

**COMMITTEE ON THE  
RIGHTS OF THE CHILD**

**WRITTEN REPLIES BY THE GOVERNMENT OF MALAWI  
CONCERNING THE LIST OF ISSUES  
(CRC/C/Q/MALA/1)  
RECEIVED BY THE COMMITTEE ON THE RIGHTS OF THE CHILD  
RELATING TO THE CONSIDERATION OF THE INITIAL REPORT OF  
MALAWI  
(CRC/C/8/Add.43)**

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CRC/C/Future...

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## INTRODUCTION

Malawi ratified the Convention on the Rights of the Child (CRC) in 1991 without reservation. Following the ratification, a multi sectoral Task Force was constituted to prepare and produce the initial report which was submitted in 1999. Since the ratification of the CRC and the report preparation and submission to the UN Committee on Human Rights, several new developments have taken place. Some of these developments include the design and formulation of various policies and programmes that take into account the need to protect the Rights of the Child. To further publicize the CRC, initiatives have been under taken to translate it into two main local languages, Chichewa and Chitumbuka.

Inspite of the successes that the report mentions, gaps still exist in some of the information that it contains. The existence of these gaps has therefore necessitated the production of a supplementary report to back up and provide clarification on some issues in the original report. The supplementary report will not follow logical sequence in providing the extra information. It will however address topical issues that were raised by the Pre-Sessional Working Group during the Twenty ninth session of the Committee on the Rights of the Child which took place at the UN in Geneva from 15<sup>th</sup>-19<sup>th</sup> October, 2001.

### (i) Population Statistics

The population of Malawi according to 1998 Population and Housing Census is 9.8 million. Out of this total, 51% are female representing a sex

ratio of 96 males per 100 females. The Census also indicates that the under 5 age group accounts for 17% of the total population out of which 4% is under 1 year. 22% of the population is within the 5-14 years age bracket. The median age is 18 years and the 15-64 years age bracket accounts for 52%. 4% are aged 65 years and older. There is a lot of complication in determining the size of population for the under 18 years age bracket because the categorization of age brackets is based on a 5 year cohort. In all, however, the statistics underscore the fact that the Malawian population is very youthful. The table below provides updated disaggregated information on the under 19 years age bracket.

### Demographic Data of the Under 19 Years

Table 1

SEX	URBAN	RURAL	TOTAL
MALE	370220	2,312,545	2,682,765
FEMALE	388422	2,350,009	2,738,431
			5,421,196

- (i) Source: National statistical Office: 1998 population and Housing Census

The figures above show that the population of those under 19 years of age is higher in rural areas than in the urban areas. The figures in table 1 above represent 86% of the total population. Equally true the structure of the population indicate that children and Youth account for more than half of the country's population as further illustrated in Table 2.

## Disaggregated Data of Under19 by Age Group and Sex

TABLE 2

AGE COHORT	MALE	FEMALE
UNDER 1	182508	185817
1-4	641117	650748
5-9	714830	725540
10-14	616445	616055
15-19	527865	560071

(ii) Source: National Statistical Office 1998

### EDUCATION

The main objective is to increase access in all the districts to 95% by the year 2015. At Secondary School level, the intention is to increase the GER from the current 18% of the relevant age cohort to 30%. At tertiary level the target is to raise the participation of the relevant age cohort from current 0.3% to 1%. The policy also intends to accelerate progress towards the introduction of compulsory universal primary schooling. It recommends measures for overcoming the problems of poor attendance, enrolment, repetition and drop out at all levels of the system.

The yearly enrolment rate for pre-school stands at 66,679 nationally. The number of teachers is 4,111 out of which only 1,631 teachers are qualified.

### **PRIMARY SCHOOL ENROLMENT BY YEAR AND SEX**

	MALE	FEMALE	TOTAL
1988	1,42,800	1,362,985	2,805,785
1999	1,500,343	1,395,937	2,896,280
2000	1,547,060	1,448,564	2,995,624

**PRIMARY SCHOOL ENROLMENT FOR URBAN CENTRES ONLY  
BY YEAR AND SEX**

	MALE	FEMALE	TOTAL
1998	139,053	151,167	290,220
1999	133,211	135,363	268,574
2000	126,520	129,535	256,055

**BUDGET FOR EDUCATION BY DEPARTMENT ESTIMATES**

1.	Administration and support services	MK1,873,195,962
2.	Primary Education	MK1,661,606,436
3.	Secondary Training College	MK4,049,750,925
4.	Primary Teacher Training College	MK 132,680,000
5.	University of Malawi	<u>MK1,157,990,000</u>
	Total	<u>MK 8,829,225,323</u>

**APPROVED BUDGET: SUMMARY OF RECURRENT ESTIMATES  
BY POROGRAMME**

1.	Administration and support services	MK 172,359,813
2.	Primary Education	MK1,718,320,996
3.	Secondary Education	MK 411,475,618
4.	Primary Teacher Training Colleges	<u>MK 37,843,574</u>
	Total	<u>MK2,340,000,000</u>

### (iii) HEALTH

The overall policy goal of the health sector has remained the same as in the previous National Health Plan for the period 1986-1995 thus to raise the level of health status of all Malawians and one of the health policy objectives covered in the plan is child survival. This objective is to be achieved through development of a delivery system capable of promoting health, preventing, and curing diseases, protecting life and fostering general well being increased productivity; and reducing the occurrence of premature death.

*Note:* for more statistical information on education see appendix I.

Some of the strategies adopted are provision of ante-natal and under-five clinics, maternal care services, child spacing services and immunization services for mothers and children.

The DHS shows that, health indicators in Malawi still remain poor. The indicators are even so appalling for both adolescent age group as well as early childhood group as shown below:-

	DHS 1999	DHS 2000
HIV/AIDS		
INFANT MORTALITY	134	104/1000
UNDER 5 MORTALITY	234	189/1000
MATERNAL MORTALITY	620	1120/100,000
VACCINATION RATE (ALL)		54%

One of the major contributing factors to the continuing poor health indicators is the HIV/AIDS scourge. The burden is still posing a challenge in the health sector, though the government has substantially raised monetary inputs in various health activities and programmes as shown below:-

PROGRAMME	1995-2000	2000-2001
HIV/AIDS		MK23,960,000
PRIMARY HEALTH CARE	MK32,367,264	182,117,500
VACCINATIONS		125,726,000
ADOLESCENT HEALTH CARE		Under preventive and curative health services
OTHER HEALTH CARE SERVICES FOR CHILDREN		Under preventive and curative health services

The fourth National Health plan (1999-2004) has responded to these unacceptable scaring health indicators by giving priority to the following areas:

(a) Reproductive health service which include:-

- Safe motherhood initiative
- Safe delivery services
- HIV/AIDS/STD prevention and treatment services
- Family planning services
- Community Based distribution of Contraceptive methods
- Youth Reproductive Health services.

(b) Child Health Services which include:



- Childhood immunization services
- Growth monitoring and other nutrition services
- Management of common childhood illnesses including hospital backup services
- Baby friendly Hospitals
- Nutrition supplementation
- Rehabilitation of severely malnourished children.

(c) Other Health Services

- Health promotion services
- Disease prevention services
- Acute rehabilitation services
- Treatment of common medical and surgical conditions

The following areas were identified as priority for the country to combat major health service delivery challenges :-

- High Child morbidity and mortality rate.
- High maternal morbidity and mortality.
- High HIV seroprevalence and deaths due to HIV/AIDS related illnesses.
- High morbidity and mortality in the general population due to infectious diseases.

Inspite of this realization, there are still major problems hindering the effective delivery of health services. Some of these include:-

- (a) Limited access to quality and effective health care. It is estimated that only 46% of the population lives within 5 km radius to a health facility. The compounding factor to the problem is the fact that health facilities are inequitably distributed. In some areas they are too close to each other while in other places there are no facilities.
- (b) Most of the services that target the population at risk are delivered in a vertical manner hence little impact on the mortality and morbidity of the target population.
- (c) Most of the resources are allocated in tertiary and secondary Health care services as a result, primary health facilities that provide health services to the large population due to their proximity to communities tend to provide low quality health services.
- (d) There is general shortage of resources namely, financial, human as well as drugs. Equally true, trained health personnel are not evenly distributed while finances are inequitable and inefficiently allocated/distributed.
- (e) Discrimination of some communities due to inavailability of free health services particularly in communities which are served by facilities that are operated privately.

In an effort to address the aforementioned problems and in pursuance of the goals and objectives of the fourth National Health plan (1999-2004), the ministry has specified a number of reforms and strategies including:

- i. Implementation of an Essential Health Care package (EHP) especially at community level.
- ii. Implementation of Bakili Muluji Health Initiative (BMHI) focusing very much at grassroot level.
- iii. Decentralisation of Health Care Management to Districts, central hospitals and local levels.
- iv. Conducting feasibility studies on the possibility of devolving the responsibility of the delivery of health service to the District Assemblies.
- v. Devising an appropriate formula for the allocation of resources and criteria for the construction of new health facilities.
- vi. Introduction/strengthening of cost recovery/ user Fees to supplement financial resources for health care Delivery services.
- vii. The establishment of AIDS Commission.
- viii. Adoption of a Sector-wide approach (SWAP) to the health care delivery system.
- ix. Creating autonomous structures in central hospitals.

#### iv. CHILD PROTECTION

The underlisted institutions keep children for care and protection, the majority of whom are orphans

- SOS Children's Village	=	140
- Mchinji Mission Orphanage	=	300
- The Samaritan Trust	=	150
- Stephanos Children's Home	=	80
- Victory Orphanage	=	130
- Open Arms Infant Home	=	30
- Yamikani Childen's Home	=	25

-	Kondanani Children's Home	=	40
-	Mumbuyo Muno Orphanage	=	28
-	Mayi Aisha Orphanage	=	70
-	Kankawo Orphanage	=	40
-	Haleluya Orphanage	=	25
-	Jacaranda Children's Home	=	50

These figures are not static hence they fluctuate with a figure of plus or minus 5. With foster care, there is strong extended family system such that relations, where necessary, look after needy children of their deceased relatives.

The Malawi Government National Policy on Orphans and Vulnerable Children (OVC) guided by the convention on the Rights of the Child and other Human Rights instruments recognizes and adheres to the principle of "non discrimination" and "in the best interest of the child". The policy therefore fulfills these principles by not categorizing orphans in relation to cause of their parents' death. However it is recognized that the HIV/AIDS pandemic is causing a rapid increase in the number of children orphaned thereby, placing unmanageable strains on the extended family and affected communities.

The Ministry of Gender, Youth and Community Services as of November 2001 had registered and assisted 877,000 orphans in one way or another. The emphasis on the care of orphans and vulnerable children remains community based because it has proved to be highly sustainable. There are other systems which allow children to be separated from their parents/guardians for child protection such as Foster Care and Adoption schemes.

However, there are many orphans in the care of extended family system. The Government has not registered this group of orphans yet.

iv. **CHILDREN DEPRIVED OF FAMILY ENVIRONMENT**

<u>CATEGORY</u>	<u>MALE</u>	<u>FEMALE</u>	<u>TOTAL</u>
A. (i) Registered Orphans as of Nov. 2001	420,960	456,040	877,000
(ii) Orphan Projection end 2000	576,000	624,000	1,200,000
B. Children Separated from their parents (includes total numbers of adoptions, institutions and Foster Care)	2,371	3,849	6,221
<u>CATEGORY</u>	<u>MALE</u>	<u>FEMALE</u>	<u>TOTAL</u>
C. Adoption			
(i) Domestic	327	387	714
(ii) Inter-country	-	-	-
D. Institutions (Orphanages)	1,252	2,173	3,435
E. (i) Children Placed with relatives	* many not recorded separately		
(ii) Welfare Institutions	* As reflected on D		
F. Foster Care	783	1,2189	2,072

vi. **CHILDREN WITH DISABILITIES**

The following underlisted programmes aim at assisting children with disabilities.

(A) The following institutions provide Educational services specific for children with disabilities namely:

(i) Chilanga School for the Blind

- (ii) Embangweni School for the Blind
- (iii) Montfort School for the Deaf
- (iv) Cheshire Homes (Lilongwe and Blantyre for Children with severe disabilities. These two programmes target such children as well as their parents or guardians).
- (v) The Malawi Council for the Handicapped, a statutory arm of the Ministry Responsible for People with Disabilities, operates the Community Based Rehabilitation Programme with the view to detect disabilities and make quick referrals.

(B) There is no data on children with disabilities designated by sex and age and the situation is as follows:-

- All children leave with families
- There is no institution for children with disabilities
- Children of school going age are mainstreamed in the available education institutions.
- Children with disabilities attend special schools (see A above)

The number of teachers with special education training is very small because so because there is no policy targeting the training of special education teachers.

## vii. JUVENILE CRIME

On juvenile crime prevention and rehabilitation programmes the Ministry of Gender, Youth and Community Services has two Reformatories for rehabilitating juveniles who have come in conflict with the Law. The Reformatories are Chilwa and Mpemba with a capacity of 60 boys each at any one time.

Information relating to data on children in conflict with the law is not pooled together and it is not disaggregated by sex, age, type of crime and type of sanction. The following situation applies:-

- There is no institutionalized mechanism to pool the information together from the various police stations.
- There is no institutionalized mechanism to pool the information together from the various children's courts.
- The common sanctions are Institutionalization and Probation Services. The later refers to reforming juveniles within their communities and governed by the Probation of Offenders Act. In rare cases are fine sanctions applied.
- In Juvenile justice, the language used is not, nor sentences, but bound over.
- In Juvenile Justice, children are deprived of their liberty in two ways namely:-
  - i) When they are put in police custody waiting to be taken to the Reformatories, there is no specific period attached to this.
  - ii) The children and Young Persons Act Cap. 26:03 states that juveniles be sent to the reformatories for a maximum period of three years or when the juvenile has attained the age of 18 years, or at the discretion of the Board of visitors.
  - iii) There is no data on recidivism because no research has been undertaken in this area.
  - iv) There is no data on cases of abuse, including sexual abuse of children in detention. However, anecdotal evidence points to such cases being common when juveniles are in prison.

**PART I (B): GENERAL MEASURES OF IMPLEMENTATION**

1. The 1995 constitution and other areas of domestic legislation in Malawi are against the principles of the CRC. These instruments

reveal a number of inconsistencies. The inconsistencies range from the definition of a child, to those that relate to Statutory provisions. One contradiction for instance is while the convention defines a child as every human being below the age of eighteen, the laws of Malawi do not have a uniform definition of a child. Different laws define the child variously depending on purpose. The Law Commission is looking at precise contradictions of legislation with a view of harmonizing them so that they serve the "Best interest of the Child".

The Law Commission is revising various legislations. This is in an effort to harmonize them with human rights standards of which the CRC is an important part. The Penal Code is being reviewed to inter alia raise the age for criminal responsibility from the current 7 years. The principle of the best interest of the Child is not reflected in the constitution although in handling custody cases magistrates have considered as paramount the welfare of the child and the constitutional review process is aimed at addressing this.

2. Government policy is that all issues relating to the welfare of Children shall be controlled by government machinery. In this connection, the implementation of the CRC is the responsibility of the government through the Ministry of Gender, Youth and Community Services and other line ministries and, therefore, the role of the Child Rights Unit in the Human Rights Commission is that of a watchdog to ensure that government and all stakeholders make available resources for the full realization of the provisions of the CRC.



### 3. CHILD RIGHTS UNIT

The Child Rights Unit has been established in the Malawi Human Rights Commission with the mandate to promote in a holistic way, the realization and protection of the rights of all children in Malawi. The Unit fulfils and/or intends to fulfill its mandate through, inter alia:-

1. Monitoring the situation of children and compliance with CRC, and advocating for corrective action. The Unit has, in collaboration with the Investigations Department in the Commission visited prisons and the places of detention to assess the human rights situation of young persons in conflict with the law. It has also visited orphanages where conditions of children deprived of a family environment have been assessed and recommendations to relevant authorities made.
2. Negotiating with policy makers and implementing agencies on the Best Interest of the Child. Not much has been done in this area
3. Proposing amendments of laws relating to children and monitoring such laws. The Unit coordinated the process of reviewing the laws that relate to children in 2001. A draft booklet cataloguing these laws with their attendant shortcomings is ready. The booklet "Children and the Law" proposes several amendments to current legislation on children in order to bring it in tandem with the provisions of the CRC.

4. Conducting public awareness campaigns, and civic education in all issues affecting the child. Apart from coordinating the commemoration of Day of the African Child (16<sup>th</sup> June), the Unit is yet to carry awareness campaigns.
5. Mobilising resources and encouraging initiatives at all levels to improve the situation of children. The Unit has mobilised both financial and human resources to carry out some of the activities in 1, 3 and 4 above. UNICEF Malawi came in handy to provide financial resources for the preparation of the booklet on Children and the Law and for celebrating the Day of the African Child, while financial resources from the Commission were used for the monitoring of human rights situation in prisons and other places of detention and orphanages. The Unit was able to pool together expertise mainly from Non-government Organizations (NGOs) preparing the booklet and commemorating the Day of the African Child.

The Child Rights Unit has not yet fully fulfilled its mandate because its capacity in terms of personnel is limited.

## **PART II: THE CONVENTION ON THE RIGHTS OF THE CHILD REPORT**

The convention on the Rights of the Child is in the following languages namely:-

- English
- Chichewa
- Chitumbuka

The translations in local languages have been deliberately done to increase the size of circulation of the CRC particularly that the majority of people do not speak English.

### **PART III: NEW BILLS OR ENACTED LEGISLATION**

Malawi has a number of new bills on the drawing board. The aim is to come up with a number of social legislation that have a bearing on the family in general and on children in particular.

For example, one of the new bills is on domestic violence. This bill aims at curbing the incidence of domestic violence which often brings a lot of misery to children in the affected household.

Another bill is the one on matters of wills and inheritance. This bill has been necessitated by the suffering that orphaned children go through once a breadwinner is dead and the relatives of the deceased have grabbed all their property. This is very common and serious when the deceased happens to be the man in the home. Very often the woman and children are deprived of their property.

With respect to employment a new Employment Act has been enacted. Among other things the Act prohibits child labour, i.e., employment of children under the age of fourteen years. It also prohibits the employment of children aged fourteen to eighteen in occupations that are harmful to the children's health, safety education, and moral development.

Further, the Act provides for registration of any person under the age of eighteen working. Finally the Act provides for penalty for any person contravening it. The penalty includes imprisonment for five years.

Another Act that also touches on children is the Penal Code. The Act has been revised recently. Among other things it recognizes the question of immaturity among children when it comes to the question of criminal responsibility.

For example a person under the age of seven years is not criminally responsible for any act or omission. So too is a person under the age of twelve years unless it is proved that he ought not to do the act or make the omission. Again, a male person under the age of twelve years is presumed to be incapable of having carnal knowledge.

Further, the Act provides for penalty to anyone who deserts, or steals a child. For those who kill an unborn child the penalty is life imprisonment. And for anyone who kidnaps or abducts any child under the age of fourteen years with the intention of stealing from that child, the penalty is imprisonment for seven years. All these Laws and initiatives have been put in place to protect the "Best interest of the Child".

## CONCLUSION

In conclusion, it is evident that Malawi has moved positively to design laws and programmes that provide for the protection of children. In spite of these

initiatives however, the country has seen increasing cases of child abuse, abduction including trafficking to foreign countries. While the initiative to protect the children is manifest, there still exists confusion on the definition of a child since both the constitution and the laws define a child according to need and purpose. What is gratifying though is that both the children and Youth have since risen to the occasion to complement government efforts to protect their rights. This has been manifested through the creation of various Child and Youth Associations which have been advocating for the Rights of the Child using different strategies.

Major constraints to government's fulfillment of the Rights of a child include limited resources to fund identified child related programmes and activities; wide spread poverty and the impact of HIV/AIDS on both the family and the community.

PRIMARY SCHOOL ENROLMENTS BY YEAR AND SEX - TABLE 1

YEARS	M	F	TOTAL
1998	1442800	1362985	2805785
1999	1500343	1395937	2896280
2000	1547060	1448654	2995624

PRIMARY SCHOOL ENROLMENT FOR URBAN CENTRES ONLY BY YEAR AND SEX - TABLE 2

YEARS	M	F	TOTAL
1998	139053	151167	290220
1999	133211	135363	268574
2000	126520	129535	256055

*Note:* Information for year 2000 is still in draft report 2000.

PRIMARY SCHOOL TEACHING STAFF BY YEAR AND SEX - TABLE 3

	QUALIFIED		UNQUALIFIED		TOTAL		
	M	F	M	F	M	F	
1998	13143	7844	12122	8525	25265	16369	
1999	15367	9162	12119	9164	27186	18326	
2000	15589	8968	14092	9181	29676	18149	
							TOTAL
							41634
							45812
							47825

PRIMARY SCHOOL DROPOUT RATES BY YEAR BY STANDARD AND BY SEX - TABLE 4

Standard Year	1		2		3		4		5		6		7		8		TOTAL			
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F		
1998	18.7	14.2	11.8	11.4	9.6	9.2	9.8	9.7	9.3	10.3	9.2	11.4	8.6	12.8	8.8	13.0	12.1	11.6	11.9	
1999	18.3	13.6	12.2	11.3	10.2	9.6	10.0	9.9	9.0	9.8	8.4	10.7	8.1	11.4	8.8	12.9	12.1	11.4	11.8	
2000																				

**1998: SECONDARY SCHOOL ENROLMENT BY TYPE OF SCHOOL - TABLE 6.**

FORM SEX	1		2		3		4		TOTAL		TOTAL
	B	G	B	G	B	G	B	G	B	G	
GOV	37919	24146	31284	19171	20941	11096	17128	8744	107272	63757	171029
PRIVATE	4725	3113	3869	2509	2536	1379	2044	1068	13174	8069	21243
TOTAL	42644	27259	35753	22180	23477	12475	19172	9812	1120446	71826	192272

**1999: SECONDARY SCHOOL ENROLMENT BY TYPE OF SCHOOL - TABLE 6.**

FORM SEX	1		2		3		4		TOTAL		TOTAL
	B	G	B	G	B	G	B	G	B	G	
GOV	41418	26996	46634	29402	28161	15079	25265	12540	141478	84087	225495
PRIVATE	2379	2044	2249	1776	2148	1695	2962	1992	9738	7507	17245
TOTAL	43797	29040	48883	31178	30309	16774	28227	14532	151216	91594	242740

**2000: SECONDARY SCHOOL ENROLMENT BY TYPE OF SCHOOL - TABLE 7.**

FORM SEX	1		2		3		4		TOTAL		TOTAL
	B	G	B	G	B	G	B	G	B	G	
TOTAL	27143	20393	30569	19615	22210	14123	18332	12074	98254	66205	161500

Gov. = Stands for Government, Government aided, Community Day and Night Secondary Schools.

**1998: SECONDARY SCHOOL TEACHING STAFF BY QUALIFICATION AND TYPE OF SCHOOL - TABLE 8**

	GRADUATES	DIPLOMATS	UNQUALIFIED	OTHER	TOTAL
GOVERNMENT	597	764	3207	35	4603
PRIVATE	31	31	164	2	236
TOTAL	628	795	3371	37	4839

**TABLE 9.**

	GRADUATES		DIPLOMATS		UNQUALIFIED		TOTAL		BOTH
	M	F	M	F	M	F	M	F	
GOVERNMENT	341	117	487	162	2247	631	3075	910	3985
PRIVATE	103	16	134	9	71	7	308	32	340
TOTAL	444	133	621	171	2318	638	3383	942	4325

**TEACHING STAFF IN SECONDARY SCHOOLS BY SEX AND QUALIFICATION : 2000 - TABLE 10**

QUALIFICATIONS	M		F		TOTAL
	M	F	M	F	
Degrees	519	135	654		
Diplomas	755	167	922		
Certificate (UCE)	361	125	486		
Unqualified	1955	517	2472		
Other	1106	268	1374		
Total	4696	1212	5908		

*Note:* Information for 2000 is still in Draft Report.