

THE RIGHTS OF WOMEN AND GIRLS IN

Malawi ♀

“There is no tool for development more effective than the empowerment of women.”
Kofi Annan



Maputo Protocol

For more information on the Maputo Protocol, Malawi's report and concluding observations and recommendations, please visit www.maputoprotocol.up.ac.za



Women's Rights Unit

This factsheet has been produced by the Women's Rights Unit, Centre for Human Rights, University of Pretoria, South Africa. Established in 1993, the objective of the Women's Rights Unit at the Centre for Human Rights is to contribute to the improvement of the quality of life and the status of women (and the girl-child) in Africa.



Centre for Human Rights

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Sources

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- 4 Guttmacher Institute 'Clandestine and Unsafe Abortion Common in Malawi' 4 April 2017 https://www.guttmacher.org/news_release/2017/ clandestine-and-unsafe-abortion-common-malawi (accessed 25 August 2017)
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- 7 Girls Not Brides 'Child marriage around the world' <http://www.girlsnotbrides.org/child-marriage/malawi/> (accessed 23 August 2017)
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African Commission's Concluding Observations and Recommendations to the Government of Malawi, with regards to guaranteeing the rights of women and girls



Maputo Protocol

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, otherwise referred to as the **Maputo Protocol** is a regional human rights treaty that was adopted by the African Union in 2003, and came into force in 2005. It is a comprehensive document that seeks to improve the status and lives of all women and girls in Africa. It addresses inequalities and discrimination against African women.



African Charter

The Maputo Protocol supplements the African Charter on Human and Peoples' Rights (African Charter). The **African Charter** is a regional instrument that promotes and protects human rights and basic freedoms on the African continent. All 54 member states of the African Union are parties to the Charter, 38 of which have also ratified the Maputo Protocol as of June 2017.



African Commission

Implementation of the rights set out in the African Charter and the Maputo Protocol are monitored by the African Commission on Human and Peoples' Rights (African Commission). The **African Commission** is a human rights treaty body established under Article 30 of the African Charter. It is made up of eleven independent experts who receive and consider periodic reports on the situation of human rights in each country and issue concluding observations and recommendations. State parties are required to submit reports under Article 62 of the African Charter and Article 26 (1) of the Maputo Protocol.



Concluding Observations

Concluding observations give an account of the positive aspects of the implementation of a treaty, the factors restricting the enjoyment of human rights and the areas of concern regarding the exercise of human rights in a country. The Commission also makes recommendations to guide State Parties in dealing with the concerns raised.



Malawi's Initial and Combined Periodic State Report

In July 2013, the Government of Malawi submitted its **Initial and Combined Periodic Report (1995 - 2013)** under the African Charter and its initial report under the Maputo Protocol to the African Commission. It outlined the steps taken to implement the human rights treaty provisions in the Country. This report comprised of Part A, which is a report on implementation of the African Charter, and Part B, on the Maputo Protocol.

**This factsheet focuses on the
CONCLUDING OBSERVATIONS AND RECOMMENDATIONS issued by the AFRICAN COMMISSION
in 2015 relating to the implementation of the MAPUTO PROTOCOL^[1]**

AFRICAN COMMISSION OBSERVATIONS AND RECOMMENDATIONS

The African Commission made several major observations and recommendations to the Malawian Government on measures for strengthening the enjoyment of women's rights as guaranteed by the African Charter and the Maputo Protocol.



DID YOU KNOW?

Women seeking political office face considerable obstacles, including patriarchal attitudes toward leadership, lack of financial support, and threats of violence and intimidation.

#SupportWomenInPolitics

On the Right to Participation in Political and Decision-making Processes



RECOMMENDATION:

The Government should enact a legislative framework that provides for affirmative action for women including the stipulation of specific female representation quotas in decision-making positions, to increase women's representation.

PROBLEM:

Low representation of women in key decision making positions in the country.

FACT:

There are no laws in Malawi yet that provide for specific female representation quotas and affirmative action for women.^[3]

DID YOU KNOW?

Unsafe abortion is a major contributing factor to high incidences of maternal mortality in Malawi.

#SaveHerLife

On Ratification and Domestication of International Instruments



RECOMMENDATION:

Government should Intensify and speed up ratifying and domesticating all outstanding international and regional treaties including the treaties relevant to enhancing and guaranteeing women's rights in the country.

PROBLEM:

The Government of Malawi is yet to ratify some key regional and international treaties that will address discrimination and gender based violence in the country.

FACT:

Malawi is yet to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.^[2]

On the Right to Health



RECOMMENDATIONS:

- The Government should take proactive steps to reduce the high incidences of infant and maternal mortality in the country;
- Ensure that maternal health services including postnatal services are available, affordable and accessible throughout the country;
- Take actions to reduce incidences of unsafe abortion which is one of the main causes of maternal mortality in Malawi;
- Conclude the on-going process of reviewing its laws and policies on abortion to bring them in line with the Maputo Protocol;
- Educate its citizens especially women about the current exceptional circumstances in the Penal Code under which abortion is currently permitted;
- Ensure that women who develop abortion-related complications receive appropriate post-abortion healthcare and are not additionally victimized by health care providers and the criminal justice system;
- Take adequate measures to increase knowledge of, and access to contraceptive methods, and ensure that contraceptives are available and affordable, especially for adolescents and women in rural areas.

PROBLEM:

High rates of infant and maternal mortality in the country despite the government's efforts to reduce it. Inaccessible health services to women and high incidences of unsafe abortion in the country.

FACT:

38 women out of a possible 1000 women of reproductive age commit unsafe abortions yearly.^[4]

DID YOU KNOW?

Young girls forced into marriage stand a high risk of pregnancy related complications, maternal mortality, contracting HIV/AIDS and other STDs.

#EndChildMarriageNow #ChildNotBride

On Legislation Providing Protection from Violence against Women (VAW)



RECOMMENDATIONS:

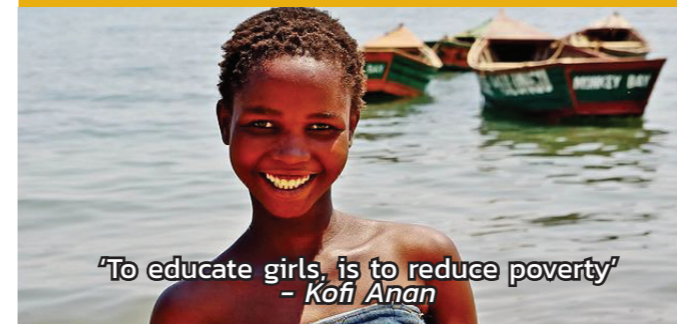
- The Government should revise the Domestic Violence Act to include marital rape as a punishable crime;
- Expedite the enactment of the Trafficking in Persons Bill into Law, strengthen its efforts to eliminate trafficking in persons, in particular of women, girls and boys for sexual exploitation and child labour;
- Prosecute all persons allegedly responsible, and punish those who are convicted.

PROBLEM:

The omission of marital rape in Malawi's Domestic Violence Act.

FACT:

2 out of every 3 Malawians experience violence in childhood, 1 in every 5 girls were sexually abused before they celebrated their 18th birthday.^[5]



On the Right to Education



RECOMMENDATIONS:

- The Government should pass the Education Bill which seeks to introduce compulsory primary education and strengthen learning and vocational training programmes for all;
- Further ensure equitable access to all levels of education, especially for girls and women.

PROBLEM:

High level of girl-child dropout from schools for different reasons, including amongst others: poverty, long distance to schools, inadequate infrastructure in form of classrooms and sanitary facilities, early marriages, pregnancies and family responsibilities.

FACT:

In Malawi, the dropout rate for Grade 7 females in 2007 was, on average, 19.5 percent over the past five years, compared with 11.2 percent for males.^[6]

DID YOU KNOW?

It is wrong for a husband to have sexual intercourse with his wife without her consent.

#EndVAW

#NOmeansNO

On Rights Related to Marriage and Elimination of Harmful Practices



RECOMMENDATIONS:

- The Government should take concrete steps to effectively end early/child marriage;
- Harmonise its domestic laws with international standards on the minimum age of marriage by raising this to 18 years, and also conduct awareness campaigns on the same, especially in rural areas;
- Adopt a comprehensive strategy to modify or eliminate negative cultural practices and stereotypes which are harmful to and discriminate against women, and to promote women's full enjoyment of their human rights.

PROBLEM:

the prevalence of harmful cultural practices including child marriage and patriarchal attitudes and stereotypes that reinforce acts of torture and violence against women in the country.

FACT:

Malawi has one of the highest rates of child marriage in the world, with approximately 1 in 2 girls married before the age of 18. ^[7]

DID YOU KNOW?

Malawi has the highest incidence of child labour in Southern Africa.

On Economic, Social and Cultural Rights



RECOMMENDATIONS:

- The Government should protect children especially the girl-child from all forms of violence by enacting laws, providing social welfare for poor families and educating its citizens on the harms of child labour;
- Put into effect its obligations under international and domestic laws to ban child labour.

PROBLEM:

The prevalence of child labour which is used as a means to sustain families in the country. It is one of the factors that influence the low retention and the survival rate of children in primary schools.

FACT:

About 37 percent of children ages 5 to 15 are involved in child labour in Malawi.^[8]