



REPUBLIC OF MALAWI

Candidature of The Republic of Malawi to the Human Rights Council,

2021-23

Voluntary Pledges and Commitments of the Republic of Malawi

Pursuant to General Assembly Resolution 60/251

1. For the first time ever, Malawi is seeking election to the Human Rights Council for the term 2021-23.

2. Malawi firmly believes in the universality and indivisibility of the principles of human rights and has over the years shown her unwavering commitment to this cause. Malawi endeavors to continue her resolve in the promotion of the universal values of human rights through strong and credible institutions and international cooperation.

3. The following are Malawi's contributions, voluntary pledges and commitments in the field of human rights pursuant to the General Assembly resolution 60/251,

Malawi's Human Rights Status

4. Malawi has made tremendous progress in the promotion, and protection of human rights. This status anchored in our Constitution, which has a robust bill of rights founded on principles of democracy and the rule of law. The Constitution is ably supported by an array of progressive legislation, policy and institutional framework. Malawi's journey as a thriving democracy is informed by our history of the struggle against colonialism and dictatorship. Our future is shaped by our collective wisdom and national vision of a socially and economically secure country ridding on the wings of the aspirations of the SDG's and Agenda 2063.

Legal Framework

5. In the last few years, Malawi has enacted the following legislation to promote human rights in different aspects:

Constitutional amendment on the age of the child – 2017

6. The Constitution under section 23(6) previously stipulated that children shall be persons under the age of sixteen years. However taking regard to international human rights instruments, and various legal and human rights challenges faced by children, the Constitution was amended to raise the age of the child from 16 to 18. Following that amendment, steps are being taken to harmonize all laws on the age of the child. This process is being led by a Task Force chaired by the Ministry of Justice and Constitutional Affairs and the Ministry of Gender, Children, Disability and Social Welfare.

7. The 2017 constitutional amendment is the domestication of the specific requirement of the CRC, the ACRWC as well as the implementation of the recommendations Malawi received under Universal Periodic Review, ICCPR,

CEDAW, African Charter, among others. The amendment is also a fulfillment of the amicable settlement of the case of IHRDA versus Malawi before ACERWC.

Access to Information Act – 2017

8. Section 37 of the Constitution states that every person shall have the right of access to information held by the state or any of its organs at any level of Government in so far as such information is required for the exercise of his or her rights.

9. The Access to Information Act, 2017 builds on the constitutional provision by providing for a framework to facilitate access to information held by information holders in compliance with any right protected by the Constitution and any other law, promote routine and systematic information disclosure by information holders based on constitutional principles of accountability and transparency.

10. It also provides for the protection of persons who release information of public interest in good faith and facilitate civic education on the right to access to information under this Act. Section 5 of the Act states that a person shall have the right to access to information, in so far as the information is required for the exercise of his rights which is in the custody of, or under the control of a public body or a relevant private body to which the Act applies. The Act was passed with inspiration from the African Commission on Human and People's Rights Model Law on Access to Information.

HIV/AIDS (Prevention and Management) Act – 2018

11. This Act provides for the prevention and management of HIV and AIDS while at the same time ensuring the rights and obligations of persons living with

HIV or affected by AIDS. It also establishes the National Aids Commission which oversees all issues regarding HIV/Aids. Section 4 of the Act prohibits harmful cultural practices. A list of harmful practices so prohibited is attached hereto as Annex 2.

12. Section 6 of the Act prohibits discrimination of any person on a basis relating to HIV and AIDS related infections. Section 9 gives an infected person the right to privacy and confidentiality with regard to information concerning his status while Section 26 prohibits an employer from requiring any person to undergo HIV testing as a precondition for recruitment. The Act domesticates specific aspects on the Maputo Protocol as it relates to HIV/Aids issues.

Trafficking in Persons Act 2015

13. This Act is the domestication of aspects of the Palermo Convention and its Protocols and provides a solid legal regime against trafficking in persons. It provides for the three P's namely, Prevention, Protection and Prosecution. The penalties for trafficking in persons include 14 years jail term and 21 years in the case of child victims.

Marriage Divorce and Family Relations Act 2015

14. The Act domesticates aspects of CEDAW, African Charter and Maputo Protocol. It makes provision for marriage, divorce and family relations between spouses, unmarried couples, their welfare, maintenance and that of their children and for connected matters. The Act has revolutionalized the law on marriage and divorce with emphasis on the rights and equality of spouses.

15. Section 12 recognizes the following marriages, a civil marriage whereby one

declares marital status prior to marriage, a customary marriage accorded with customs and rites of religious body, sect, denomination or ethnic groups, marriage by repute or permanent cohabitation which shall only be recognized upon a finding of a court of competent jurisdiction.

16. The Act also provides for offences such as polygamy and bigamy under section 51, marriage ceremony with a married person under section 52, making false declaration in relations to marriage using a certificate, permit, license document or statement by law for the purpose of marriage as stipulated in section 53 and personating in marriage by impersonating another person in entering marriage or marries under a false name or description with intent to deceive the other party to the marriage as indicated in section 57.

17. The Act provides for matters related to divorce under section 74 highlighting equitable division and re-allocation of property upon dissolution of marriage taking into account direct and indirect contribution made by either spouse including through performance of domestic duties. Further, it deals with maintenance of single pregnant women under section 96.

National Planning Commission Act 2017

18. The Act establishes the National Planning Commission tasked with the responsibility of coordinating Malawi's development agenda in line with the Malawi Growth Development Strategy and other global and regional development agendas such as; Agenda 2030 and Agenda 2063.

19. The Commission's task is to identify Malawi's social-economic development priorities and formulate the national vision and strategy for social and economic goals taking into account the country's resource potential and

comparative advantage.

20. The Commission is required to oversee the implementation of long-term national vision and strategies and the medium-term development plans; formulate innovative and progressive flagship projects and programmes for implementation in line with the national vision and strategies for the country, identify and commission research on any matter the Commission deems relevant to the attainment of the objects of the Act.

21. The Commission's establishment is in furtherance of section 30 of the Constitution on the right to development and states that all persons have a right to and therefore to the enjoyment of economic, social, cultural and political development and women, children and persons with disabilities in particular shall be given special consideration in the application of the right.

Electronic Transactions and Cyber Security Act – 2016

22. The Act establishes the Malawi Computer Emergency Response Team (MCERT) and its functions, to make provisions for criminalizing offences related to computer systems and information communication technologies further more provide for investigation, collection and use of electronic evidence and matters connected therewith. The Act provides a legal framework that shall facilitate competition, development of information and communication technology and the participation of Malawi in the information age and economy.

23. The Act seeks to ensure that the development, deployment and exploitation of information and communication technology within the economy and society and related legal provisions shall balance as well as protect community and individual

interests, including privacy and data protection issues.

24. Section 4(b) states that freedom of communication over electronic network shall be promoted, with the exception of specific reasons as provided for in the Act. This builds on the Constitutional provisions of right to access to information in section 37 and right to privacy in section 21(c) of the Constitution.

Courts Amendment Act 2016

25. The Act establishes divisions in the High Court of Malawi in an effort to enhance access to justice and improve on the efficiency of the judiciary.

26. The divisions include; the Civil Division responsible for civil matters not provided for under another division of the High Court, the Commercial Division responsible for any commercial matter, the Criminal Division responsible for any criminal matter, the Family and Probate Division responsible for any family or probate matter and the Revenue Division responsible for any revenue matter.

Land Act 2016

27. This is the principal Act to making provision for all land matters in Malawi. Unlike the Land Act of 1965 which vested land in the President in perpetuity, Section 8 of the 2016 Act vests land in the Republic in perpetuity. Customary land is no longer defined as one of the categories of land under the Act. Instead, Section 19 makes provision for the conversion of customary land. The land can be registered as private land apart from unallocated customary land, which is public land. Where there has been acquisition of the land, compensation is made for land itself as well as the developments on the land. This is also a departure from the

previous Land Act where compensation was only made for the developments on the land and not the land itself. The significance of this Act is that it harmonises the existing legal framework with the aspirations of the Malawi National Land Policy 2002 (MNLP).

Customary Land Act 2016

28. This is the main Act in customary land administration and management in Malawi. The Act provides for registration of customary land in the form of customary estate. The most important aspect regarding the creation of customary estate is that an individual will now be able to own land in his or her own right thereby having a guaranteed tenure security. Again, a customary estate shall be of an indefinite period/duration, inheritable and transmissible by will. With the creation of a customary estate under the new Customary Land Act, an individual, either man or woman will be registered as the owner of the land which in turn can be used to create a lease or sub-lease.

29. The Act also makes provision for the establishment of Land Committees which are responsible for the management of all customary land in a Traditional Land Management Area. The committees are comprised of a Group Village Headman who shall be the chairperson and six other persons elected by and from within the community, at least three of whom shall be women.

Physical Planning Act 2016

30. This is an Act to make provision for physical planning and the orderly and progressive development of land in both urban and rural areas; to preserve and improve amenities thereof; for the grant of permission to develop land and for other powers of control over the use of land; for the establishment of the Physical

Planning Council; for the establishment of the Physical Planners Board; for the registration and regulation of physical planners.

31. The Act reaffirms the Malawi Land Policy Recommendation of declaring the whole Malawi a “planning area”. The aims of regulating land use and location of physical developments are to enhance orderly spatial physical growth of human settlements activities, to enhance optimum use of land and service infrastructures, and to protect and conserve fragile environmental systems. These objectives are achieved by guiding physical developments, and controlling building uses in designated zones with regulated planning permissions. The Physical Planning Act, 2016, is holistic when dealing with physical planning. Section 24 prescribes what a National Physical Development Plan should consist of; among which are development statements, principles and background studies which among other things should cover analysis of demographic, economic, energy and environment issues, land use and land tenure. Further the Act demands that relevant authorities should consult other relevant institutions when reviewing physical plans for development. It recognises the need of reasonable compensation to land owners in case of compulsory acquisition of land for public interest in accordance to section 18 of the Land Act of 2016.

Land Survey Act 2016

32. The Land Survey Act 2016 repeals the Land Survey Act (Cap 59:03) of 1955. The Act provides for land survey and related matter to ensure provision of better land surveys and the licensing and control of Land Surveyors. The Act also

provides for establishment of Land Surveyors Registration Board and Malawi Geographical Information Council. The main function of the Land Surveyors Board is to license and oversee the conduct of land surveyors. The main functions of the Malawi Geographical Information Council are to register spatial data and to advise on policies and technical issues relating to spatial data development, update, management, and transfer. A licensed land surveyor is the only person who can prepare plans, diagrams or maps that are used for registration of a land title or a deed. Any boundaries marked or demarcated by a land surveyor are lawfully established. The method and accuracy for establishing boundaries of pieces or parcels of land is not specified in the law but is to be defined in the regulations and rules. Equally, the fees to be paid for surveying services shall be included in the regulations and rules since these are reviewed periodically. For precise location of land parcel, boundary corners and lines are defined by measurement (distances and directions between corners) and referenced to the monuments or markers placed or existing on the ground or to adjoining land.

Political Parties Act 2018

33. This Act regulates the registration, financing and functioning of political parties. A political party, consisting of not less than one hundred persons in each of the districts of Malawi who are eligible to vote, may apply in writing to the Registrar for registration of the party under the Act. The Registrar may refuse the registration of a political party if the application is not in conformity with the Act. The party that is refused to register may have the decision reviewed by the High Court upon application. In the exercise of his power, the Registrar may deregister a political party on his own motion or by an application of the member of that party if the party does not satisfy the conditions the Act. Such a decision to deregister

may be reviewed by the High Court.

34. A political party that has managed to secure more than one-tenth of the national vote in parliamentary elections, shall be entitled to be provided with funds by the state to ensure that, during the life of any parliament, the party has sufficient funds to continue to represent its constituency. The Secretary of Treasury may, on the recommendation of the Registrar, suspend the allocation of funds to a political party if the party has failed to comply with any requirement under the Act.

35. The political party shall have the right to nominate candidates to contest in presidential, parliamentary or local government elections and to campaign for any candidate in the elections, and in excising this right; parties shall endeavor to achieve fair gender representation with an election. The party shall also have the right to organize and conduct public rallies without unlawful interference from the State, other political parties, or any person. The party shall also have the right to freely publish, or import into Malawi, its election campaign materials and to be accorded adequate facilities for access to public information reasonably required for such publication. A party shall have the right to equitable and balanced coverage during presidential, parliamentary and local government elections by the Malawi Broadcasting Corporation. Furthermore, the Act provides that any person shall have the right to access to information received by the Registrar in the exercise of his functions under the Act.

36. A candidate or political party contesting or intending to contest in an election under this Act shall not at any time issue handouts. A person who commits an offence under this Act for which no punishment has been provided for in this Act shall, upon conviction, be liable to a fine of K10,000,000 and imprisonment for five years. The Registrar of political parties shall receive and investigate

complaints received under this Act. And in exercise of his powers, functions and duties, be independent of the interference or direction of any other person or authority.

National Intelligence Service Act 2018

37. The Act establishes of the National Intelligence Service with clear definition of its powers, functions and duties, to regulate the administration and control of the Service; and to provide for matters connected with or incidental thereto. The Service is bound to be an independent State institution reporting to the President.

38. The duties of the Service include to gather, evaluate, correlate, interpret, investigate, disseminate and store information, whether inside or outside the Republic, for the purpose of detecting and identifying of threats to the security of the Republic, advising the President and Government of any threat or potential threat to the security of the Republic, taking steps to protect the security interests of the Republic whether social, military or economic and supporting the prevention or detection of serious crime. The Service will also perform such tasks as may be necessary to protect the State from threats and acts of espionage, subversion, terrorism, sabotage or actions intended to undermine parliamentary democracy or to overthrow the Government by unconstitutional means. Furthermore, the service shall also advise the Government Departments, public bodies or institutions and statutory bodies or corporations, on the protection of vital installations.

39. The Act provides that every member of staff of the Service shall be subject to a Disciplinary Code as may be prescribed by the Act. Staff of the Service shall

not engage in any political activity or represent or act as an agent of any political party, group or individual. The staff of the Service shall not, in the performance of the functions or powers under the Act, subject any person to torture or any other cruel, inhuman or degrading treatment. This provision complements the provision of the Constitution specifically section 19 that provides for human dignity and personal freedom.

40. The Service shall annually submit a report on the activities of the Service to the Defense and Security Committee of Parliament. This is for the purposes of checks and balances to make sure that the Service is acting within its powers and mandates. The Act also provides for the establishment of a complaints tribunal for the objective of investigating complaints under the Act. Amongst the composition of the tribunal, there shall be a human rights advocate nominated by the Human Rights Commission.

Citizenship Amendment Act 2019

41. The Amendment Act introduces a new section 6 which allows any citizen of Malawi, by birth, descent to hold citizenship of one other country in addition to the citizenship of Malawi. The Act provides for a list of office holders who are prevented from holding citizenship of any other country.

Policy Framework

42. Several policies, strategies and action plans have been adopted during the reporting period. These relate to the implementation of both the Charter and the Protocol. They include:

National Cultural Policy 2015

43. This policy aims to identify, preserve, protect and promote Malawian arts and culture for national identity, unity in diversity, posterity and sustainable socio-economic development. With this in mind the policy wishes to achieve heritage of Malawi's culture in all its identifiable forms, safeguarded and preserved for national identity and posterity.

44. The Ministry of Tourism and Culture through the Department of Culture will be responsible for provision of policy direction, technical guidance, oversight, mobilizing stakeholder support, coordination and monitoring and evaluation of the implementation of the policy.

45. At national level, the Constitution of Malawi provides, in section 26, rights for its citizens to participate in cultural life of their choice and rights to development and enjoyment of social and cultural development.

The Gender Equality Act Implementation and Monitoring Plan (2016-2020)

46. The goal of the plan is to provide gender equality, integration, influence, empowerment, dignity and opportunities for men and women in all functions of society. The plan has five thematic areas. These are:

- Gender in education and training
- Gender in health services and sexual reproductive health rights
- Mainstreaming gender in development sectors
- Gender in governance and human rights
- Capacity of the National Gender Machinery

National Forest Policy 2016

47. The National Forest Policy lays down guiding principles, policy statements and strategies on the management of forests in the country. The Policy is aligned to bilateral and international agreements and conventions such as the Rio Declaration, United Nations Framework Convention on Climate Change (UNFCCC), the Montreal Protocol, United Nations Convention to Combat Desertification (UNCCD), United Nations Convention on Biological Diversity (UNCBD), United Nations Convention on International Trade in Endangered Species of wild fauna and flora (CITES)

48. The goal of the National Forest Policy is to improve provision of forest goods and services to contribute towards sustainable development of Malawi through protection and conservation of forest resources. The policy aspires to control deforestation and forest degradation. The policy promotes strategies that will contribute to increased forest cover by 2% from the current 28% to 30% by 2021, and sustainable management of existing forest resources.

49. The National Forest Policy takes a holistic approach to sustainable forest management. It adequately addresses issues of forests and water; climate change; food security; HIV and AIDS; gender and equity; wealth creation; biodiversity and Payments for Ecosystem Services (PES); Reduced Emissions from Deforestation and Forest Degradation (REDD+) and Clean Development Mechanisms (CDM). The National Forest Policy recognizes among others the importance of creating an enabling environment for participation of all stakeholders including Public, Private, Civil Society, NonGovernmental Organizations (NGO), Communities, and Academia in collaboration with international community in the management of forest resources.

50. While numerous issues could be considered to address sustainable forest

management, implementation of this policy by the Government and its partners will focus on ten priority areas namely:- Community Based Forest Management; Indigenous Forests, Forest Reserves, and Ecosystem Management; Forest Plantations and Estates Management; Forestry Regulation and Quality Control; Forestry Knowledge Acquisition and Management; Capacity Development for Forestry Sector; Biomass Energy Development; Development of Forest Based Industries; Regional and International Cooperation; and Financing Mechanisms. Sustainable Forest Management will ensure continuous provision of forest goods and services, increased forest cover and climate change management.

National Agriculture Policy 2016

51. The development ambition for the National Agriculture Policy (NAP) is agricultural transformation. Such a transformation is necessary to enable all Malawian households to better meet their desires for prosperity and economic security, whether by continuing to pursue agriculture-based livelihoods or through engaging in other sectors of the economy. For the moment, food production primarily for the dietary needs of one's own household dominates the agricultural activities of most Malawians. The NAP seeks to ensure that such production is done as efficiently as possible.

52. However, the longer-term ambition for the NAP is the transformation of the sector into one in which Malawi's farmers engage in considerably more specialized and more productive agricultural production according to the comparative advantage of each, but within the context of an overall more diversified agricultural sector, involving a much broader range of food and non-food crops and other agricultural products, with increased reliance on markets by both farming and non-farming households to earn incomes and to meet the food needs of their

members. A key consideration to realizing this ambition of agricultural transformation is the place of smallholder farming in such a development pathway. That smallholder farming will need to be the principal focus of public investments within the agriculture sector for the foreseeable future is not in question in order to optimise resources under smallholder subsector.

53. However, despite its predominance today, the development objectives of the NAP will not be achieved if the policy is oriented towards smallholders and their food needs alone and sustaining smallholder farming in the long-term. A more heterogeneous perspective of the farming sector is adopted here, including support to medium-scale and large-scale commercial farmers. Public investments in the sector made under the NAP will be designed, insofar as possible, to be beneficial for all farmers – for smallholders operating primarily at a subsistence level, medium-scale farmers who are consistently able to produce marketable surpluses, and larger, commercial producers.

54. The development of the NAP has taken place against the background of incoherent subsectoral policies in the context of changing economic opportunities and challenges for Malawi's agricultural sector. These incoherencies have resulted in inadequate investments to some sub-sectors, policy reversals, and weak regulatory frameworks, among other weaknesses and constraints. Hence, clear and comprehensive policy guidance for the agricultural sector will ensure continued and increasingly positive contributions to agricultural development and to the economy as a whole by farmers, processors, and traders.

55. The main operational rationale for this NAP is to improve coherence across the wide range of agricultural sub-sector policies that are in place and to better coordinate their implementation. In this respect, the NAP is critical for the

following reasons:

- Enhancing sustainable management of agricultural resources, increased agricultural exports and incomes, food security, and improved nutrition in the face of growing population pressure, urbanization, increasing global economic interdependence, and climate change that have serious implications for the economic and social wellbeing of farm households in Malawi.
- Strengthening linkages between the agricultural sector and other sectors to ensure sustained and resilient socio-economic growth and development.
- Guiding the sector's operations in the face of different cross-cutting issues that affect the agricultural sector, such as climate change, gender, youth, vulnerable groups including persons with disabilities, and HIV/AIDS.

National Agriculture Investment Plan 2018

56. The National Agricultural Investment Plan (NAIP) is the medium-term investment framework for the agricultural sector covering a five-year period (FY2017/ 2018- FY2022/2023. The NAIP provides a framework to coordinate and prioritise investments by various government agencies, Development Partners (DPs) and None State Actors (NSA) in the sector. It is the successor framework built on achievements and lessons learned under the Agricultural Sector Wide Approach (ASWAp), which was implemented from 2011/2012 to 2015/2016 financial years.

57. In particular, the NAIP is guided by the Malabo Declaration on Accelerated

Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods signed by the Heads of State in June 2014. NAIP is the main implementation vehicle for the National Agriculture Policy (NAP) and as such, it places emphasis on strengthening implementation capacities and coordination of various actors involved in its implementation. This includes alignment with related policies and investment frameworks in areas such as trade, resilience, climate change, nutrition and social protection; and also improved coordination within the agricultural sector as well as strengthening the prominent role of NSAs and the private sector. Whilst the Ministry of Agriculture, Irrigation and Water Development (MoAIWD) will be the lead implementing agency, other ministries will also play important roles in its implementation.

58. The NAIP focuses on public investments, while recognising that broad-based agricultural growth must be driven by investments of private actors, ranging from smallholder farmers to companies engaged in input supply, production and value addition. The NAIP recognises that willingness of these actors to invest depends on an enabling policy and investment environment. As such, the framework supports critical policy, legal and regulatory reforms. It will, therefore, strengthen public institutions to fulfil their mandates for services and public investments.

59. The NAIP also creates appropriate coordination mechanisms within the public sector and between the public and private sectors, including farmers and NSAs. While private investments are critical to the success of the NAIP, they are very difficult to plan and budget over a five-year period in a volatile and diverse sector such as agriculture, and any such attempts would be highly speculative. Hence, private investments are only included in the NAIP budget and results

framework to the extent in which they co-finance public investments and service provision under the plan, except for a few cases where clear private sector investment commitments do exist.

60. The NAIP ensures that sectoral growth is inclusive, environmentally sustainable and climate smart. This requires close coordination across related policy areas, such as social protection, gender, youth, environment, climate change, nutrition and health in order to maximise synergies. The NAIP will therefore, support well-coordinated investments at the boundaries between agriculture and other sectors, where this is necessary to achieve its objectives.

National Fisheries and Aquaculture Policy 2016

61. The main objective of this Policy is to sustainably increase fisheries and aquaculture productivity for accessible nutritious food and increased contribution to economic growth. The specific objectives of the Policy within a five-year term (2016-2021) are as follows:

- To increase annual fish production from capture fisheries from 90,000 tonnes to 110,000 tonnes;
- To increase small and large scale aquaculture production from 3,600 tonnes to 10,000 tonnes;
- To strengthen participatory fisheries management regimes;
- To reduce fish post-harvest losses from 40 to 20 per cent;
- To increase annual fish exports from 500 tonnes to 3,000 tonnes;
- To increase per capita fish consumption from 8.12kg to 10kg;
- To improve decent employment in fishing communities for youth, women and men and to reduce the number of child labourers;

- To promote applied research in fisheries and aquaculture and monitor the impact of pollution and environmental changes including climate change; and
- To develop capacity of the Government and local management institutions to serve the industry.

62. The strategy identifies five Key Priority Areas (KPAs) which are Agriculture, Water Development and Climate Change Management; Education and Skills Development; Transport and ICT infrastructure; Energy, Industrial and Tourism Development and Health and Population. Through these KPAs, the strategy has maintained a balance between economic, social and environmental considerations.

63. Cross-cutting areas have been mainstreamed into the KPAs and these include gender balance; youth development; empowerment of persons with disabilities; management of HIV and AIDS and nutrition; environmental management; disaster risk reduction and resilience building; peace, security and good governance. By integrating these, the strategy ensures that no one is left behind as the country implements this medium-term development between 2017 - 2022.

National Action Plan on Persons with Albinism – 2018 – 2020

64. The action plan provides a comprehensive blueprint for ending violence against persons with albinism and ensuring that they equally enjoy their rights.

65. Malawi has registered cases of attacks against persons with albinism over the past four years. There has been a steady increase in gross human rights violations of persons with albinism in form of abduction, killings and exhumation

of their remains for body parts. The Constitution explicitly guarantees the protection of persons with disabilities including those with albinism. The Plan puts in motion strong measures designed to put an end to these attacks which have become a scar on our collective conscious.

Handbook for Investigators, Prosecutors and Magistrates concerning offences against Person with albinism

66. This handbook has been launched with the aim of strengthening the legal response to crimes against person with albinism.

67. The handbook has put together in a simplified form all offences likely to be committed against persons with albinism. The relevant provisions are from the Penal Code, the Anatomy Act, the Child Care, Protection and Justice Act, the Trafficking in Persons Act and the Witchcraft Act. All these laws build on the constitutional provisions on equality and nondiscrimination as well as fair trial rights.

National Disability Mainstreaming Strategy and Implementation Plan 2018 – 2023

68. The strategy has outlined key areas to mainstream disability in line with other national and international policies and strategies of which the key areas are health, education, means of livelihood, employment and means of social inclusion. As a development strategy it also provides for measures for mainstreaming disability in other critical crosscutting issues as HIV and AIDS, gender and research. Implementation of the strategy will contribute to the realization of the principal on non-discrimination as provided for in the Constitution, the Disability Act, the Charter and the Protocol.

National Peace Policy 2017

69. This policy basically seeks to highlight on mechanisms which can integrate the country's peace building initiative among different stakeholders such as Government, traditional leaders, civil society, women, youth, media and global unification with other countries. It clearly specifies the institutional arrangements within which peace building initiatives will be coordinated and collaborated among all stakeholders.

70. Recent trends have unveiled a wide range of threats to the sustenance of peace and unity emanating from political transitions, civil liberties and political rights. This policy was therefore formulated with various stakeholders who included traditional leaders, political leaders, government officials from the executive, judiciary, legislature, private sector, the academia, media, women, the youth, civil society organizations and people with special needs in an effort to ensure the policy reflects the views and aspirants of Malawians.

71. The policy establishes the Malawi Peace Commission (MPC) as the highest umbrella body and focal point of peace building and conflict prevention management, resolution and transformation in Malawi. The MPC is mandated to establish District Peace Committees (DPC) which shall sustain peace and unity within the district and facilitate spaces for dialogue between groups and communities.

72. This shows Malawi's commitment to non-violent means of resolving conflicts in order to comply with provision 13(l) of the Constitution as one of the principles of national policy, which states that the state shall strive to adopt 'mechanisms by which differences are settled through negotiation, good offices,

mediation, conciliation and arbitration'.

Accelerating Inclusive Local Governance and Participatory Democracy for Effective Social Economic Development 2017 to 2023

73. This provides for measures for mainstreaming disability in other critical cross-cutting issues as HIV and AIDS, gender and research. Implementation of the strategy will contribute to the realization of the principle on non-discrimination as provided for in section 13a(ii) of the Constitution which highlights the implementation of the principle of non-discrimination and such other measures as may be required and extends to section 20 of the same Constitution which provides that discrimination of persons in any form is prohibited and all persons are, under any law, guaranteed equal and effective protection against discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, disability, property, birth or other status or condition.

National Action Plan on Trafficking in Persons – 2017 – 2022

74 This action plan lays out priority action to combat trafficking in persons at all angles from women, children and men highlighting on approaches to be taken for each. Priority actions include prevention and awareness raising, victim protection and assistance, legislative framework, policy development and law enforcement and cooperation and coordination.

75. The action plan has been drafted in line with section 27 of the Constitution of Malawi which stipulates that;

- No person shall be held in slavery or servitude.
- Slavery and the slave trade are prohibited

- No person shall be subject to forced labour, and
- No person shall be subject to tied labour that amounts to servitude

National Multi Sector Nutrition Policy 2018-2022

76. The National Multi-Sector Nutrition Policy (NMNP) 2018–2022 is intended to provide a guiding framework for the successful implementation of the national nutrition response; address the existing and emerging national and global issues; and consequently, uphold the Government’s commitment towards eliminating all forms of malnutrition. The Policy shall be operationalized through the National Nutrition Strategic Plan 2018–2022.

77. Additional supporting operational strategies and guidelines shall be developed to further translate the aspiration into tangible actions. These shall include the following strategies and guidelines: National Nutrition Education and Communication; Infant and Young Child Feeding (IYCF); Micronutrient; Adolescent Nutrition; School Health and Nutrition; Early Childhood Development; Community-based Management of Acute Malnutrition (CMAM); Nutrition Care Support and Treatment (NCST); and prevention and treatment of nutrition-related Non-Communicable Diseases (NCDs).

78. The Policy has identified eight priority areas which include:

- Prevention of under nutrition;
- Gender equality, equity, protection, participation and empowerment for improved nutrition;
- Treatment and control of acute malnutrition;
- Prevention and management of overweight and nutrition-related NCDs;
- Nutrition education, social mobilisation, and positive behaviour change;

- Nutrition during emergency situations;
- Creating an enabling environment for nutrition; and
- Nutrition monitoring, evaluation, research and surveillance.

79. The Policy also contains an implementation plan, monitoring and evaluation framework.

Health Sector Strategic Plan II – 2017-2022

80. The HSSP II aims to further improve health outcomes through the provision of a revised essential health package (EHP) and health systems strengthening for efficient delivery of the EHP. Specifically, the HSSP II sets eight strategic objectives for Malawi's health sector – each with strategies and targets to implement by 2022:

- Health Service Delivery:

Increase equitable access to and improve quality of health care services. Objective 1 builds on the successes of the Essential Health Package (EHP), which has outlined the health care interventions available to all Malawians, free at the point of access, since 2004. The aim is to achieve universal free access to a quality revised Essential Health Package (EHP), irrespective of ability-to-pay, to all Malawians.

- Socio-Economic Determinants:

Reduce environmental and social risk factors that have a direct impact on health. Objective 2 focuses on strategies that address the environmental and social risk factors that impact on health care requirements and health outcomes. Specifically, the objective focuses on behaviours and life

styles, water and sanitation, food and nutrition services, housing, living and working conditions. This objective will be largely implemented at the community level.

- Infrastructure & Medical Equipment:

Improve the availability and quality of health infrastructure and medical equipment. Objective 3 attempts to ensure existing health facilities are of sufficient quality and properly equipped to address their specified health care requirements and to increase the proportion of the population of Malawi living within 8km of a health facility.

- Human Resources:

Improve availability, retention, performance and motivation of human resources for health for effective, efficient and equitable health service delivery. Objective 4 focuses on improving the absorption and retention rate of health workers in the public health sector while also achieving an equitable distribution.

- Medicines & Medical Supplies:

Improve the availability, quality and utilization of medicines and medical supplies. Objective 5 focuses on improving the efficiency of the supply chain for medicines and medical supplies to ensure the availability of the EHP.

- Health Information Systems:

Generate quality information and make it accessible to all intended users

for evidence-based decision-making, through standardized and harmonized tools across all programmes. Objective 6 focuses on improving and harmonizing data collection and management at all levels of the health system, through improving ICT capacity, data protocols and linkages between levels.

- Governance:

Improve leadership and governance across the health sector and at all levels of the health care system. Objective 7 focuses on improving communication and strengthening Health Sector Strategic Plan II coordination in the health sector particularly with the goal of reducing duplication and fragmentation in the health sector.

- Health Financing:

Increase health sector financial resources and improve efficiency in resource allocation and utilization. Objective 8 focuses on attempts to increase the sustainable finances available to the health sector through both revenue raising and efficiency savings.

National Health Policy 2018 - 2030

81. The National Health Policy provides policy direction on key issues that are central to the development and functioning of the health system in Malawi. The Policy has been developed in line with the Constitution, which stipulates that the State is obliged “to provide adequate health care, commensurate with the health needs of Malawian society and international standards of health care”. In this

respect, the Constitution guarantees all Malawians the highest quality healthcare services within the limited resources available.

82. The Policy has also been developed in line with the Malawi Growth and Development Strategy III (MGDS), an overarching development plan for Malawi that recognizes that a healthy and educated population is essential if Malawi is to achieve sustainable socioeconomic growth. The Policy is also aligned to Sustainable Development Goals (SDGs).

83. The Policy outlines a coordinated approach to be employed by the Government to achieve the health sector goals, which are:

- (i) to improve the health status of all Malawians; to ensure that the population is satisfied with the health services that they receive; and
- (ii) to ensure that the population does not suffer avoidable financial and social risks in the process of accessing health care at any level of the health care delivery system.

84. The National Health Policy will be implemented through the following priority areas:

- (i) Health Service Delivery; Preventive Health and Social Determinants for Health;
- (ii) Leadership and Governance; Health Financing; Human Resources for Health; Medicines, Medical Supplies, Medical Equipment and Infrastructure; Population Management; and
- (iii) Health Information and Research. The Policy will be implemented

between 2018 and 2030 to align it with the SDGs implementation period and will be reviewed after every five years.

National Strategy for Adolescent Girls and Young Women 2018-2022

85. The aim of the strategy is to ensure that AGYW in Malawi are safe and protected from all forms of violence and discrimination. AGYW should be empowered to demand sexual reproductive health rights, and make their own informed choices. They should have access to quality education and should be protected from child marriages.

National Strategy on ending child marriages 2018 - 2022

86. This Strategy underlines the commitment of the Government and its partners to redouble their efforts towards having a Malawi free of child marriages. This Strategy provides a situation analysis and extent of the problem of child marriages in Malawi, its driving factors and consequences.

87. The Strategy incorporates regional and international standards as provided in various human rights instruments such as the United Nation's Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child. Malawi amended her Constitution in 2017 and raised the age of the child from 16 to 18. The Marriage, Divorce and Family Relations Act provides for 18 as the age of marriage. The law in Malawi therefore prohibits child marriages. The implementation of this law, however, remains a challenge.

88. Malawi is therefore committed to support girls in avoiding child marriage, delaying child bearing and instead encouraging them to remain and continue with their education.

89. This Strategic Plan intends to provide leadership, guidance and oversight in national efforts of ending child marriages. The Plan is tackling the key drivers of child marriage by seeking to improve girls' economic standing through increased economic opportunities, and initiating incentive-based programs to support girls to enroll for school, reduce the dropout rate and keep them in school through to secondary level.

90. The Plan also seeks to effectively enforce laws that were developed to protect children from child marriages. Furthermore, this Strategy aims at harmonizing and popularizing the different pieces of legislation and building the capacity of law enforcement agencies to fast track their enforcement. The Strategy is encouraging community engagement in a dialogue about child marriages, in order to change attitudes and social norms and raise their awareness about the dangers of child marriages. It also focuses on accessibility of safe, comprehensive, age-appropriate sexual and reproductive health information and services to all young girls in Malawi. This includes those who are already married at a young age, by providing adequate and accessible healthcare, psychosocial support and, if necessary, a way out of the marriage.

National Policy for Older Persons 2016

91. The National Policy for Older Persons has been developed to provide a coherent and comprehensive overall framework for facilitating and promoting the social, economic and cultural integration of older persons. This is achieved by harnessing their proven productive capacities so that the nation continues to benefit from their contribution.

92. The development of the Policy follows reviews and surveys on the situation

of older persons in Malawi which revealed that:

- older persons have difficulties in accessing services and support such as healthcare, loans, nutritious food, public and private buildings, transport, information and communication systems;
- older persons have been excluded and marginalized, and prevented from participating fully in development activities on the basis of their age;
- The advent of HIV and AIDS has compounded the situation of older persons by leaving orphans and denying them the support from their deceased children;
- older persons are often abused physically and verbally due to a number of reasons including suspected witchcraft and other superstitious beliefs;
- older persons are also disadvantaged in terms of land and property ownership; business ventures; and employment avenues resulting in the majority of them living in abject poverty with no access to resources and income;
- the majority of older persons are poor and have to work for their living, declining physical strength means declining income and, therefore, a declining quality of life; and

93. The absence of a formal policy framework made it difficult to address the problems facing older persons in a coordinated and integrated manner hence, the development of the National Policy for Older Persons. The purpose of the Policy

is, therefore, to improve the quality of life of older persons and issue a new lease of life and bring hope to them by:

- Promoting inclusion and increased access by older persons to socio-economic services;
- Promoting and safeguarding the rights of older persons to human development priorities such as health, education, income, water and sanitation;
- Harnessing their proven capacity for productivity, independence and active involvement in the development of their communities; and
- Recognizing and respecting the benefits of older persons such as the wealth of skill and experience that older persons bring to the workplace, public life, the community and family.

94. The objectives of the Policy are as follows:

- To recognise, protect and promote the rights and independence of older persons;
- To increase access to health, water and sanitation services, in order to promote active ageing practices among older persons;
- To promote food security and nutrition among older persons' households;
- To develop and implement programmes that eradicate poverty amongst older persons and their families;
- To increase access to safe, durable and affordable shelter by older persons;
- To promote research, education and training on ageing issues;
- To promote intergenerational transfer of cultural knowledge and positive

- skills by older persons;
- To promote the role of communities and families in care and support of its older members;
- To provide welfare support, improve retirement schemes, and design and implement other appropriate social support systems for older persons;
- To provide for the special needs of older persons in conflict and disaster management situations; and
- To provide a comprehensive holistic framework to guide public and private sector organizations working with the aged for addressing the needs and rights of older persons.

95. The Government believes that it is important to protect and promote the rights of older persons as well as improving the quality of their lives in general.

National Strategy on Inclusive Education 2016 to 2020

96. The policy and practice of inclusive education is high on the agenda of Government. There are a number of initiatives that the Ministry of Education Science and Technology and other key players have put in place to facilitate the development of inclusive education. These initiatives include: CFS programme, inclusive education projects, School Health and Nutrition, Keeping Girls in School, community participation through Primary School Improvement Programme (PSIP), Complementary Basic Education (CBE), Early Grade Reading, ECD programmes, Cash Transfers and Secondary School Bursary, among others.

97. These initiatives lay a foundation for the development and implementation of inclusive education in the country. Despite these significant initiatives, there are

fundamental challenges affecting successful implementation of inclusive education in Malawi. The challenges range from conceptualization of inclusive education, management, resource mobilization, capacity development and implementation. A few studies conducted on inclusive education in Malawi have shown that there is limited knowledge around the meaning of inclusive education at different levels. Mostly, the concept of inclusive education is often linked with children with disabilities in mainstream schools.

98. However, the concept of inclusive education has a broader meaning and does not only refer to a single group of learners in an education system. In essence, National Strategy on Inclusive Education is concerned with all those who are usually excluded from and within the education system. This National Strategy adopts the UNESCO's broadened definition of inclusive education to address the barriers to equal access to quality education in Malawi. It defines inclusive education as a process of addressing and responding to the diverse needs of all learners through increasing participation in learning and reducing exclusion within and from education system. It involves changes and modifications in content, approaches, structures, policies and strategies. In keeping with this conceptualization, the National Strategy outlines the priority areas of action and explores factors that inhibit presence, participation and learning in the education system and suggests ways of addressing them.

99. The following are the objectives of the National Inclusive Education Strategy:

- Transformation of the education system in alignment with inclusive education policies and practices.
- Capacity development for inclusive education.

- Creation of an enabling environment for inclusive education.
- Inclusive teaching and learning in schools.
- Early identification, assessment and intervention.
- Community participation in management and governance of inclusive education.

100. Ministry of Education Science and Technology set up a coordination unit to coordinate the planning, implementation, monitoring, evaluation and regulation of inclusive education in Malawi. The Unit will work with education officers from the directorates of planning, basic, secondary, higher education; inspection and advisory, special needs education, science and technology, school health and nutrition. The Unit will provide technical advice and the national progress on the implementation of inclusive education in Malawi. It will be responsible for building the capacity of MoEST directorates, divisions and district education management on inclusive education management and financing. In addition, the Unit will conduct regular supervision in collaboration with the directorates concerned to ensure that the education system shifts towards inclusion smoothly.

National Public Sector Reforms Policy 2018 to 2022

101. The overall purpose of this policy is to provide strategic direction for the effective design, implementation and management of public sector reforms that will create a capable, efficient and effective public sector and stimulate and promote sustainable socioeconomic development as encapsulated in the current national development strategy.

102. Good performance of the public service is crucial for enhancing public trust in Government since the public service is the vehicle through which Government

delivers public goods, services and development to the people.

103. The policy was drafted in line with Chapter III of the Constitution of Malawi which highlights on fundamental principles of National Policy that obligate Government to introduce measures which will guarantee accountability, transparency, personal integrity and financial probity.

104. This obligation includes long term investment in health, education, economy and social development of the people of Malawi by progressively adopting appropriate sector policies and legislation, as well as lawful and procedural fair administrative systems and actions in order to comply with the Malawi Growth and Development Strategy III of 2017.

105. The MGDS III has a number of key assumptions that are crucial for its successful implementation which have implications for the public sector reform agenda which includes improved Public Sector Governance as highlighted above.

106. The Policy is informed by legislation and policy such as the Public Service Act, the Local Government Act and the Decentralization Policy of 1998.

Public Service Management Policy 2018 to 2022

107. The Public Service Management Policy was drafted with the aim of addressing performance challenges in the public service as well as repositioning the public service so that it can be a useful vehicle for the realization of the MGDS III outcome to achieve adequate development by the year 2020.

108. Its goals are to provide a framework for the effective management of the

public service so that it becomes a result-oriented and high performing public service by 2022 that facilitates positive transformation of the economy and the modernization of the country.

109. This is also in line with Chapter III of the Constitution of Malawi which provides for fundamental principles of National Policy which involves public trust and good governance guarantying measures of accountability, transparency, personal integrity and financial probity aimed at strengthening confidence in public institutions.

110. The Malawi National Public Sector Reform Policy 2018-2022 and the Public Service Management Policy 2018 - 2022 complement each other. Some of the priority areas include creating a shared understanding of the vision and responsibilities of the public service, Alignment of the Public Service to the National Development Agenda and service delivery imperatives, development of an enabling institutional policy and legislative framework for public service management, institutionalization of the public service guiding principles and establishing values ethos among all public servants in all public service institutions.

111. Consequently, the policy is guided by the Constitution, The Local Government Act 1998, the Gender Equality Act and the Labour Relations Act and the National Gender Policy

Ratification and Implementation of International Conventions.

112. Malawi has ratified all the major international human rights treaties.

113. In the last few years, Malawi has been regularly reporting to treaty bodies

and HRC mechanisms. As a demonstration of its commitment to engagement and dialogue, Malawi has twice presented its human rights record in the Universal Periodic Review process of the Human Rights Council. Its third presentation is due in November, 2020. Since 2014, Malawi has submitted reports on CEDAW, Universal Periodic Review (UPR), Convention Against Torture (CAT), ICRPD, CRC and its Protocols, African Charter on Human and People's Rights, Maputo Protocol, African Charter on Rights and Welfare of the Child (ACRWC).

National Human Rights Institutions.

114. Under the Constitution of the Republic of Malawi and in pursuant to the Paris Principles, Malawi has a Malawi Human Rights Commission which enjoys a status. It continues to discharge its wide-ranging mandate, encompassing all aspects of human rights, including pursuing submitted complaints of alleged human rights violations.

115. At the heart of a robust constitutional framework is the Judiciary which over the years has towered tall in its mandate to uphold the values of our constitutional democracy.

116. The Office of the Ombudsman is also established under the Constitution of the Public. It is an independent institution which within its wide scope of functions also investigates and determines on issues of Human Rights violations by Public Servants.

117. Work is underway to operationalize the National Children's Commission (NCC) which will be fundamental in the protection of the rights of the child and in

the provision of an enabling environment for their development.

118. The Human Rights Section in the Ministry in the Ministry of Justice and Constitutional Affairs is tasked with coordination of state party reporting and follow up mechanism.

119. The Legal Aid Bureau established under the Legal Aid Act also plays a very big role in ensuring the right to justice and rights to a fair trial for all individuals regardless of economic status. It provided free legal services to less privileged individuals and victims of rights violations.

120. The Law Commission leads Malawi's efforts in law reform.

Voluntary Pledges and Commitments

121. The Government of Malawi makes the following pledges and commitments:

At Domestic Level

- a. Consolidate the gains made in the full realization, enjoyment, advancement and protection of economic, social, political, civil and cultural rights;
- b. Fully implement recommendations and concluding observations from the UN and AU treaty bodies as well as UPR mechanisms;

- c. Equip human rights institutions to ensure they carry their work effectively without fear or interference.
- d. Improve Parliament's oversight, at national and local levels, over human rights policies and their implementation;
- e. Ensure strong institutions for free legal aid and access to effective remedies;
- f. Preserve, protect the enjoyment freedoms of the media, access to information, assembly, expression or opinion, religion or belief, consistent with our national and international obligations;
- g. Work closely with civil society organisations and ensure the protection of civic space.
- h. Continue to provide capacity-building, training programmes and education related to human rights to parliamentarians, law enforcement officials, judges, public prosecutors, lawyers, civil servants, and the media;
- i. Take practical steps to progressively create jobs and ensure that the rights of workers such as a secure working environment are fully protected;
- j. Review where necessary the legal and policy frameworks for the elimination of all forms of discrimination against women and eliminate sexual and gender based violence;

- k. Take steps to ensure the 60:40 ratio of men and women in public appointments and public service;
- l. Operationalise key human rights institutions such as Police Complaints Commission and National Children's Commission.
- m. Develop policies and programmes in line with SDG's; Agenda 2063 and Agenda 2040.
- n. Continue work towards development of policies and programmes for countering hate speech.
- o. Complete and launch National Human Rights Action Plan (NHRAP).

At International Level

- a. Continue to participate in key human rights institutions such as HRC and all UN and AU treaty bodies;
- b. Enhance the cooperation with UN Special Procedures Mechanism;
- c. Submit outstanding state party reports.;
- d. Improve Malawi's engagement with UN Treaty bodies particularly on follow up on implementation of concluding observations and recommendations;
- e. Promote constructive dialogue as a way of settling disputes.
- f. Advocate for practical equality of nations in international affairs;

- g. Advocate for strengthening of international institutions as a means of sustaining global peace;
- h. Actively participate in global and regional agenda such as Agenda 2030, Agenda 2040 and Agenda 2063; and
- i. Continue to support the work of the Office of the High Commissioner for Human Rights.