.

186 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, xiii.

187 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, xiii.

development stood at 31% in 2022, meaning that 69% of the ECD-going population were not accessing early childhood education'.¹⁸⁸

Hidden costs of education

In 1994 the government announced the free primary education policy to remove cost barriers and expand access to education. However, owing to a lack of resources to manage the free primary education policy, schools have imposed user fees. These include contributions to school development funds and other fees. This has raised concerns among education stakeholders, including NGOs and UN agencies. To eliminate the hidden costs of primary education, in 2021 the government banned all user fees in primary schools. In addition, under the Malawi Education Reform Programme, in 2022 the Primary School Improvement Grant was increased from a minimum of MWK 600 000 (\$346) to MWK 800 000 (\$461) per school per year. However, disparities persist and some schools are still charging 'developmental fees' to beef up school income.

Poor implementation of adult literacy programmes

Adult literacy and education services are a right of every citizen of Malawi. The government is obliged to provide this in terms of various international commitments to which it is a party, such as the 1960 Convention against Discrimination in Education. However, the illiteracy rate in Malawi is estimated at 31.4% for those aged five years and above, which translates to about 5 million people, 34.1% of whom are female and 28.4% male. The illiteracy rate for those aged 15 years and above, which is the focus of adult literacy programmes, is 14.2%, which translates to about 2 million individuals. It is also estimated that '3 million primary and secondary school going-age children are out-of-school'.¹⁸⁹ It is crucial to reduce illiteracy in the country to minimum levels or eliminate it altogether.

One major problem affecting literacy programmes and achievement of the national adult literacy policy is inadequate funding. 'The adult literacy budget currently at 0.08% of the education budget is far below the international benchmark of allocating at least 3% of the education budget' to adult literacy programmes.¹⁹⁰ Owing to underfunding, adult literacy classes continue to have inadequate TLMs, with no resources to train or refresh teachers.

188 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, xiv.

189 Nsapato, "Another SONA?".

190 Nsapato, "Another SONA?".

Inadequate funding for education: Orphans and vulnerable children

Sufficient financing for the education sector is critical in the realisation of international, regional and national targets on education. The review has shown that inadequate funding is a major obstacle in the education sector in Malawi. Benchmarks have been set at international level to achieve SDG 4. For instance, a UNESCO document states:¹⁹¹

The Addis Ababa Action Agenda [AAAA] encourages countries to set nationally appropriate spending targets for education. National contexts are diverse, but the following international and regional benchmarks are crucial reference points:...

[1] allocating at least 4% to 6% of gross domestic product (GDP) to education; and/or...

[2] allocating at least 15% to 20% of public expenditure to education... Least developed countries need to reach or exceed the upper end of these benchmarks if they are to achieve the targets laid out in this framework.

Table 1 shows recent trends in financing, as well as in meeting international benchmarks.

TABLE 1 TRENDS IN ALLOCATIONS TO THE EDUCATION SECTOR 2012/13 TO 2021/22										
CATEGORY	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
Education sector allocation (excluding Dev. part 1)	79	102	119	163	179	228	254	292	333	325
National GDP	1,717	2,242	2,848	3,521	4,219	5,333	5,633	6,275	7,259	7,764
Percentage of GDP spent on education	4.60	4.50	4.20	4.60	4.20	4.30	4.50	4.66	4.59	4.19

Source: MoE 2022; MOF 2022; CSEC 2020

The government should be commended for increasing funding to the education sector. However, recent trends (2020–2023) show that, while the government is allocating a minimum of 4–6% of the GDP and 15–20% of the national budget to education, as recommended by the AAAA, the allocation falls short of UNESCO recommendations for low-income countries such as Malawi based on the Incheon Declaration for Education

191 UNESCO, Education 2030: *Incheon Declaration and Framework for Action for the Implementation of Sustainable Development Goal 4* (Paris: UNESCO, 2016), 67.

2030. (Under the Incheon Declaration, governments should spend or exceed 6% of the GDP or 20% of the national budget on education.)

Cumulatively, since 2020, the NESIP has suffered a huge aggregate funding gap of at least MWK 1 549 billion (\$893,000). This is equivalent to the combined total budget of two years of implementation (ie, 2020/2021 and 2021/2022). Across subsectors, while the allocation for secondary education has increased slightly from 12% to 13% of the education budget between 2020/21 and 2021/2022, the allocation to primary school education has declined from 63% to 60% over the same period.¹⁹² This compromises government commitment to improving access to education, especially at primary level.

Furthermore, funding should consider disadvantaged students at secondary and tertiary levels. Not enough funding is going to bursaries for disadvantaged secondary school students and loans for disadvantaged higher education students. At secondary level, at least 60 000 secondary school students are not able to pay their fees and need bursaries. However, budget documents show that only 50% of the disadvantaged students receive bursaries while the rest miss out, leading to dropouts. At the higher level, although up to 95% of applicants get tuition loans, most of the disadvantaged students are forced to drop out. The 2021/22 sector performance reports shows that the upkeep allowance (for accommodation, meals and incidentals) is pegged at MWK 200 000 (\$115) per student (this has since risen to MWK 350 000 (\$202)), which is far below the projected required amount of at least MWK 450 000 (\$260). The 2022/23 budget for higher education loans has an allocation of MWK 11.8 billion (\$6.8 million), up from MWK 9.1 billion (\$5.25 million) in 2021/22, meaning that, although there has been an increase, this does not cover the needs of the most vulnerable students.¹⁹³

Many students are dropping out as a result of a lack of fees and upkeep resources at secondary and tertiary levels. As pointed out above, the government is only supporting 50% of secondary students who apply for bursaries. While up to 95% of applicants are provided with tuition loans at tertiary level, the Higher Education Loans and Grants Board is providing less than 50% of the necessary upkeep allowance.

Weak coordination

There is weak inter-ministerial coordination across the education sector. Policy documents for adult literacy and ECD demonstrate this lack of coordination at all levels – for instance, poor coordination in terms of bursaries leads to the awarding of multiple

192 Government of Malawi, Ministry of Education, *Malawi Education Statistics Report*, xiii.

193 Government of Malawi, Ministry of Education Sector Performance Report, 2022.

bursaries to individual beneficiaries. This situation is exacerbated by high vacancy rates in the relevant institutions and regular changes in senior management officials at director and deputy director levels. While redeployment in government is inevitable, it should be well managed, as it could undermine gains and institutional memory.

The higher education subsector

A particular mention should be made of higher education. Higher education is key to Malawi's transition to an innovative, value-added economy. The government established the Directorate of Higher Education to upskill Malawians for the modern global economy. Higher education is delivered through public and private universities, colleges and other public higher education bodies. The declining trend in enrolment observed in the primary and secondary education subsectors is also present in higher education. Enrolment of special needs students is a challenge, especially of students with disabilities. 'There are limited opportunities for students with disability to have access to higher education because most of the higher education institutions do not have disability-friendly infrastructures,' the Malawi government concedes.¹⁹⁴ However, the provision of bursaries and student loans has increased to improve inclusiveness in and access to higher education. A total of 18 424 needy students in both public and private institutions of higher learning (11 711 males and 6 713 females) were supported.¹⁹⁵

RECOMMENDATIONS

In order to address Malawi's education problems, it is recommended that the government:

- Increase the budgetary allocation to education to be in line with the international benchmarks of 6% of GDP and 20% of the national budget;
- Explore innovative funding mechanisms, including those recommended during the Transforming Education Summit to increase GDP and subsequently increase spending in education. For instance, an education levy – a 2% levy modelled on the current TEVET levy (1%) – could raise an additional \$43.5 million annually;

¹⁹⁴ Government of Malawi, Ministry of Education, *Education Sector Investment Plan*, 23.

¹⁹⁵ Government of Malawi, Ministry of Education, *Education Sector Investment Plan*, 23.

- Increase the funding for secondary school bursaries as well as for disadvantaged students in tertiary institutions, managed by the Loans and Grants Board;
- Develop a road map for implementing compulsory education;
- Institutionalise ECD service provision through a gradual increment of caregivers placed on payroll, from 4 000 to the required amount of 36 000. Similarly, resources must be provided for the construction of ECD infrastructure. Both will require appropriate budgetary allocations;
- Devolve ECD budgets to local councils to make sure that funds are spent appropriately at that level;
- Review the curriculum for teachers so that they acquire 21st-century teaching skills;
- Invest more in procuring the required learning materials, especially for community day secondary schools – TLMs should be made available in adequate quantities;
- Invest in computer and science labs, especially in community day secondary schools;
- Tackle factors leading to high dropout rates, including fees, marriages and pregnancies;
- Provide funding for PWDs, balancing allocations between disability-specific interventions and efforts to mainstream PWD participation;
- Devolve disability budgets to local councils to ensure that disability interventions are enshrined in their programmes;
- Disburse funds via the Disability Trust Fund to disability programmes, as stipulated in the Disability Act, and find ways to mobilise resources over and above what the government is allocating;
- Continue investing in disability-friendly infrastructure across all sectors to cater for the 10.4% of the population experiencing some form of disability;
- Improve road infrastructure and bridges;
- Make schools accessible to children with disabilities;
- Increase security for children with albinism so that they can access education facilities;

- Sensitise parents and communities to ensure more children with disabilities enrol in school;
- Employ all available qualified primary and secondary school teachers to further reduce the PTR;
- Lobby the International Monetary Fund and Ministry of Finance to remove wage bill ceilings that make it difficult to recruit all trained teachers;
- Improve working conditions for teachers in public schools to increase retention;
- Adequately supervise private schools and enforce minimum qualifications for teachers;
- Sustain the higher numbers of female teachers being trained;
- Recruit and deploy the female teachers who are being trained into schools, with an emphasis on rural schools that have few female teachers;
- Address the factors causing high dropout rates, high repetition rates and lower completion rates. Part of this is intensifying the fight against child marriages, expanding the school feeding programme and investing more in sanitary services in public schools, with a focus on the needs of girls;
- Increase funding to public schools to meet the needs that justified the levying of development fees;
- Increase funding for adult literacy programmes – adhere to the minimum allocation of 3% of the education sector budget to this goal;
- Implement compulsory primary education so that more children enrol and remain in school, to reduce pressure on adult literacy programmes. This requires strong leadership and political will;
- Allocate Constituency Development Fund (CDF) funds to go toward bursaries for secondary students. For instance, at 10% of the CDF, this would mean raising bursaries to MWK 1.93 billion (\$1.1 million). This would support 35 740 students for the whole academic year;
- Undertake a capacity gap analysis on coordination, to address the coordination challenges that undermine policy implementation. Malawi needs to resolve the issue of ambitious and complex governance arrangements that result in inefficient education delivery. This includes clarifying the roles of the Ministry

of Education and the Ministry of Gender in implementing early learning programmes such as ECD; and

- Ensure staff vacancies in the education administration are filled and that staffing at senior management level is stable to ensure stability and sustainability during policy implementation.

All stakeholders should:

- Conduct advocacy to ensure that the government adequately implements provisions in the national adult literacy policy and strategic framework; and
- Undertake research to establish the factors causing the less-than-desirable performance by some districts in PSLCE, such as Machinga, Mangochi, Ntchisi, BT Rural, Nkhota-kota, Chikwawa, Neno, Ntcheu, Nsanje and Mwanza. The findings of the research should be widely disseminated and addressed.

CHAPTER 11



Health

The issues discussed here relate to the democracy and good political governance thematic area, specifically:

» OBJECTIVE 8

Promotion and protection of the rights of vulnerable groups, including internally displaced persons, refugees and persons with disabilities

Question 1 Identify vulnerable groups in your country and outline measures your country has taken to promote and protect the rights of permanently disadvantaged or vulnerable groups including, but not limited to, internally displaced persons, refugees, and persons with disabilities.

The issues discussed here also relate to the broad-based sustainable socio-economic development thematic area, specifically:

» OBJECTIVE 1

Promote and accelerate broad-based sustainable socio-economic development

Question 2 What is the capacity of your country to formulate, implement and monitor broad-based sustainable socio-economic development?

» OBJECTIVE 3

Poverty, unemployment, and inequality

Question 1 What policies and strategies have the government put in place to reduce poverty and inequality, particularly in terms of access to resources and basic services?

Question 4 What are the national programmes, policies and strategies set up by the government to reduce child mortality, improve maternal health and combat HIV/AIDS, malaria, and other diseases?

Introduction

Investing in a healthy population is the bedrock of economic and social development. Similarly, health is an essential part of any developmental programme, essential to ensuring that people can live productive lives. SDG 3 addresses this issue directly, envisaging ‘good health and well-being’. As per the constitution of Malawi, the government is obliged to provide healthcare that is of high quality to ensure the productive lives of its citizens. The Ministry of Health, as the state custodian of the health sector, defines its vision as being ‘to achieve a state of health for all the people of Malawi that would enable them to lead a quality and productive life’.¹⁹⁶ The ministry’s mission is ‘to provide strategic leadership for the delivery of a comprehensive range of quality, equitable and efficient health services to all people in Malawi by creating an enabling environment for health promoting activities’.¹⁹⁷ Despite decades of work on the provision of healthcare, the people of Malawi remain underserved. A great deal of work remains to be done to achieve these aspirations.

Policy and legal framework

The constitution, local regulations and strategies and several international frameworks guide the country’s healthcare policy. As noted above, the right to healthcare is expressed in the constitution and promoted as part of the SDGs. Furthermore, Malawi’s position is influenced by that of the AU. The Africa Health Strategy (2016–2030), the Africa Region Nutrition Strategy (2015–2025) and the Maputo Plan of Action (2016–2030) ‘on universal access to comprehensive sexual and reproductive health services in Africa’ are important reference points for Malawi. Particularly, these strategies promote vaccination, nutrition and sexual reproductive health. In 2001, Malawi also endorsed the Abuja Declaration, which seeks to strengthen Africa’s health systems and ensure their preparedness for disease outbreaks. Signatory states are meant to commit 15% of

¹⁹⁶ Government of Malawi, Ministry of Health, “About”, <https://www.health.gov.mw/about/>.

¹⁹⁷ Government of Malawi, Ministry of Health, “About”.

their national budgets to the health sector. Malawi is also a participant in the Regional Indicative Strategic Development Plan, identifying challenges and solution across SADC.

Domestically, the health sector in Malawi is guided by various legal and policy frameworks. The constitution mandates the state to provide adequate healthcare, responsive and appropriate to the health needs of Malawian society and international standards. Numerous other instruments of law and public policy supplement this provision, some dating to the colonial era. These include the Public Health Act of 1948, the Nurses and Midwives Act of 1966 and the Medical Practitioners and Dentists Act of 1987. Others are the Pharmacy and Medicines Regulatory Authority Act of 2019, the HIV and AIDS (Prevention and Management) Act of 2017, the Local Government Act of 1998, the Public Private Partnership Act of 2011, the Public Finance Management Act of 2022, the Public Procurement Act of 2003 and General Notice Number 125/1968 of the Finance and Audit Act.

Malawi's overall development plan, Malawi 2063, addresses the health sector as part of its work on human capital development. Healthcare features in many other policies. These include the National Multi-sector Nutrition Policy of 2018, the National Health Policy of 2018, the National HIV and AIDS Policy of 2022, the National Decentralisation Policy of 1998, the NESIP (2020–2030), the National Gender Policy of 2015, the National Health Promotion Policy of 2013, the National Population Policy of 2012, the National Social Welfare Policy of 2018 and the National Youth Policy of 2013.

Operationalisation of legal and policy frameworks is done through periodic strategic plans developed by the Ministry of Health (MoH), including the current HSSP III (2023–2030). Universal health coverage (UHC) is the guiding principle of policy implementation. Further, the HSSP III pledges to address SDG targets through interventions that reduce maternal and infant mortality, fight epidemics, reduce premature mortality, prevent and control substance abuse, reduce deaths from injuries or accidents, achieve universal access to sexual and reproductive healthcare and reduce deaths from hazards, among other focus areas. Further, one should note that UHC is an SDG-prescribed target.

Structure of the healthcare system

The Malawi Harmonized Health Facility Assessment shows that the MoH manages around 571 of the 1 098 health facilities in Malawi. The other facilities are private for-profit institutions (248), including private hospitals, clinics, laboratories, pharmacies and traditional healers; private non-profit institutions (62), some of which charge user fees; those run by the Christian Health Association of Malawi (164); and those operated by

NGOs (53).¹⁹⁸ Government facilities, which are mostly free at the point of use, consist of primary (health centres, health posts, dispensaries and community structures), secondary (district and community hospitals) and tertiary (central hospital) facilities. Other public health facilities include those managed by the Ministry of Defence and Ministry of Internal Affairs and Public Security.

Some of the not-for-profit health providers (notably, the Christian Health Association of Malawi) charge user fees at the point of service provision.¹⁹⁹ A target of the MoH is to have a health facility within an 8km radius of all households.²⁰⁰ This requires sustained investment in the sector. Currently, people travel long distances, in some cases more than 30km, to access a health facility using their own means of transportation. Other than toll-free lines set up periodically, there are no emergency systems or sufficient ambulances to attend to urgent cases. While some private facilities can provide such services at a cost, these are not affordable for most Malawians.

Challenges in the health sector

Staffing

According to the Health Sector Strategic Plans, a major challenge is that the health sector is understaffed. The document presents the situation as follows:²⁰¹

Persistent gaps in human resource capacity exist across all cadres, districts, and health care levels within Malawi's public sector. The MoH has an estimated 23 188 personnel (out of a total of 42 309 positions that exist in the MoH staff establishment) working in the public health sector, a 45% vacancy rate... For selected eight frontline categories of clinical staff only 17 298 positions are filled of 25 755 for both CHAM and MoH.

Additionally, the vacancy rates for clinical psychologists and consultant psychiatrists are 100%. This situation has adverse effects on mental health.²⁰² Despite psychiatric nurses and clinical psychiatric officers being trained every year, they do not actively work

198 Cited in Adamson Muula et al., "National and Subnational Coverage and Other Service Statistics for Reproductive, Maternal, Newborn and Child Health from Health Facility Data and Surveys, Malawi: Brief Synthesis of the Analyses" (Countdown to 2030/GFF/ UNICEF/WHO Workshop, Nairobi, June 13-17, 2022).

199 Government of Malawi, Ministry of Health, *Malawi Service Provision Assessment 2013-14* (Lilongwe and Rockville: Ministry of Health and ICF International, 2014).

200 Government of Malawi, *Health Sector Strategic Plan II (2017-22)* (Lilongwe: Government of Malawi, 2017), 28.

201 Government of Malawi, *Health Sector Strategic Plan II*, 27.

202 Government of Malawi, *Health Sector Strategic Plan II*, 27.

on mental health and instead are deployed to cover the general staff shortage in the healthcare system. The ministry is further paralysed by a poor promotion system, low salaries and delayed recruitment of trained staff.²⁰³

The ratios of health personnel to population require significant improvement. According to the World Bank, as of 2018 there were 0.2 physicians per 1 000 people and 0.4 nurses and midwives per 1 000 people in the country.²⁰⁴ These ratios are far below the WHO standard of 4.45 health workers for every 1 000 people to meet SDG 3 targets.²⁰⁵ The health personnel shortage is attributed to low health worker retention, poor compensation, disease and low outputs of medical training institutions. The MoH should invest in human resources to manage the challenge, as was done with the recruitment of auxiliary nurses in the 1990s and 2005's Emergency Human Resource Programme.

Finance

The WHO recommends an \$86 per capita expenditure on health for optimal implementation of UHC.²⁰⁶ In Malawi, per capita expenditure is below \$40, making it the lowest in the SADC region, which averages \$241.²⁰⁷ It is projected to hit \$50 by 2030.²⁰⁸ The health budget is funded by the government and its development partners, with the latter pumping in more than 58% of the health budget annually.²⁰⁹ To mobilise local revenue for the health sector, the MoH has introduced optional paying services in tertiary health facilities and selected secondary facilities. However, the national budget, which is the main government allocation to the sector, is less than the Abuja Declaration of 15% – the 2023/2024 national budget allocated it 10.5%, which includes the provision for administration costs. While Malawi might not realise the Abuja Declaration's targets, the allocation is justified by the competing priorities in a country where over 50% of the population lives below the poverty line, and around 25% in extreme poverty. These high poverty levels induce citizens to rely on public health services, which are characterised by drug pilferage and poor infrastructure across the three tiers of health facilities, increasing the pressure on those services.

203 Sara Jerving, "Despite Efforts to Train Health Professionals, Malawi's Government Isn't Hiring", Devex, February 6, 2018.

204 World Bank Open Data, "Physicians (per 1 000 People): Malawi", <https://data.worldbank.org/indicator/SH.MED.PHYS.ZS?locations=MW>; World Bank Open Data, "Nurses and Midwives (per 1 000 People): Malawi", <https://data.worldbank.org/indicator/SH.MED.NUMW.P3?locations=MW>.

205 WHO, *Global Strategy on Human Resources for Health: Workforce 2030* (Geneva: WHO, 2016).

206 Government of Malawi, *Health Sector Strategic Plan III (2023-2030)* (Lilongwe: Government of Malawi, 2022), 41.

207 Government of Malawi, *Health Sector Strategic Plan III*, 41.

208 Government of Malawi, *Health Sector Strategic Plan III*, 41.

209 Government of Malawi, *Health Sector Strategic Plan III*, 41.

Financing is another challenge associated with healthcare, as it remains unsustainable and unpredictable. Between 2012 and 2015, development partners' contributions accounted for an average 61.6% of total health expenditure, while government funding accounted for an average of 25.5% and households contributed 12.9%.²¹⁰ The picture is more serious in the HIV/AIDS subsector, where donor contributions average 95% of total financing.²¹¹

Poor coordination

Weak coordination among health sector institutions compromises their effectiveness. In particular, 'the existence of parallel reporting systems has created structural challenges and weakened the mainstream monitoring and evaluation system'.²¹² Weak governance structures in institutions at the various tiers hinders their ability to render an optimal service.

BOX 2 THEFT AND PILFERING

Medical facilities are often subject to criminal exploitation. The following is an article from Malawi24, which provides some insights into the problem.

Health facilities in Malawi face acute stock-outs of essential medicines

By Chisomo Phiri, 25 October 2021

Health facilities in Malawi are facing an acute shortage of essential medicines, putting many poor and marginalized groups such as women and children at risk of dying from curable diseases.

This is according to a recent study conducted by the Universal Health Coverage Coalition (UHCC).

It shows that there is acute shortage of essential medicines across the sampled districts of Nsanje, Mchinji, Chikwawa, Mzimba South, Mzimba North, Lilongwe, Dedza, Neno, Karonga, Mangochi and Dowa. The study further shows that the stock-outs of essential medicines for NCDs such as high blood pressure is also worrisome in the country.

²¹⁰ Government of Malawi, *Health Sector Strategic Plan II*, 9.

²¹¹ Government of Malawi, *Health Sector Strategic Plan II*, 9.

²¹² Government of Malawi, *Health Sector Strategic Plan II*, 30.

In Balaka district, a UHCC member, Development Communication Trust (DCT) traced access to medicines at Chiyendausiku Health Centre and established acute stock-outs of hypertension and diabetes drugs. In addition, DCT found that stock cards were irregular and not updated as required by 2003 National Health Commodities and coordination manual.

At the same facility of Chiyendausiku, the UHCC found that 4 000 Glibenclamide were not utilized and cannot be traced after February as the stock at hand shows only 1 000 tablets in April 2021, a worrying trend that may encourage drug pilferage.

In Mchinji district, at Mkanda Health Centre, the coalition discovered that a pharmacy technician was caught red-handed breaking into a drug store at night to steal drugs, he was arrested, charged, and sentenced. Prior to the Universal Health Coverage Coalition's study, Mkanda Health Centre and other facilities in Mchinji were facing stock-outs of essential medicines.

It is estimated that Malawi loses about 30% of the national drug budget to pilferage. The study also found that drug pilferage can occur during transportation from the supplier or manufactures to the national warehouse such as Central Medical Stores.

In the study, the UHCC wanted to understand perceptions in terms of drug supply. During the study, 57% of respondents saying Central Medical Stores Trust is ineffective and 29% lament incessant stock-outs of essential drugs to be a key challenge with the trust.

In his comment, health activist and National Community Health Champion for Malawi Maziko Matemba agreed with the study results, saying the issue of stock-outs of essential medicines in the facilities has been one of the setbacks to healthcare delivery for many years.

He said Central Medical Stores does not have enough capital or funds for them to satisfy the requirements to purchase all the needed or essential medicines on time as it is required.

'Government needs to look for innovative financing of essential medicines that is already in the national health budget which is at 9.4%of the national budget which is far below the Abuja declaration of 15.

‘Ironically, Malawi has other drugs that do not run out, for example those supported by the development partners such as Global Fund, Gavi and other UN agencies which I believe time has come now for government to learn from how those medicines are financed in finding last solution to stock-outs,’ said Matemba.

Source: Chisomo Phiri, “[Health Facilities in Malawi Face Acute Stockouts of Essential Medicines](#)”, *Malawi24*, October 25, 2021

Inequalities

Inequality challenges abound in the health sector. These are characterised by differences in terms of wealth, status, education, gender and geographical location. Broadly speaking, the more affluent and educated people in Malawi are, the better their access to health facilities and the better their health outcomes. The 2016 Malawi Demographic Health Survey shows, for example, that the prevalence of stunting in children under five years is 46% among children in the lowest wealth quintile, 37% among those in the middle wealth quintile and 24% for children in the highest wealth quintile.²¹³

Mental health

More than 25% of people globally suffer from a mental disorder in their lifetime. Globally, there is an average of 0.61 outpatient mental health facilities per 100 000 population, 0.05 day treatment facilities, 0.01 community residential facilities and 0.04 mental hospitals.²¹⁴ In Malawi, according to health specialist Michael Udedi,²¹⁵

many people suffering from mental health conditions have no access to care due to many reasons, including: mental health services are centralised and are not integrated into primary healthcare; there are very few mental health professionals in the country and the general health care workers have no competency for handling mental health conditions; inadequate resources are allocated to mental health care; and high levels of societal stigma towards people suffering from mental health issues.

213 National Statistical Office, *Malawi Demographic and Health Survey (2015-16)* (Zomba and Rockville: NSO and ICF, 2017), 161.

214 WHO, *Mental Health Atlas 2011* (Geneva: WHO, 2011).

215 Udedi, “Improving Access”, 1; also see “[How to Improve Mental Health Services in Malawi](#)”, *BusinessMalawi*, May 5, 2023.

Shortage of mental health personnel: Malawi's public health system is organised according to a three-tiered system of medical facilities: primary, secondary and tertiary. However, the health budget allocates a disproportionate share of resources to the top tier of health services, which tend to be found in urban centres. Other tiers are often left without supplies, particularly primary care facilities. According to the World Bank, in 2018 there were 0.2 physicians per 1 000 people and 0.4 nurses and midwives per 1 000 people.²¹⁶

Low capacity of primary healthcare workers: Mental healthcare demands specific skills and resources, neither of which is in abundant supply in Malawi. As Udedi puts it:

It is... vital that front-line healthcare workers have capacity for mental health assessment and management to deliver improved mental health and social outcomes in Malawi. The capacity of the care providers in Malawi can be improved through in-service training, mentoring and supervision.

Suicide: A distressing number of Malawians suffering from mental health issues take their own lives. According to Business Malawi,²¹⁷

Malawi records an estimated 2 000 suicides each year, the lifetime risk of schizophrenia and bipolar illness in Malawi is around 1% and in 2022 and estimations made by WHO that depression was the 4th leading cause of disability in Malawi coming after HIV. Malawi's lack of appropriately trained health providers in community health settings makes access to effective mental healthcare for young people with depression challenging.

Post-partum depression and anxiety: As many as 30% of mothers who bring their infants to a child health clinic suffer from post-partum depression. Notably, up to 28% of patients attending primary care have a common mental health problem. Many of these patients receive incorrect diagnoses of malaria.²¹⁸ In addition, HIV/AIDS can lead to several mental health conditions, including dementia, psychosis, depression and substance abuse.²¹⁹

216 World Bank Open Data, "Physicians (per 1 000 People)"; World Bank Open Data, "Nurses and Midwives (per 1 000 People)".

217 "How to Improve Mental Health Services".

218 Udedi, "Improving Access", 2; How to Improve Mental Health Services".

219 Om Prakash Singh, Sujit Sarkhel and Sharmila Sarkar, "Management of Psychiatric Disorders with HIV and Dermatological Disorders", *Indian Journal of Psychiatry* 64, no. 2 (March 2022): 449-57.

Preparedness for pandemics and emergencies

Owing to limited capacity, the healthcare system in Malawi has been susceptible to poor responses to pandemics and natural disasters. Greater capacity is needed, as shown in the cases discussed below.

COVID-19: COVID-19 stretched the healthcare system to such an extent that it could not procure vaccines early enough.²²⁰ By March 2023, there were 88 707 confirmed COVID-19 cases and 2 686 deaths.²²¹ Additionally, the system was prone to political interference, with leaders disputing facts about the pandemic. The target of 60% of the population vaccinated by December 2022 was missed.²²² As of March 2023, only 25.9% of the Malawian population had received one dose of a COVID-19 vaccine.²²³ The country's healthcare facilities were overwhelmed, which led to more infections and avoidable deaths.

Cholera: A cholera outbreak started in March 2022, resulting in 58 730 cumulative cases and 1 759 deaths (a fatality rate of 3%) by 19 May 2023.²²⁴ This has been the deadliest cholera outbreak in Malawi's history and affected the whole country. The MoH's response was good, but its capacity was stretched and it could not contain the outbreak at its peak. The limited and sporadic availability of cholera vaccines, tests and treatment in most facilities, particularly in rural areas, compromised the fight against the outbreak. By March 2023 the outbreak had subsided.²²⁵

Cyclone Freddy: While people were still recovering from the devastation caused by the cholera outbreak, a cyclone struck the country, mainly in the Southern and Eastern districts, on 11-14 March 2023.²²⁶ It was the most intense cyclone yet recorded by weather stations in Malawi, causing heavy damage to road, power and healthcare infrastructure. As a result, people were cut off from healthcare facilities, which were either destroyed or not reachable. In the aftermath of the cyclone, as at 24 March 2023, 563 771 people were internally displaced, 1 333 were injured, 533 were missing and 511 had died.²²⁷ Providing

220 Reliefweb, "[Urgent Need for Vaccines as New COVID-19 Strain Ravages Mozambique, Eswatini and Malawi](#)", Press Release, February 3, 2021.

221 Johns Hopkins University, Coronavirus Resource Center, "Malawi: Overview", <https://coronavirus.jhu.edu/region/malawi>.

222 World Bank Group, "[Rolling Out COVID-19 Vaccines in Malawi Amid Hesitancy and Supply Challenges](#)", October 19, 2021.

223 Johns Hopkins University, Coronavirus Resource Center, "Malawi: Overview".

224 Government of Malawi, Ministry of Health, "[Cholera Daily Update](#)", Facebook, May 19, 2023.

225 "[Mozambique Records Rise in Cholera Cases, Malawi Sees Decline: WHO](#)", *Reuters*, March 15, 2023.

226 Reliefweb, "[People Cut Off from Healthcare after Cyclone Freddy Batters Malawi](#)", March 24, 2023.

227 Jack McBrams, "[Classrooms Turn into Spaces for Displaced Families, but School Goes on at Chumani Primary School](#)", UNICEF Malawi, March 29, 2023.

medical care to victims was a challenge, while pregnant mothers and people suffering from chronic illnesses required urgent attention.

Health programmes and their outcomes

As noted above, Malawi's health policy is based on the idea of UHC. Since 2004, it has implemented the Essential Health Package, with cost-effective interventions free of charge to Malawians at the point of use. These interventions target major diseases and conditions in terms of burden of disease, under the categories of reproductive, maternal, neonatal and child health conditions; communicable diseases; and NCDs.

Since 2011, Malawi has been implementing an overall strategy for the health sector through the HSSPs, the first iteration of which (HSSP I) ran from 2011 to 2016 and the second (HSSP II) from 2017 to 2022. The government is currently implementing the third (HSSP III), from 2023 to 2030. Some notable successes have been recorded. However, despite the progress, Malawi's maternal mortality rate (MMR) and neonatal mortality rate (NMR) are still among the highest in sub-Saharan Africa.

Overall, life expectancy increased from 55.6 to 64.7 years between 2010 and 2020.²²⁸ This is mostly a result of the decrease in MMR from 444 deaths per 100 000 live births in 2010 to 349 per 100 000 in 2017; and a decrease in the under-five mortality rate from 84.2 deaths per 1 000 live births in 2010 to 38.6 per 1 000 in 2020.²²⁹ Significant reductions have also been observed in the infant mortality rate (from 52.4 deaths per 1 000 live births in 2010 to 29 deaths per 1 000 live births in 2020) and in NMR (from 27.9 deaths per 1 000 live births in 2010 to 19.1 per 1 000 in 2020).²³⁰

The HIV prevalence among women and men aged 15–49 decreased between 2010 and 2016 from 10.6% to 8.8%.²³¹ Malawi's National HIV Strategic Plan for 2020–2025 set the following goals: that by June 2025, 95% of people living with HIV will know their status, 97% of those who know their status will be on treatment, and 95% of those on treatment will have viral load suppression. Government has made remarkable progress toward these goals. By the end of June 2021, approximately 955 435 (97%) of the estimated 986 559 people living with HIV knew their status (had been diagnosed), 878 232 (92%) of those were on anti-retroviral treatment (ART), and 825 538 (94%) of

228 Government of Malawi, *Health Sector Strategic Plan III*, 13.

229 Government of Malawi, *Health Sector Strategic Plan III*, 13.

230 Government of Malawi, *Health Sector Strategic Plan III*, 13.

231 Chrispin Mandiwa and Bernadetta Namondwe, "Uptake and Correlates of HIV Testing among Men in Malawi: Evidence from a National Population-Based Household Survey", *BMC Health Services Research* 19, no. 1 (March 29, 2019).

those taking ARTs were virally suppressed, according to statistics from the Government of Malawi in 2017.

Malawi's Integrated HIV Program Report (first quarter of 2022) showed that 909 284 patients were alive and on ARTs by the end of March 2022, ie, 92% of the HIV-positive population. Coverage for ART was 78% (42 909/53 225) for children and 92% (866 375/932 121) for adults. A total of 717 316 persons had been tested for HIV by a trained provider and received their results; 149 358 (21%) accessed HIV testing for the first time; 567 958 (79%) were repeat testers; and 22 045 (4%) of these received confirmatory testing (after having tested positive in the past). A total of 19 944 (3%) clients received a positive result for the first time. However, success in the sector is hampered by misconceptions and people not taking their ART.²³²

Other priority illnesses include respiratory infections, malaria, diarrhoeal diseases, perinatal conditions, NCDs (including trauma), TB, malnutrition, cancer, vaccine-preventable diseases, mental illness and epilepsy, neglected tropical diseases and eye, ear and skin infections. As an article on Malawi24 pointed out,²³³

Speaking with reporters, [Deputy Minister of Health Halima] Daudi said there is need to not only raise public awareness about the devastating health, social and economic consequences of TB but also step-up efforts in the fight against reducing the incidence. She added that through collaborative efforts with partners and stakeholders, the Ministry has registered significant success in the fight as in the past 6 years, the treatment success rate for all form of TB has increased from 82% in 2015 to 90% in 2021. 'The proportion of TB patients co-infected with HIV has reduced from 77% in 2003 to 48% in 2022. The treatment success rate for Drug-Resistant TB has increased from 55% in 2018 to 78% in 2020,' she said. She, however, noted that in 2022, Malawi reported 612 leprosy cases (379 males and 233 females) with a prevalence rate of 0.3 percent.

In September 2022, the WHO validated Malawi as having eliminated trachoma as a public health problem.²³⁴

232 Government of Malawi, Ministry of Health, *Malawi Integrated HIV Program Report 2022 Q1* (Lilongwe: Ministry of Health, 2023).

233 Martha Chikoti, "Ministry of Health calls for Collaborative Efforts in Fight Against TB and Leprosy", *Malawi24*, March 25, 2023.

234 WHO, "Malawi Eliminates Trachoma as a Public Health Problem", September 21, 2022.

Challenges

The sector faces various other challenges that need urgent attention. Healthcare systems in Malawi have a weak financial base, which makes their sustainability uncertain, and the quality of care they provide can be suboptimal. A dependence on funding from development partners means that programmes are vulnerable to being cancelled. Limited funding contributes to the limited infrastructure available. This means that facilities are overcrowded, particularly secondary and tertiary facilities; drugs and medical supplies are in short supply; and highly skilled staff are difficult to retain.

There is a high level of preventable medical conditions in the country. The unsatisfactory performance of the healthcare system means that people's health is compromised. A significant number of Malawians are illiterate, which complicates the uptake of health-related education for improved family health. Poor nutrition and food insecurity result in stunted growth and cognitive deficits. Societal beliefs also weaken responses to some conditions. A lack of inter-sectorial coordination undermines responses to emergencies and pandemics.

RECOMMENDATIONS

To address these problems, it is recommended that the government:

- Adhere to the Abuja Declaration of allocating a 15% threshold to fund the healthcare sector and improve its capacity;
- Draw up a resource mobilisation plan, enhance the procurement system and strengthen institutional arrangements for health financing;
- Improve governance in the sector to enhance the efficient use of the resources allocated to the MoH. Corruption needs to be combatted to retain the commitment of development partners and ensure that funds reach their intended targets;
- Prioritise the health needs of youth through the implementation of a National Youth Friendly Health Services Strategy;
- Prioritise sexual health and reproductive rights, especially for youth and other key populations;

- Employ more personnel to cover the existing gaps in various health professions. Colleges should train more health professionals with government support and the sector should be supported financially to absorb new graduates;
- Ensure that health infrastructure reaches underserved areas, prioritising those areas without any at present. Likewise, items such as ambulances should be available to all healthcare facilities to ease transport challenges;
- Introduce initiatives to enable people to access TB and leprosy services in their communities, such as house-to-house TB screening, TB and leprosy contact tracing and mobile diagnostic units (mobile vans), as has been done with other illnesses;
- Strengthen institutional coordination in the implementation of healthcare programmes; and
- Put in place measures to assist people with mental health problems, in terms of both treatment and protection from harm.

Development partners should:

- Adhere to the Paris Declaration and other relevant frameworks to make aid predictable and streamed through the government system or linked to the support of existing instruments in the sector.

All stakeholders should:

- Work to strengthen accountability systems, increasing and expanding the scope of anti-corruption measures and empowering oversight bodies such as Parliament and CSOs to monitor health governance systems.

CHAPTER 12



Employment

The issues discussed here relate to the broad-based sustainable socio-economic development thematic area, specifically:

» OBJECTIVE 3

Poverty, unemployment, and inequality

Question 1 What policies and strategies have the government put in place to reduce poverty and inequality, particularly in terms of access to resources and basic services?

Question 2 What policies and strategies have been adopted by your country to combat social inequality, regarding people with disabilities?

Question 5 What policies and strategies are put in place for combating unemployment, particularly among the youth?

Introduction

Unemployment refers to the state of those in the labour force who are without work but are available for and seeking employment. Unemployment is strongly associated with poverty, being both a characteristic and a result. It is a problem that particularly afflicts young people, and female youth particularly. The government of Malawi has made the commitment to create 1 million jobs, which featured prominently in the election campaign of Chakwera's Tonse Alliance. This, however, appears to remain elusive – between 2020 and 2022, the country was reported to have lost an estimated 600 000

jobs, owing to the COVID-19 pandemic, natural disasters such as Cyclone Idai and economic productivity bottlenecks, including electricity shortages and forex scarcity.²³⁵

Youth unemployment

The employment circumstances of Malawi's youth are a matter of particular concern. The youth unemployment rate has fluctuated over time but spiked during the pandemic. Estimates from the ILO put youth (those between 15 and 24) unemployment in 2022 at 7.7% while unemployment among adults (15 years and older) was 5.6%.²³⁶ While the youth unemployment rate is not dramatically higher than the national rate, it can be extremely destabilising, as without employment the pent-up energies and frustrations of young people can morph into antisocial and criminal behaviour.

Malawi is also a youthful country. Its youth profile indicates that 40% of people are aged 10 to 29 years. In 2018, Malawi's youth literacy rate (15–24 years) was 75%.²³⁷ As one commentator noted: 'Half of Malawi's 17.6 million inhabitants are youth aged 10–35 years. If strategically harnessed, this demographic dividend could help the nation achieve its ambitious developmental aspirations.'²³⁸

In addition, youth unemployment is paired with widespread underemployment, ie, with many young people being unable to contribute their full potential. Estimates in 2014 put the youth labour underutilisation rate in Malawi at 77.5%.²³⁹ Most youth (84% of employed youth) are engaged in informal employment, where remuneration is low.²⁴⁰ Low-technology smallholder farming offers few benefits or prospects for mobility. The informal sector work to which youth have access tends to favour young men and boys who can physically deal with harsh working conditions. Both are subject to abuse such as sexual harassment or exploitation by older people.

In the absence of employment opportunities, young women may be forced into child marriages, commercial sex work and prostitution as alternative survival mechanisms. As a result, they are exposed to physical abuse, teenage pregnancies and HIV infections. Young women from rural areas fall victim to trafficking within Malawi and abroad.

235 Gary Samati, Times 360 Malawi, "#News #Update", Facebook, July 28, 2021; BBC, "[HARDtalk: Lazarus Chakwera – President of Malawi](#)", July 30, 2021.

236 World Bank, "Unemployment, Youth Total"; World Bank, "Unemployment, Total".

237 OECD Development Centre, *Youth Well-Being Policy Review of Malawi* (Paris: OECD, 2018), 48.

238 Tapiwa Kelvin Mutambirwa, "Malawi Youth Budget 2020/2021" (Youth Budget Brief, UNICEF Malawi, Lilongwe, 2021).

239 Richard Mussa, *Labour Market Transitions of Young Women and Men in Malawi*, Work4Youth Publication Series No. 4 (Geneva: ILO, 2013).

240 OECD Development Centre, *Youth Well-Being Policy*, 13.

According to a study by the National Planning Commission and Copenhagen Consensus Centre,²⁴¹

The root cause of the youth underemployment and unemployment challenge in Malawi is a lack of jobs which itself is caused by limited structural transformation of the economy. While many youth employment programs cite a lack of skills as a constraining issue, skills development alone will not address the challenge of youth employment in Malawi.

The main barriers to employment are identified as a lack of education and appropriate skills and capital, a lack of experience, and a basic absence of opportunities in the labour market.²⁴² It is also apparent that policy laxity, corruption and the abuse of public funds contribute to undermining the creation of decent jobs.

Responses to youth unemployment

The government's response to youth unemployment is captured in the Malawi National Youth Policy's vision of 'an educated, healthy, well trained, cultured, vibrant and productive youth'. It seeks to create 'an enabling environment for all young people to develop to their full potential in order to contribute significantly to personal and sustainable national development'.²⁴³ The National Youth Policy seeks to promote a sense of individual responsibility among youth towards their communities, based on the following principles:²⁴⁴

- active involvement of the youth in decision-making and national development programmes and policy debates;
- youth participation and implementation in the best interest of the youth;
- non-discrimination based on age, sex, marital status, disability and vulnerability;
- respect for individual human dignity, culture, democracy, human rights and rule of law, as well as for elders and others, people's beliefs and views, one's cultural values;
- regard for the environment for sustainable national development;
- respect for gender equality and equity of opportunities;

241 National Planning Commission, *A Cost-Benefit Analysis of Industrialization and Youth Employment in Malawi*, Technical Report, Malawi Priorities (Lilongwe and Tewksbury: National Planning Commission, Copenhagen Consensus Center and African Institute for Development Policy, 2021), 6.

242 Government of Malawi, Ministry of Labour, *Malawi Decent Work Country Programme 2020-2023* (Lilongwe: Ministry of Labour).

243 Government of Malawi, Ministry of Youth and Sports, *National Youth Policy* (Lilongwe: Ministry of Youth and Sports, 2013), 4.

244 Government of Malawi, Ministry of Youth and Sports, *National Youth Policy*, 4.

- respect for the right of young people, as provided for in the constitution; and
- promotion of national unity, obedience, loyalty and discipline.

Malawi is implementing the Decent Work Country Programme, which, among others, is geared to address the problem of abuses in the labour market, where a great deal of informality exists.²⁴⁵ Labour policy has been formulated to try to ensure minimum job standards. A standard response worldwide to youth unemployment is to provide upgraded skills training. Given the country's rapid population growth, urbanisation and the shrinking availability of land, there is an undeniable need for off-farm opportunities.

A Jobs for Youth project is being implemented with funding from the African Development Bank (AfDB), as part of the latter's Jobs for Young People in Africa 2016–2025 strategy. This 'seeks to reduce the vulnerability of young populations by creating an enabling environment for their participation in economic activities'.²⁴⁶ It aims to stimulate the ability of young people to gain work and to become entrepreneurs, with a goal of creating some 17 000 jobs. As the AfDB remarks,²⁴⁷

The project is consistent with the Malawi Development Strategy which seeks to ensure sustainable and productive decent work for all. It recognises that the youth population accounts for over half of the population of the country, and yet there is limited space and restricted opportunities for youth to find such work.

Improving the stock of human capital – promoting skills development, in other words – is a key part of any youth employment strategy. In Malawi, a disjuncture exists between the educational opportunities provided and the needs of the market. Many young people graduate from secondary schools in Malawi without marketable skills; indeed, many young people do not even make it to secondary school. As young adults, they lack the capacity to contribute optimally to the country's economy. Skills remain a key need, both for the youth themselves and for Malawi. In view of the sluggish economic performance and limited opportunities in established sectors, developing skills for the youth will have a direct positive effect on other sectors of the economy, such as construction and manufacturing. Improving youth skills will help to improve productivity and consequent economic prospects, which in turn will help to reduce poverty and provide other social benefits.

245 Government of Malawi, Ministry of Labour, *Decent Work Country Programme*.

246 African Development Bank Group, "Malawi: Jobs for Youth Project", <https://projectsportal.afdb.org/dataportal/VProject/show/P-MW-IAO-005>.

247 AfDB Group, "Malawi: Jobs for Youth".

RECOMMENDATIONS

To address employment issues in Malawi, specifically those relating to youth unemployment, it is recommended that the government:

- Review existing legislation, in consultation with other stakeholders, to assess whether it can resolve the problem of youth unemployment. Legislation that may productively be examined are the National Youth Council Act, Handicapped Persons Act, Employment of Women Act, Child Care Protection and Justice Act, Probation of Offenders Act, Liquor Licensing Act, Adoption of Children Act, Wills and Inheritance Act and Childcare, Protection and Justice Act.
- Prioritise areas that offer significant payoffs for the prospects of Malawi's youth, such as education; science and technology; health and nutrition; social services, recreation, sport and culture; youth participation and leadership; youth economic empowerment; and the National Youth Service.
- Involve youth in planning policies for their own benefit;
- Make provision for economic opportunities for young people migrating from rural to urban areas;
- Promote development of technical and vocational skills for the youth. This will also positively affect other sectors through the availability of skilled labour. To this end, institutions for vocational and technical training should be expanded and the government should resurrect community technical colleges to facilitate skills development towards self-employment initiatives. Increased investment in education targeting youths should be supported to take advantage of the positive correlation between education and employment opportunities.
- Implement unfulfilled election promises, creating 1 million jobs for youth graduates and young women with tertiary and secondary qualifications and secure economic opportunities through access to flexible loans, agribusiness and skills-based employment support.

Civil society should:

- Advocate for the rights of youth and youth employment.

CHAPTER 13



Climate change and environmental governance

The issues discussed here relate to the corporate governance thematic area, specifically:

» OBJECTIVE 5

Ensuring that organisations act as good corporate citizens

Question 1 How are organisations complying with environmental regulations in your country and conducting business in an environmentally friendly manner?

These issues are also related to the broad-based sustainable socio-economic development thematic area, specifically:

» OBJECTIVE 1

Promote and accelerate broad-based sustainable socio-economic development

Question 5 What are the measures adopted to ensure environmental sustainability and accountability?

Introduction

‘Environmental governance is central to Malawi’s economic development prospects and the livelihoods of its population, which is largely dependent on natural resources.’²⁴⁸ Expectedly, Malawi 2063 regards environmental sustainability as crucial to unlocking

²⁴⁸ Government of Malawi, Ministry of Natural Resources, Energy and Environment, *Malawi State of Environment and Outlook Report* (Lilongwe: Environmental Affairs Department, 2010), iii.

the country's full potential. Environmental governance is key to job creation, economic opportunities and poverty reduction. According to Malawi's Updated Nationally Determined Contribution (NDC) document,²⁴⁹

In Malawi, natural resources and the environment play an incredibly significant role in influencing social and economic development at both household and national levels. Approximately 80% of Malawians depend on renewable natural resources for their livelihoods, and the foundation of the national economy is primarily rain-fed agriculture. The success of many important sectors of the economy such as agriculture, water supply and sanitation, transport, tourism, industry, health, and education rely on environment and natural resources to enhance their productivity. However, environmental degradation and climate change have emerged as major development issues that have adversely impacted on food security, water quality and energy security, thereby frustrating efforts to improve the general livelihoods of both urban and rural communities.

However, the environmental and natural resource sector is prone to serious abuse and subject to an array of governance shortcomings. Malawi's natural resources are often undervalued and mismanaged. The wanton cutting down of trees – which is driven by the need for charcoal, since Malawi lacks alternative energy sources and has relatively low levels of electrification – is leading to increased deforestation. The rise in population is also exerting pressure on already scarce natural resources and livelihoods. All of this is putting stress on Malawi's environment.

Climate vulnerability

The Updated NDC notes that²⁵⁰

Malawi is particularly vulnerable to floods, droughts and fierce winds associated with tropical cyclones. The country has experienced more than 19 major flooding events and seven droughts over the past five decades and in 2015 was affected by the worst floods in 50 years; the floods affected over 1 million people, displaced 230 000 people, and killed 106 people, with another 172 people reported missing.

249 Government of Malawi, *Updated Nationally Determined Contributions* (Lilongwe: Government of Malawi, 2022), 3.

250 Government of Malawi, *Updated Nationally Determined Contributions*, VII.

In addition, given the country's dependence on agriculture, the El Niño and the Southern Oscillation phenomena, which are aggravated by climate change, affect crop and livestock production and have major implications for livelihoods.²⁵¹ Smallholder farmers are especially vulnerable, and economic estimates of the impact of climate change point to damage to the order of some 5% of Malawi's GDP each year.²⁵² The country also experiences periods of drought, with adverse consequences for crop yields and livestock production.

Environmental and climate change policy

The government has embraced policy solutions for improving the state of environmental governance. These include legislation in the environment and natural resources management sector. Measures such as Access and Benefit Sharing are intended to govern the exploitation of biological resources and employ traditional knowledge for research, developmental and commercial purposes.²⁵³ The government is also developing regulations for environmental assessments in terms of the environmental social impact assessments provided for in the Environment Management Act of 2017. Guidelines have been produced to regulate safety assessments for consumables using genetically modified crops.

The government is busy instituting the Malawi Environment Protection Authority to enhance the application of legislation related to the environment and natural resources management.²⁵⁴ It also intends operationalising the Environmental Appeals Tribunal (EAT). As noted above, Malawi has been impacted by climate change. The effects include floods that destroy crops, displace people and households and disturb social service delivery mechanisms for education and healthcare, among others. Droughts result in food scarcity, hunger and water shortages. In response, the government, in collaboration with development partners, civil society, academia, the youth and the private sector, has developed and implemented strategies to address this phenomenon. The interventions are designed to increase climate resilience, reduce carbon emissions and strengthen adaptive capacity.

251 Government of Malawi, *Updated Nationally Determined Contributions*, 3.

252 Government of Malawi, *Updated Nationally Determined Contributions*, VII.

253 Government of Malawi, Ministry of Economic Planning & Development and Public Sector Reforms, *Annual Economic Report 2021* (Lilongwe: Ministry of Economic Planning & Development and Public Sector Reforms), 179.

254 Government of Malawi, Ministry of Economic Planning & Development and Public Sector Reforms, *Annual Economic Report 2021*, 180.

As noted in the Updated NDC:²⁵⁵

The Government of Malawi is committed to taking urgent action to mitigate and adapt to the effects of climate change. As a Party to the UNFCCC [UN Framework Convention on Climate Change], the country seeks to contribute to the ambitious goal of limiting temperature rise to 2oC with efforts to reach 1.5oC agreed under the Paris Agreement. Given the challenges posed to its ongoing social and economic development, Malawi has taken significant strides towards addressing climate change, including through the development of Nationally Appropriate Mitigation Actions, National Climate Change Response Framework and National Adaptation Plans.

It goes on to add:²⁵⁶

The updated Nationally Determined Contributions (NDC), which draws upon the National Climate Change Management Plan and other national strategies and policies, proposes an ambitious and wide-ranging set of measures which can significantly reduce Malawi's GHG [greenhouse gas] emissions compared to a business-as-usual scenario of economic development and emissions growth over the next two decades. The mitigation and adaptation contributions set out in this document are therefore considered to be both fair and ambitious in the context of Malawi's national circumstances.

The updated NDC describes a sectoral framework of measures to enhance Malawi's climate adaptation and resilience, along with indicators to monitor and evaluate their progress, aiming at increasing the resilience of its people, ecosystems and economy. This is fully aligned with the UN SDGs, Agenda 2030 and the sectoral planning process, along with the framework for the National Adaptation Plan.²⁵⁷

The government has also made progress in increasing the involvement of women through the Women's Network on Climate Action during the National Green Climate Conference, held in 2021. In addition, a National Adaptation Plan is being formulated to reduce the vulnerability of people and ecosystems to climate change over the medium to long term.²⁵⁸

255 Government of Malawi, *Updated Nationally Determined Contributions*, vii-viii.

256 Government of Malawi, *Updated Nationally Determined Contributions*, viii.

257 Government of Malawi, *Updated Nationally Determined Contributions*, viii.

258 Government of Malawi, Ministry of Economic Planning & Development and Public Sector Reforms, *Annual Economic Report 2021*, 181.

Furthermore, according to the Ministry of Economic Planning and Development and Public Sector Reforms,²⁵⁹

A National Climate Change Fund has been established, which aims to mobilise, disburse, check and account for climate change resources received both from domestic and international sources. The Fund is to be accessible to all key climate change stakeholders from the government, civil society, academia, youths and the private sector for the implementation of climate change programmes.

The government has participated in the global climate summits – the so-called Conference of the Parties (COP) – with the most recent being COP 27 held in Egypt in November 2022. Malawi could benefit from initiatives such as the Carbon Fund and the Loss and Damage Fund, both of which are outcomes of COP. However, this depends on the government’s capacity to negotiate and put in place viable proposals.

RECOMMENDATIONS

- Strengthen the institutional and legal framework for environmental protection and management. The government must review some of the environmental protections and natural resource regulatory frameworks, eg, land-related laws, environmental guidelines and legislation to incorporate environmental sustainability principles;
- Enhance the capacity of the institutions coordinating climate change and environment programmes to ensure that they have the technical skills and managerial capacity to put plans into action;
- Operationalise the EAT, as it will provide a platform for improving access to environmental justice and enhance environmental rule of law;
- Upgrade preparedness for natural disasters and climate change crises. This would involve scaling up the use of modernised climate information and early warning systems by digitising disaster response programmes and keeping high-quality information on disasters to constantly improve future responses;

²⁵⁹ Government of Malawi, Ministry of Economic Planning & Development and Public Sector Reforms, *Annual Economic Report 2021*, 181.

- Combat environmental degradation by:
 - » Promoting ecosystem restoration of degraded areas;
 - » Enforcing mandatory environmental and social impact analysis for all national- and local-level development projects;
 - » Developing environmental action plans at district and national level; and
 - » Enforcing legislation around land use.
- Develop materials for primary and secondary schools to educate and engage students in environmental awareness and sustainability activities;
- Radically improve waste management by:
 - » Engaging the private sector in environmental, natural resources and waste management initiatives, eg, establishing modern dump sites and associated infrastructure to support recycling in cities and towns;
 - » Incentivising investment specialising in waste recycling technologies;
 - » Addressing dwindling water resources and poor catchment practices by scaling up the construction of dams and creating awareness on guidelines for catchment management;
 - » Supporting and expanding youth-led green businesses by conducting green product exhibitions and networking forums; and
 - » Promoting waste and environmental management by developing management plans at the national and district level and appointing opinion leaders as champions for climate change and environmental sustainability.
- Deal decisively with climate change challenges by:
 - » Promoting efficient and effective generation and utilisation of reliable climate services;
 - » Adopting low carbon emission development strategies;
 - » Operationalising the National Climate Change Management Fund;
 - » Implementing mitigation and adaptation interventions in the agriculture, forestry and land resource conservation sectors; and

- » Mainstreaming climate change in sector plans, policies and programmes.

All stakeholders should:

- Set up a joint coordination mechanism to manage environmental risks and promote active citizenship among children and youth on environmental management by launching campaigns to inculcate positive environmental values.

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**Malawi Economic
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