REPUBLIC OF MALAWI

MINISTRY OF JUSTICE AND CONSTITUTIONAL AFFAIRS

HUMAN RIGHTS SECTION

THE STATE OF HUMAN RIGHTS IN MALAWI WITH PARTICULAR FOCUS ON WOMEN’S RIGHTS

DELIVERED AT THE 59TH SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES’ RIGHTS

AND

28TH ORDINARY SESSION OF THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD

BANJUL, THE GAMBIA

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Madam Chairperson, Commissioners and all distinguished delegates,

The Government and people of Malawi are once again very pleased to be part of this session as we gather here in Banjul, the Islamic Republic of Gambia to share our values as a people and to celebrate the achievements we have made in the area of human rights.

Malawi has taken note of this year’s human rights project as declared by the African Union with focus on the rights of women, as well as the various milestones in Africa’s human rights architecture. We join the rest of the continent in rejoicing as we mark these milestones and believe that there is a lot to celebrate about. Despite the many challenges, and the difficult history of most of our countries, we have certainly matured in many aspects, and the human rights framework in Africa has evolved as well. We may not be there yet, but we are surely well on our way. This is the opportune time for individual as well as collective reflection as this continental ship steams ahead towards 2063, when independent Africa will clock a century. We are excited about Agenda 2063 particularly aspiration number 3- An Africa of good governance, democracy, respect for human rights, justice and the rule of law.
We would like to share developments that have taken place in Malawi in the promotion and protection of human rights in Malawi paying particular emphasis on this year’s theme, the year of human rights with focus on women’s rights.

Women constitute about 52 percent of the population of Malawi. Being a majority portion of our population, Malawi takes issues regarding the promotion and protection of their human rights seriously.

In terms of ratification of international instruments on women’s rights, Malawi has ratified the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). At the Regional level, Malawi has also ratified the Protocol on the Rights of Women also called the Maputo Protocol. Malawi is the first country to have reported under the Protocol. Malawi welcomes any requests from fellow member states to share our experiences of reporting under the Protocol.

We further reaffirm our commitment in the implementation of the African Union Solemn Declaration on Gender Equality, and the SADC Gender and Development Protocol, among others.
At the national level, the Constitution of the Republic of Malawi contains a bill of rights which enshrines both economic, social and cultural rights and civil and political rights. The Constitution under section 24 stipulates that women have the right to full and equal protection by the law. The section further emphasizes that women shall not be discriminated against on the basis of their gender in the enjoyment of their rights. The section further highlights the right of women to acquire property independently or in association with others.


The Gender Equality Act is essentially the domestication of the Maputo Protocol. The Act aims at empowering women and providing opportunities to women to participate in all spheres of society. The Act inter alia prohibits discrimination of women on the ground of sex, prohibits harmful practices and sexual harassment. The Act further
provides the right of women to sexual and reproductive health and promotes public awareness of women’s rights.

The Prevention of Domestic Violence Act, 2006, proscribes domestic violence in a family relationship. Though the provisions of the Act apply to both males and females, in most of the reported cases on domestic violence in Malawi, women are the victims. As such, this law provides provisions to safeguard and provide redress to women who are victims of domestic violence. In order to ensure effective implementation of provisions of this Act, apart from prosecution of the perpetrators of domestic violence, Malawi has established Victim Support Units in 34 Police Stations, 13 police posts and 200 Support Units in 300 Traditional Authority institutions. Malawi has also established 20 One Stop Centres in the central and district hospitals.

Another critical Act that Malawi has enacted is the Deceased Estates (Wills, Inheritance and Protection) Act that protects the woman’s right to a share of the deceased’s estate and protects women from the practice of property grabbing by making it a criminal offence liable to a fine or imprisonment of up to three years.
We now also have the Marriage, Divorce & Family Relations Act which recognises marriage by repute and cohabitation and protects women who may find themselves in a situation with no right to succession or inheritance or share of property, maintenance or even custody of children upon termination of family relationships.

At a policy level, as we reported at the 57th and 58th ordinary session, we are in the process of developing a National Human Rights Action Plan. The process is at an advanced stage. Consultative meetings were held in 18 of Malawi’s 28 districts. A National Consultative Workshop on the Action Plan was also held. At the moment, the Plan is being finalised by the Ministry of Justice and Malawi Human Rights Commission before submission to cabinet. This Plan has highlighted the rights of women as one of the key thematic areas requiring special attention in the advancement of the implementation of human rights in Malawi.

In line with this year’s theme, the Ministry of Gender is leading Malawi’s efforts to popularise the theme, as well as coordinating all the events in celebration of the theme. In that regard, in March 2016, the Ministry launched two key documents in the promotion of gender
equality and the rights of women. These are the National Gender Policy, and the Implementation Platform on the Gender Equality Act. In terms of law reform, the Law Commission has successfully completed the programme on the Review of the Prevention of Domestic Violence Act. The critical recommendations are the broadening of the definition of the phrase “domestic violence” which before the review was only limited to conduct that was an offence. However, it has now been recognised that an act may not be an offence under penal law but qualifies as domestic violence. The Law Commission has also recommended that persons who are in courtship or are engaged yet to be married should fall within the definition of domestic relationship to ensure enhanced protection of victims of domestic violence.

The Law Commission has also completed the review of the law on Abortion. It has recommended that abortion be allowed in cases of risks to physical or mental health, rape, incest or fetal abnormalities.

As a country, we recognize that we are facing some challenges in fully realising the rights of women. One of the major issues we are facing as a country is eradicating child marriages. Our constitution
provides that a person between the ages of fifteen and eighteen can enter into marriage upon obtaining parental consent. The Marriage, Divorce & Family Relations Act, provides eighteen (18) years as the age of marriage. However, in practice there are instances of early marriages at custom. The Government has adopted a multi-sectoral approach to this issue and is running a number of campaigns to increase public awareness of the harmful practice of early child marriages.

Malawi also has a high school drop-out rate for girls. In that regard, a multi-sectoral approach has also been adopted to increase public awareness amongst girls and parents to encourage girls to continue their education up to tertiary education level. The Ministry of Education has also adopted an Admission Policy which ensures that pregnant girls can return to school after giving birth.

In addition, though Malawi’s HIV prevalence rate among adults aged between 15 and 49 years has stabilised at about 12 percent, 58 percent of the close to one million Malawians living with HIV are women and girls. We, as a country, are working towards decreasing the HIV prevalence rate by ensuring that all harmful practices that increase HIV transmission are eradicated through public awareness
and also by providing sexual and reproductive health facilities free of charge in public hospitals.

We are also working towards reducing the maternal mortality rate by the required rate of seventy-five (75%). Malawi has managed to reduce cases of maternal deaths by almost 50%. We will continue to work relentlessly towards reducing the maternal mortality rate even further.

The Government of Malawi continues to work with various civil society organizations in the promotion and protection of the rights of women. It is actually pleasing to note that there is increased awareness on the activities of the African Commission by NGOs in Malawi as quite a good number of them are part of the National Task force on the African Charter on Human and Peoples Rights. We expect the number of NGO’s from Malawi seeking observer status with the Commission to rise significantly in future.

In conclusion, Malawi reaffirms her commitment to the human rights cause both at home and abroad.

Thank you.