



# General Assembly

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## Seventy-fifth session

Item 119 (c) of the provisional agenda\*

**Elections to fill vacancies in subsidiary organs and other elections: election of members of the Human Rights Council**

### **Note verbale dated 26 August 2020 from the Permanent Mission of Malawi to the United Nations addressed to the President of the General Assembly**

The Permanent Mission of the Republic of Malawi to the United Nations presents its compliments to the Office of the President of the General Assembly and has the honour to refer to the candidature of the Republic of Malawi to the Human Rights Council for the term 2021–2023, at the elections to be held in October 2020 in New York.

In accordance with General Assembly resolution [60/251](#), the Permanent Mission of the Republic of Malawi to the United Nations has the further honour to transmit herewith the voluntary pledges and commitments, reaffirming that the promotion and protection of human rights are a priority of the foreign policy of the Republic of Malawi (see annex).

The Permanent Mission of the Republic of Malawi to the United Nations would be grateful to the President of the General Assembly if the present note verbale and its annex could be circulated as a document of the General Assembly, under agenda item 119 (c).

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\* [A/75/150](#).



**Annex to the note verbale dated 26 August 2020 from the Permanent Mission of Malawi to the United Nations addressed to the President of the General Assembly**

**Candidature of Malawi to the Human Rights Council, 2021–2023**

**Voluntary pledges and commitments 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 2021–2023.
2. Malawi firmly believes in the universality and indivisibility of the principles of human rights and has over the years shown its unwavering commitment to this cause. Malawi endeavours to continue its resolve in the promotion of the universal values of human rights through strong and credible institutions and international cooperation.
3. Below are Malawi's contributions, voluntary pledges and commitments in the field of human rights pursuant to 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 is 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 riding on the wings of the aspirations of the Sustainable Development Goals and Agenda 2063.

**Legal framework**

5. In the last few years, Malawi has enacted the legislation below 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 16 years. However, taking into consideration international human rights instruments and various legal and human rights challenges faced by children, the Constitution was amended to raise that age from 16 to 18. Following that amendment, steps are being taken to harmonize all laws on the uppermost 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 application in domestic law of the specific requirements of the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, as well as the implementation of the recommendations Malawi received under the universal periodic review, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the African Charter on Human and Peoples' Rights, among others. The amendment is also a fulfilment of the amicable settlement of the case of *Institute for Human Rights and Development in Africa v. Malawi* before the African Committee of Experts on the Rights and Welfare of the Child.

### **Access to Information Act – 2017**

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

9. The Access to Information Act of 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, and to 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, insofar as the information is required for the exercise of his rights and 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 Peoples' 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/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 thereto as annex 2.

12. Section 6 of the Act prohibits discrimination against any person on a basis relating to HIV/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 brings into domestic law specific aspects of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) as it relates to HIV/AIDS issues.

### **Trafficking in Persons Act – 2015**

13. This Act is the application in domestic law of aspects of the United Nations Convention on Transnational Organized Crime and the Protocols thereto and provides a solid legal regime against trafficking in persons. It provides for the three Ps, namely prevention, protection and prosecution. The penalties for trafficking in persons include a 14-year jail term, and 21 years in the case of child victims.

### **Marriage, Divorce and Family Relations Act – 2015**

14. The Act brings into domestic law aspects of the Convention on the Elimination of All Forms of Discrimination against Women, the African Charter and the Maputo Protocol. It makes provision for marriage, divorce and family relations between spouses and unmarried couples, their welfare, their maintenance and that of their children, and connected matters. The Act has revolutionized 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 a religious body, sect, denomination or ethnic group; and marriage by repute or permanent cohabitation, which shall only be recognized upon the finding of a court with competent jurisdiction.

16. The Act also provides for offences such as polygamy and bigamy under section 51, a marriage ceremony with a married person under section 52, making false declaration in relation to marriage using a certificate, permit, licence document or statement by law for the purpose of marriage as stipulated in section 53, and impersonating in marriage by impersonating another person in entering marriage or marrying under a false name or description with the 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 reallocation of property upon dissolution of marriage, taking into account direct and indirect contributions made by either spouse, including through the performance of domestic duties. Furthermore, it deals with the 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 the 2030 Agenda for Sustainable Development and Agenda 2063.

19. The Commission's task is to identify Malawi's socioeconomic 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 a long-term national vision and strategies and 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; and 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 Cybersecurity Act – 2016**

22. The Act establishes the Malawi Computer Emergency Response Team and its functions, to make provisions for criminalizing offences related to computer systems and information and communications technologies and furthermore provide for the 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 communications 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 communications 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 an electronic network shall be promoted, with the exception of specific reasons as provided for in the Act. This builds on the constitutional provisions of the right to access to information in section 37 and the 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 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 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 land, compensation is made for the land itself, as well as the developments on the land. This is also a departure from the previous Land Act, where compensation was made only for the developments on the land and not the land itself. The significance of this Act is that it harmonizes the existing legal framework with the aspirations of the Malawi national land policy of 2002.

**Customary Land Act – 2016**

28. This is the main Act in customary land administration and management in Malawi. The Act provides for the 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 sublease.

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 comprise 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; and for the registration and regulation of physical planners.

31. The Act reaffirms the Malawi land policy recommendation of declaring the whole of Malawi a “planning area”. The aims of regulating land use and the location of physical developments are to enhance orderly spatial physical growth of human settlement activities, to enhance optimum use of land and service infrastructure 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 of 2016 is holistic when dealing with physical planning. Section 24 prescribes what a national physical development plan should consist of, including development statements, principles and background studies, which among other things should cover analysis of demographic, economic, energy and environmental issues, land use and land tenure. Furthermore, the Act demands that relevant authorities should consult other relevant institutions when reviewing physical plans for development. It recognizes the need for reasonable compensation to landowners in the case of compulsory acquisition of land for the public interest, in accordance with section 18 of the Land Act of 2016.

#### **Land Survey Act – 2016**

32. The Land Survey Act of 2016 repeals the Land Survey Act (chap. 59:03) of 1955. The Act provides for land survey and related matters to ensure provision of better land surveys and the licensing and control of land surveyors. The Act also provides for the establishment of the Land Surveyors Registration Board and the Malawi Geographical Information Council. The main function of the Land Surveyors Registration 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, updates, 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 the precise location of land parcels, 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 100 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. A party that is refused registration 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 following an application by a member of that party if the party does not satisfy the conditions of 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 the 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 exercising this right parties shall endeavour to achieve fair gender representation in 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 10,000,000 Malawi kwacha 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 the National Intelligence Service, with a 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 gathering, evaluating, correlating, interpreting, investigating, disseminating and storing information, whether inside or outside the Republic, for the purpose of detecting and identifying 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 compliments 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 Defence and Security Committee of Parliament. This is for the purpose 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 with the objective of investigating complaints under the Act. In 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 (sect. 6), which allows any citizen of Malawi, by birth or descent, to hold citizenship of one other country, in addition to 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 African Charter on Human and Peoples' Rights and the Protocol thereto and include those listed below.

**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 socioeconomic 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 the provision of policy direction, technical guidance, oversight, mobilizing stakeholder support, coordination and monitoring and evaluation of the implementation of the policy.

45. At the 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.

**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:

- Gender in education and training
- Gender in health services and sexual reproductive health rights
- Mainstreaming gender into 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 with bilateral and international agreements and conventions such as the Rio Declaration on Environment and Development, the United Nations Framework Convention on Climate Change, the Montreal Protocol on Substances that Deplete the Ozone Layer, the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, the United Nations Convention on Biological Diversity and the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

48. The goal of the national forest policy is to improve the provision of forest goods and services to contribute towards the sustainable development of Malawi through the protection and conservation of forest resources. The policy aspires to control deforestation and forest degradation. The policy promotes strategies that will contribute to increasing forest cover by 2 per cent, from the current 28 per cent to 30 per cent, 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/AIDS; gender and equity; wealth creation; biodiversity and

payments for ecosystem services; reduced emissions from deforestation and forest degradation in developing countries and clean development mechanisms. The national forest policy recognizes among other things the importance of creating an enabling environment for the participation of all stakeholders, including the public sector, the private sector, civil society, non-governmental organizations, communities and academia, in collaboration with the 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 10 priority areas, namely: community-based forest management; indigenous forests, forest reserves and ecosystem management; forest plantations and estate management; forestry regulation and quality control; forestry knowledge acquisition and management; capacity development for the 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 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 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 national agriculture policy seeks to ensure that such production is done as efficiently as possible.

52. However, the longer-term ambition for the national agriculture policy 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 for 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 optimize resources under the smallholder subsector.

53. However, despite its predominance today, the development objectives of the national agriculture plan 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 for medium-scale and large-scale commercial farmers. Public investments in the sector made under the national agriculture policy 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 national agriculture policy 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 in some subsectors, 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 national agriculture policy is to improve coherence across the wide range of agricultural subsector policies that are in place and to better coordinate their implementation. In this respect, the policy 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, which have serious implications for the economic and social well-being of farm households in Malawi
- Strengthening linkages between the agricultural sector and other sectors to ensure sustained and resilient socioeconomic 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 and vulnerable groups, including persons with disabilities, and HIV/AIDS

#### **National Agricultural Investment Plan – 2018**

56. The national agricultural investment plan is the medium-term investment framework for the agricultural sector, covering a five-year period (financial year 2017/18 to financial year 2022/23). The plan provides a framework to coordinate and prioritize investments by various government agencies, development partners and non-State actors in the sector. It is the successor framework built on achievements and lessons learned under the agricultural sector-wide approach, which was implemented from the 2011/12 to the 2015/16 financial years.

57. In particular, the national agricultural investment plan is guided by the Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods, signed by Heads of State in June 2014. The plan is the main implementation vehicle for the national agriculture policy 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 non-State actors and the private sector. Whilst the Ministry of Agriculture, Irrigation and Water Development will be the lead implementing agency, other ministries will also play important roles in its implementation.

58. The national agricultural investment plan focuses on public investments, while recognizing 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 plan recognizes that the willingness of these actors to invest depends on an enabling policy and the 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 national agricultural investment plan also creates appropriate coordination mechanisms within the public sector and between the public and private sectors, including farmers and non-State actors. While private investments are critical to the success of the plan, 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 plan's 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 national agricultural investment plan 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 maximize synergies. The plan 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 an 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 tons to 110,000 tons
- To increase small- and large-scale aquaculture production from 3,600 tons to 10,000 tons
- 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 tons to 3,000 tons
- To increase per capita fish consumption from 8.12 kg to 10 kg
- To improve decent employment in fishing communities for young people, 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
- To develop capacity of the Government and local management institutions to serve the industry

62. The strategy identifies five key priority areas: agriculture, water development and climate change management; education and skills development; transport and information and communications technology infrastructure; energy, industrial and tourism development; and health and population. Through these key priority areas, the strategy has maintained a balance between economic, social and environmental considerations.

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

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 against persons with albinism in the form of abduction, killings and exhumation of 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 persons with albinism**

66. This handbook has been launched with the aim of strengthening the legal response to crimes against persons 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 of these laws build on the constitutional provisions on equality and non-discrimination, as well as fair trial rights.

**National Disability Mainstreaming Strategy and Implementation Plan – 2018–2023**

68. The Strategy outlines the 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, such 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 mechanisms that can integrate the country's peacebuilding initiative among different stakeholders, such as Government, traditional leaders, civil society, women, young people and the media, and their global unification with other countries. It clearly specifies the institutional arrangements within which peacebuilding 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, including traditional leaders, political leaders, government officials from the executive, judicial and legislative branches, the private sector, academia, the media, women, young people, civil society organizations and people with special needs, in an effort to ensure it reflects the views and aspirants of Malawians.

71. The policy establishes the Malawi Peace Commission as the highest umbrella body and focal point of peacebuilding and conflict prevention management, resolution and transformation in Malawi. The Commission is mandated to establish district peace committees that 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 (I) 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 – 2017–2023**

73. This provides for measures for mainstreaming disability on other critical cross-cutting issues, such 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 13 a (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 the 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 from all angles, including women, children and men, highlighting the approaches to be taken for each. Priority actions include prevention and awareness-raising, victim protection and assistance, a legislative framework, policy development, law enforcement, 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
- 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 2018–2022 is intended to provide a guiding framework for the successful implementation of the national nutrition response; to address the existing and emerging national and global issues; and consequently, to 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; micronutrients; adolescent nutrition; school health and nutrition; early childhood development; community-based management of acute malnutrition; nutrition care support and treatment; and prevention and treatment of nutrition-related non-communicable diseases.

78. The policy has identified eight priority areas, which include:

- Prevention of undernutrition
- Gender equality, equity, protection, participation and empowerment for improved nutrition
- Treatment and control of acute malnutrition

- Prevention and management of obesity and nutrition-related non-communicable diseases
- Nutrition education, social mobilization and positive behaviour change
- Nutrition during emergency situations
- Creating an enabling environment for nutrition
- 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 Health Sector Strategic Plan II aims to further improve health outcomes through the provision of a revised essential health package and the strengthening of health systems for efficient delivery of the package. Specifically, the Plan sets out 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, 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 for all Malawians to a quality, revised essential health package, irrespective of ability to pay.
- **Socioeconomic 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 have an impact on health-care requirements and health outcomes. Specifically, the objective focuses on behaviours and lifestyles, water and sanitation, food and nutrition services, housing, and living and working conditions. This objective will be largely implemented at the community level.
- **Infrastructure and 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 8 km of a health facility.
- **Human resources.** Improve the availability, retention, performance and motivation of health-related human resources 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 and 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 essential health package.
- **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, by improving information and communications technology 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 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 health-care services within the limited resources available.

82. The policy has also been developed in line with the Malawi growth and development strategy III, 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 the Sustainable Development Goals.

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

(a) To improve the health status of all Malawians to ensure that the population is satisfied with the health services that they receive;

(b) To ensure that the population does not suffer avoidable financial and social risks in the process of gaining access to health care at any level of the health-care delivery system.

84. The national health policy will be implemented through the following priority areas:

(a) Health service delivery, preventive health and social determinants for health;

(b) Leadership and governance; health financing; human resources for health; medicines, medical supplies, medical equipment and infrastructure; and population management;

(c) Health information and research. The Policy will be implemented between 2018 and 2030 to align it with the Sustainable Development Goals 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 adolescent girls and young women in Malawi are safe and protected from all forms of violence and discrimination. Adolescent girls and young women should be empowered to demand sexual reproductive health rights and to 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 that is free of child marriages. This Strategy provides a situation analysis and an analysis of the 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 Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. Malawi amended its Constitution in 2017 and raised from 16 to 18 the uppermost age of the child. The Marriage, Divorce and Family Relations Act establishes 18 as the minimum 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 and delaying childbearing, and instead encouraging them to remain and continue with their education.

89. This Strategy intends to provide leadership, guidance and oversight in national efforts of ending child marriages. The Strategy tackles the key drivers of child marriage by seeking to improve girls' economic standing through increased economic opportunities and by initiating incentive-based programmes to help girls to enrol for school, reduce the dropout rate and keep girls in school through to secondary level.

90. The Strategy 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 encourages 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 were already married at a young age, by providing adequate and accessible health care, 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 gaining access to services and support such as health care, loans, nutritious food, public and private buildings, transport and 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 for 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

93. The absence of a formal policy framework made it difficult to address in a coordinated and integrated manner the problems that older persons face, 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, offer them a new lease of life and bring hope to them by:

- Promoting inclusion and increased access by older persons to socioeconomic 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
- 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 recognize, 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 among 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 caring for and supporting their 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
- To provide a comprehensive holistic framework to guide public and private sector organizations working with the aged to address the needs and rights of older persons

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

## **National Strategy on Inclusive Education – 2016–2020**

96. The policy and practice of inclusive education is high on the agenda of the 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: child-friendly schools programme, inclusive education projects, school health and nutrition, keeping girls in school, community participation through primary school improvement programmes, complementary basic education, early grade reading, early childhood development 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, the 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 broadened UNESCO 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, 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. The 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 and of basic, secondary and higher education, the inspection and advisory directorates, and the directorates of special needs education, science and technology, school health and nutrition. The unit will provide technical advice and monitor national progress on the implementation of inclusive education in Malawi. It will be responsible for building the education management capacity of the Ministry of Education Science and Technology directorates, divisions and districts 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 – 2018–2022**

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. The 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 that will guarantee accountability, transparency, personal integrity and financial probity.

104. This obligation includes long-term investment in the health, education and economic 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 Malawi Growth and Development Strategy III includes a number of key assumptions that are crucial for its successful implementation and 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 – 2018–2022**

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 outcome of the Malawi Growth and Development Strategy III to achieve adequate development by 2020.

108. Its goals are to provide a framework for the effective management of the public service so that it becomes a results-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 the fundamental principles of national policy, including public trust and good governance that guarantee 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, the alignment of public services to the National Development Agenda and service delivery imperatives, the development of an enabling institutional policy and legislative framework for public service management, the institutionalization of the public service guiding principles, and establishing values and an 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, 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 past few years, Malawi has reported regularly to treaty bodies and Human Rights Council 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 the Convention on the Elimination of All Forms of Discrimination against Women, the universal periodic review, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of Persons with Disabilities, the Convention on the Rights of the Child and its Protocols, the African Charter on Human and Peoples' Rights, the Maputo Protocol and the African Charter on the Rights and Welfare of the Child.

**National human rights institutions**

114. Under the Constitution of Malawi, and pursuant to the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), Malawi has established the Malawi Human Rights Commission, which enjoys A status under the principles. 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 was 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 under way to operationalize the National Children's Commission, 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 of the Ministry of Justice and Constitutional Affairs is tasked with the coordination of State party reporting and follow-up.

119. The Legal Aid Bureau established under the Legal Aid Act also plays a very big role in ensuring the rights to justice and to a fair trial for all individuals regardless of economic status. It provides 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. At the domestic level, the Government of Malawi makes the following pledges and commitments:

(a) Consolidate the gains made in the full realization, enjoyment, advancement and protection of economic, social, political, civil and cultural rights;

(b) Fully implement the recommendations and concluding observations from the United Nations and African Union treaty bodies, as well as the universal periodic review mechanism;

(c) Equip human rights institutions to ensure they carry out their work effectively without fear or interference;

- (d) Improve Parliament's oversight, at the national and local levels, over human rights policies and their implementation;
- (e) Ensure there are strong institutions for free legal aid and access to effective remedies;
- (f) Preserve and protect the enjoyment of 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 organizations and ensure the protection of civic space;
- (h) Continue to provide parliamentarians, law enforcement officials, judges, public prosecutors, lawyers, civil servants and the media with capacity-building, training programmes and education related to human rights;
- (i) Take practical steps to create jobs progressively 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 to women in public appointments and public service;
- (l) Operationalize key human rights institutions, such as the Police Complaints Commission and the National Children's Commission;
- (m) Develop policies and programmes in line with the Sustainable Development Goals; Agenda 2063 and Africa's Agenda for Children 2040;
- (n) Continue to work towards the development of policies and programmes for countering hate speech;
- (o) Complete and launch the National Human Rights Action Plan.

122. At the international level, the Government of Malawi makes the following pledges and commitments:

- (a) Continue to participate in key human rights institutions, such as the Human Rights Council and all United Nations and African Union treaty bodies;
- (b) Enhance cooperation with the United Nations special procedures mechanism;
- (c) Submit outstanding State party reports;
- (d) Improve Malawi's engagement with United Nations treaty bodies, particularly in follow-up to the 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 the strengthening of international institutions as a means of sustaining global peace;
- (h) Actively participate in global and regional agendas, such as Agenda 2030, Agenda 2040 and Agenda 2063;
- (i) Continue to support the work of the Office of the United Nations High Commissioner for Human Rights.