



# **ALTERNATIVE REPORT ON THE CHILD RIGHTS CONVENTION (CRC) – MALAWI**

**NGO REPORT**

**SUBMITTED BY THE HUMAN RIGHTS CONSULTATIVE  
COMMITTEE (HRCC)  
IN COLLABORATION WITH PLAN (INTERNATIONAL)  
MALAWI**

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## **ACKNOWLEDGEMENTS**

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## **INTRODUCTION**

This is the first alternative report by Malawi civil society on the status and implementation of the Child Rights Convention (CRC) in Malawi. The alternative report has been produced in a participatory manner with involvement of key civil society stakeholders and selected parliamentarians with the coordination and technical leadership provided by the Human Rights Consultative Committee (HRCC).

HRCC is a network of 80 civil society and non-governmental organizations that are working jointly to promote and protect human and people's rights. The network also works to promote governance by ensuring that public institutions are responsive to the needs of the people. HRCC operates on the understanding that government and its development partners have an important role in protecting people's rights and that people's interests should be promoted with a sense of responsibility and accountability.

The rights of children constitute a priority area for urgent action within HRCC. HRCC has a special thematic group of the NGO membership whose mandate is to conduct research, advocacy and disseminate information on the state of child rights in Malawi. This is in consideration that a large proportion of Malawi's population is under 20 years of age for a population that is rapidly growing at an annual rate of 2 percent. The country's population is expected to be a total of 16 million by 2015 with the implied consequence of a predominantly young population.

In addition, Malawi society has been characterized with widespread child right violations, child abuse, and general lack of support partly on account of the high poverty levels. Although currently slowing down and stabilizing, the impact of the HIV and Aids scourge in Malawi is also causative to the child rights abuse as it is a result.

This NGO report has been produced to provide a basis for comparison with the Malawi government state party report and offers an opportunity to provide checks and balances on compliance by the State to the CRC. The HRCC report also compliments the Government report in selected areas not covered by the State report and moves a step further to provide grassroots or citizen based evidence on the state of child rights and therefore on the status of adherence to the CRC in Malawi.

## **BACKGROUND**

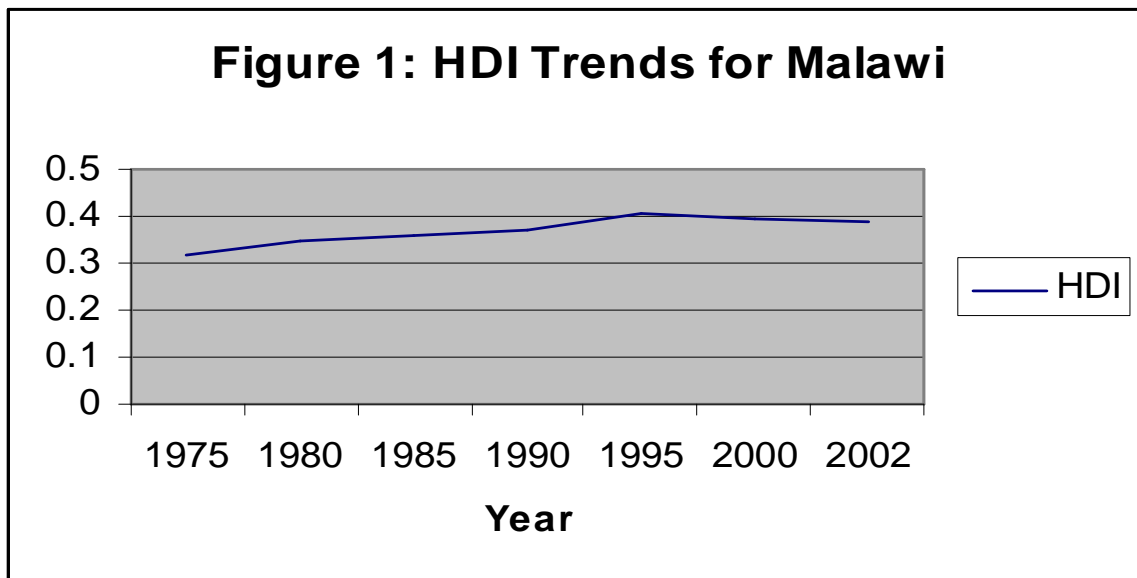
Poverty in Malawi is widespread, pervasive and has a child's face much as it has a woman's face. Over half (52%) of the population are deemed poor and 22% are ultra poor. The causes of this poverty are myriad but two stand out.

Limited livelihood sources: most households earn their livelihood only from their household farm or fishing activity and children tend to be a prominent source of labor. Substantial portions of the population remain isolated from the rest of the country both physically and in terms of economic activity.

Pervasive risks and high vulnerability to shocks: Drought, price volatility (mainly food), illness and deaths are the main sources of shocks. The frequent and widespread existence of shocks manifests itself into large movements into and out of poverty in Malawi.

Most households have limited strategies to mitigate risks due to lack of access to financial services and poorly functioning food markets which place a premium on staples production. Households are therefore forced to resort to *ex post* coping mechanisms which often entail permanent damage to the household's ability to engage in productive activities and children have tended to bear the blunt under most of such circumstances.

According to a GoM/UNDP study of 1992, 60% of the population was poor in 1992. Almost 6 years later, in 1998 the national poverty headcount (percent below the poverty line) was estimated at 66.3% while that for urban and rural areas was estimated at 54.9% and 66.5%, respectively<sup>1</sup>. In 2001, the UNDP reported that Malawi was ten times poorer than it was in 1992<sup>2</sup>.



Source: UNDP (2004)

The mainstay of Malawi's economy is agriculture. The economy is highly susceptible to exogenous factors. Since the 1980s, the economy has suffered many external shocks like drought spells and the fall in the value of the national currency.

<sup>1</sup> NSO (1998) Integrated Household Survey

<sup>2</sup> UNDP (2001) National Human Development Report

Currently the Government is implementing the Malawi Growth and Development Strategy for the Medium Term (MGDS, 2006 - 2011) which provides Government's vision for growth and poverty reduction in Malawi.

On a district by district basis, poverty tends to increase southwards in Malawi but there are significant pockets of high poverty levels even in the north and pockets of deep poverty in districts with low overall poverty levels. Rural poverty is more pervasive than urban poverty but urban poverty is growing faster with its detrimental effects on child welfare as characterized by an increase in the number of street children.

In Malawi, ***Ultra-poor households*** are vulnerable to chronic illness, often the result of HIV/AIDS, and a few are *de facto* or *de jure* child-headed households<sup>2</sup>. Others are female-headed households, often elderly women, with many dependents. The seasonality of household labor requirements has ramifications for social protection including options for child protection. According to IHS2, there are very few child-headed households in Malawi but the few are among the very poorest households. Poor **households** have some assets but are exceedingly vulnerable to further impoverishment. Children in these households may register for school but their attendance rates are poor. Child malnutrition remains a significant problem. Households are heavily dependent on agriculture (or fishing) and are net consumers of food. They enter the market for food when the price is

highest, and sell when the price is lowest. Food production shocks resulting from drought or lack of inputs, and subsequent volatility in the price of staple foods are the major shock faced by poor households. It is thought that the vulnerability of this group of poor households is increasing due to HIV/AIDS and chronic illness with increasing adverse effects on children.

## **METHODOLOGY AND APPROACH**

This NGO report has been produced in line with the Guidelines for Non-Governmental Reporting to the Committee on the Rights of the Child (Geneva 2006). The guidelines are produced courtesy of the NGO Group for the Convention on the Rights of the Child.

HRCC used both primary and secondary information to feed into the production of the report. In terms of primary information, data collectors were deployed to a total of 9 districts out of the 28 districts in Malawi. However, the districts represented regional balance with two districts in the Northern Region (Mzuzu and Nkhatabay), three in the Central Region (Kasungu, Mchinji and Lilongwe), and four districts in the Southern Region (Balaka, Thyolo, Chikwawa, and Blantyre).

A semi-structured questionnaire was developed and administered in the aforementioned enumeration jurisdictions where data collectors interviewed government, and NGO officials, as well as members of the general public in a random sampling approach. Efforts were also made to take on board responses from public offices as a way of counter balancing citizens' responses with those of public officers especially at the district level.

Secondly, a Technical Team (comprising CSO representatives) was constituted which was responsible for secondary data collection and analysis. The team was also responsible for steering the technical aspects and the drafting of this alternative CRC report. However, to ensure a participatory approach, the Technical Team also consulted civil society and

NGO leadership through a workshop and meetings. Selected members of parliament (MPs) were also consulted.

## **GENERAL MEASURES OF IMPLEMENTATION**

Malawi has made efforts at reviewing its legislative frameworks for possible alignment to the CRC. Most notably, the Child and Young Persons Act has been reviewed with the intention of broadening its scope to capture diverse interests of the child. There is now a Bill which has been developed as a way of harmonizing all the child related legislations into a single self contained piece of legislation called Child (Care, Protection and Justice) Bill. The development of the Bill benefited from wide range participation from women parliamentarians, civil society groups, the Malawi Law Commission, and development partners.

However, since the Bill was finalized in 2005, it has never been enacted. This is primarily on account of the way Malawi parliament has prioritized its business where such bill as the Child Bill has not been prioritized for enactment. This is worrisome development considering the benefits that Malawi children would legally be entitled and the additional protection measures containing in the revised piece of legislation.

The main recommendation from Malawi civil society is that the Bill should be treated with the urgency it deserves within Malawi parliamentary processes and that such urgency needs to be based on the adverse effects that the lack of a comprehensive child rights legislation would have on national development, on the welfare of children in Malawi and the compliance levels by Malawi as state party to the CRC.

In terms of review of the Malawi Constitution, a number of constitutional provisions which have a bearing on the CRC were tackled and were

subject for review. The Constitutional Review started in 2004 and the Malawi Law Commission completed the process in 2007. The review has made suggestions in a number of CRC compliant areas and these include the age of marriage which is being suggested to be in line with the CRC definition of a child as well as harmonizing the age of the child to be the minimum of 18.

The Constitutional Review process was highly participatory and Malawi government through the Malawi Law Commission needs to be commended for such an inclusive process. The inclusiveness includes participation of members of the general public through submissions done through community meetings, radio and television programmes. However, NGOs were instrumental in complimenting this role through various outreach and advocacy programmes to communities. Traditional authorities, politicians, NGOs and members of the academia, selected members of general public and public officials took part in two highly participatory (and sometimes controversial) discussions held in form of national constitutional review conferences.

While a lot of effort, time, and consultation have been invested in the Constitutional Review, the process has been stuck within the tracks of party political interests which have so far overshadowed the need to implement the suggested reviews. The Constitutional Review report is yet to be tabled in parliament for adoption. The delays in doing so have, among other consequences, a delaying effect on the enactment of provisions that are consistent with the CRC.

In terms of Customary Laws, Malawi continues to be one of the countries which are still practicing certain customary practices that are harmful to society more especially to children. These include initiation ceremonies for children, both boys and girls where, for instance, girls are forced to have sex with men as a form of “graduating” them out of childhood. Other practices include succession and inheritance where the girl child continues to be sidelined from inheriting property from their parents or guardians.

To this end, efforts are underway to develop a Gender Equality Bill. However, the process is still ongoing, and most likely, the Bill may take too long for its enactment. The development of the Gender Equality Bill is related to another piece of draft legislation called Deceased Estates Bill where the need for protection of children in the area of succession is being suggested for enhancement.

Civil society, whose representatives have participated in the Special Law Commissions working on these reviews, agrees with the proposed changes especially where it is required that the distribution of deceased estate should accrue to the “immediate family” defined as spouse and children regardless of circumstances of birth of the children. However, the challenge remains similar to the other draft pieces of legislation where Malawi parliament has been slow to conclude them.

Civil society in Malawi bemoans the over-emphasis and misplaced priorities by political authorities especially at parliament level to prioritize the welfare of children. This creates a situation where Malawi as State Party will be in perpetual non-compliance and sacrifice its international obligations to certain CRC provisions at the alter of petty internal politicking.

While the State Party has made commendable efforts at putting in place internationally compliant Employment Act (2000) and Labor Laws, there is a key challenge regarding enforcement. The tobacco and tea estate sector in Malawi continues to practice child labor while wages have been pitifully exploitative with little regard to minimum wage standards. Capacity for enforcement of the labor laws is low and the retail as well as wholesale sector in the trading sector has reported cases of incessant child abuse and general labour malpractices.

Malawi also continues to register an increased number of children below the legislative age of 14 being employed as domestic workers. Within most domestic work environments, the work places are also characterized with domestic violence and discriminatory practices which are contrary to the letter and spirit of the CRC.

As has been highlighted in several sections above, the main challenge which faces the compliance to the CRC in Malawi is the slow or even lack of the will to enact Bills related to the promotion and protection of the rights of the child. Other Bills which have stalled in their tracks include the Drug Trafficking Bill. Exposure to harmful drugs is an increasing threat to children in Malawi especially in the lakeshore districts of the country where children are potentially conduits of drugs by drug traffickers.

On a different but related note, the Education Act for Malawi is one of the oldest and antiquated pieces of legislation dating to as far back as the pre-independence (1964) period. The review of the Act commenced and is yet to be finalized. Education being a key pillar within the social sector

dimensions of development entails the need for urgent review of the Act, especially where the right to education comes into clear interdependence with provisions of the CRC. Likewise, the National Registration Bill requires fast tracking so that the citizen rights of children are ascertained. As pointed out earlier, the enactment of the outstanding Bills should be taken as a priority by Malawi parliament. Further delays are a source of dent on Malawi's image with respect to compliance with her own domestic legislations as well as the CRC.

Malawi has registered progress on the policy front as a way of linking civil rights, economic and social rights with the state's implementation machineries. However, as will be noted below, there is need for concerted efforts in making social protection a policy instrument that maximizes the interests of the child. In 2005, Malawi phased out implementation of the Malawi Poverty Reduction Strategy (MPRS). An adjoining medium term development policy framework was embraced in 2006 in the name of the Malawi Growth and Development Strategy (MGDS) and it is planned to be an overarching statement of development policy guiding implementation between 2006 and 2011.

The MGDS has been designed to promote economic growth as a pre-requisite for national development and poverty reduction. The strategy also recognizes social development as critical to poverty reduction where health and education are the main components. The recognition of social development within the MGDS is a direct acknowledgement of the need to promote the right to health as well as the fundamental right to education as encapsulated in the CRC.

Malawi has continued to register improvements in infant mortality as well as under-five mortality with the highest likelihood of meeting the Millennium Development Goal targets under this goal. The same applies to fighting HIV and AIDS where the prevalence rate has slowed down from 16 percent to about 12 percent. However, the provision of ART for children is still a challenge as children are made to use or share ART (tablets) meant for adults. Coverage of the ART provision is also a challenge as some areas are not adequately accessed to the treatment.

In the education sector, most children in Malawi are still learning under unsuitable environments as the pupil teacher ratio hovers at an average 104:1. This is against the recommendation that 1 teacher should be responsible for 40 pupils. In some remote schools, 1 teacher can be responsible for the whole school. Another challenge in the policy arena especially in education sector is the lack of adequate teaching and learning materials. Materials also arrive late in some schools forcing teachers and pupils to make do with inappropriate means that compromises the quality of education.

This situation is even acute for children with disabilities and children with special needs. Malawi does not have adequate infrastructure for Special Needs Education (SNE) and there is no provision of adequate writing and reading materials, for instance, for blind and visually impaired children. For a number of years, Malawi government has been relying on services provided by religious institutions and NGOs although recently, these institutions have restructured their institutions, closing some in certain cases and therefore leaving children with special needs in a desperate situation.

In a bid to address chronic poverty and its consequences on child poverty, Malawi has recently embarked on the development of a Social Protection policy. One of the strategies is the implementation of a social cash transfer targeting vulnerable households. The scheme would also benefit more households which have children that are going to school as a way of incentivising more households to send children to school. It is also expected that incomes would improve the capacity of poor households to provide for the nutrition needs of the children, among other needs.

Civil society has advocated for a more balanced and less politically motivated approach to the social protection design as a way of ensuring that more poor households and hence more vulnerable children are captured within the social protection net. A civil society platform is currently in place as a tool for engaging Government and its development partners on the policy. However, the rights of children within the perimeters of social protection may be at stake on three accounts.

Firstly, the lack of a national registration law has consequences on targeting where children are not systematically registered to target them as main beneficiaries. Secondly, the policy shall require considerable financing which can not be shouldered by Malawi government alone, and thirdly, there is still urgent need for a sector-wide approach to social protection as a way of attracting buy-in and bureaucratic will from all the relevant Malawi government departments.

Ministry of Agriculture, for example needs to progressively identify with the draft policy more than it has operated because of the nutrition and food

security needs. Without such a multifaceted approach, and with competition and less cooperation, Malawi will not adequately cater for the rights of children in line with the CRC. Lastly, the social protection draft policy is yet to be made a policy as it is apparently stuck at Cabinet where it is awaiting approval.

Compliance to the CRC from the policy perspective is generally commendable on the documentary level as there is more needed to be done at the financing and therefore implementation level. For example, the Ministry of Women and Child Development has a policy on Orphaned and Vulnerable Children (OVC) as well as National Plan of Action for OVC (NPA).

However, budgetary financing to the lead Ministry of Women and Child Development (MoWCD) is less satisfactory as meager resources are provided for Other Recurrent Transactions (ORT). The ORT has been declining since 2002 and has been in the range of K70 million to K90 million between 2006 to 2008. This level of funding is low based on the strategic needs and action plans contained in the policy and in the NPA.

Similarly, the Ministry of Health has tended to allocate more budgetary resources to administration. About 58 percent of the total Ministry of Health budget was allocated at the Ministry headquarters in 2007/08 and increased to 62 percent in 2008/09 budget. This against the plethora of needs where the actual health services are delivered and this is at the community level, and this is also where Malawi continues to register one of the highest maternal mortality rates in the world.

The key civil society recommendation is that budgetary financing needs to be aligned to international standards where about 20 percent of annual budgets are expected to be spent in the education sector and close to 15 percent in the health sector.

In addition, it is imperative that there should be adequate financing of budget lines that carry the welfare of children such that even their recurrent expenditures should match with the burden of work being discharged as is the case with the MoWCD. Adequate and efficient financing on child welfare activities will enable Malawi to be in compliance with the CRC and ultimately reducing the rampant child poverty as well as promoting the rights and status of children.

### **Awareness on the Convention**

In line with Article 42 of the CRC, Malawi as a State Party is expected to make widely known the principles and provisions of the Convention. Malawi government has established partnerships with non-state actors to carry out awareness on human rights in general. Government established the National Initiative for Civic Education (NICE) which is responsible for carrying out civic education on a wide range of national issues including people's rights. In addition, government has recently established a new Ministry of Civic Education under the Ministry of Information.

On another, but related note, development partners have combined efforts with Malawi government to embark on awareness campaigns, notably UNICEF. However, NGOs have been on the forefront interacting with communities on human rights awareness. The rights of the child have been

a central area of attention by organizations like Plan International (Plan Malawi) and other international NGOs. Local NGOs and civil society networks including the HRCC and its membership have also been critical to taking awareness on the rights of children to communities.

However, government through relevant ministries and departments has not set aside adequate funds for driving or contributing to the on-going awareness. There is a tendency to over-rely on donor and NGO support. While this is not discouraged, the trend is a matter of concern on the point of over-reliance in case of donor pull out. In addition, government is the State party and is expected to be on the forefront providing financial support to programmes aimed at promoting CRC awareness.

While some efforts on awareness are commendably underway, the general public continues to register high levels of unawareness on the CRC. This could be on account of too much emphasis by players on general human rights awareness without getting to specific conventions like the CRC.

Secondly, most NGOs use approaches that confine awareness to selected geographical locations on account of logistical and financing challenges. This is compromised by the subordinate role taken by key government departments in this role as is further compounded by low financing on the part of the MoWCD and other departments to champion their own campaigns without too much donor and NGO reliance.

It is recommended therefore that the CRC should be reproduced in popular versions. A similar effort was made under the MoWCD and its partners before although it did not reach many communities. Specifically, all national

and community/rural libraries should be stocked with popular copies of the CRC. In addition, there is an urgent need to use the radio as a medium for disseminating the CRC since radio has a wider outreach than most communication channels. The NICE and other non-state (NGO) actors which have structures to the community level should be used while Government should commit its budgetary resources to the process.

## **DEFINITION OF THE CHILD**

Currently there are variations in terms of the definition of the child from different pieces of legislation which have also different legal purposes. In addition, actual practice and customary activities, most of which are harmful in nature, have given another impression as to how society defines a child in Malawi.

The Constitutional Review and other pieces of legislation that are pending enactment in Malawi parliament have proposed the harmonization of the age of the child to be a minimum of 18. This is commendable since the legislative framework of Malawi would be in resonance to the CRC.

However, the challenge lies in the speed for such enactment whereby continued delays are a source of exploitation and abuse of child rights by perpetrators who take advantage of the lacuna and weaknesses of the current laws. The main civil society recommendation is on increased awareness of the CRC so that child rights violators on account of non-domesticated laws can still be cautioned based on the published CRC.

## **GENERAL PRINCIPLES**

In pursuance of the principle of non-discrimination, civil society in Malawi observes that there is more to be done at implementation level. A lot of ground has been covered in terms of policy development and efforts are underway to review and enact relevant pieces of legislation to address discrimination.

Children with disabilities continue to be marginalized in taking part in social life. This is evident through inappropriate infrastructure for persons with disabilities in schools, health facilities, entertainment places and even religious places.

In addition, in the education sector, children with special needs are not given the adequate policy and financing attention. There are no adequate schools or institutions for pupils with special needs as there are inadequate infrastructure for children with disabilities.

Discrimination is also practiced in the OVC sector where the ever increasing number of OVC is not sufficiently provided with government support much as there are various policy instruments on how the welfare of OVC should be supported. For example, Government has no budget line of its own in the national budgets for providing education support for OVC.

This is compounded by some schools which ask children and OVC to pay user fees yet primary education is under the Free Primary Education (FPE) policy. On another note, Malawi government has been supporting a few pupils to attend school at an elite institution (Kamuzu Academy) with

bursaries at a more expensive cost yet thousands of OVC have no bursaries and are not in school. These are mainly OVC at secondary school level.

In terms of the best interest of the child, there is more documentary rhetoric than is in practice at the State level. Civil society in Malawi observes that commendable policies and legislations are put in place yet these take time to see the light of day. Policies are inadequately implemented due to funding constraints while political machineries at parliament level have prevented the actualization of the best interest of the child through non-prioritization of child rights and welfare issues.

On the right to life, the Constitution of Malawi documents this as a fundamental right. Current efforts to slow down under-five and infant mortality rates are commendable and ascertains the commitment by Malawi under the CRC. This is also true in the HIV and AIDS sector where the prevalence rate has stabilized and slowed down, thereby offering hope for survival of children.

The increased and improved immunization rate for children is also an indicator of Government commitment as is the distribution of nets for preventing malaria. However, Government needs to put in place comprehensive mechanism for dealing with isolated incidents of arbitrary removal of life of children reported in selected areas.

In line with Article 12 of the CRC, Malawi government has encouraged the formation of child lobby groups and has encouraged the operations of civil society organizations lobbying for voice of the child to be taken into

consideration. The establishment of the Children's Parliament is also a key development. In addition, the establishment of Children's Courts recently is a commendable effort at ensuring that children are heard in any judicial and administrative proceedings.

However, there is need for additional avenues to be established to allow children especially in rural areas to have access to justice and also that their voices should be heard. This is also in line with the need for increased community awareness so that parents and guardians increasingly take the voices of their children seriously.

## **CIVIL RIGHTS AND FREEDOMS**

Children in Malawi are still within an environment which has no legal basis for registration and this has a direct adverse effect on their rights and welfare contrary to Article 7 of the CRC. As highlighted earlier, the National Registration Bill is not yet law and this is legal instrument for allowing children the right to acquire a nationality and the right to know as well as to be cared for by their parents. Civil society in Malawi recommends speedy enactment of the National Registration Bill.

Regarding the right of the child to freedom of expression, Malawi is progressively creating a conducive environment for the realization of this right. The schools curriculum has integrated topics and subjects which have the important function of allowing children to realize and actualize this right.

However, the key challenge is that there still exist cultural and traditional values which tend to limit these freedoms and they continuously condemn children to subservient and passive roles in families and communities. Civil society recommendation in this area is that all customary and harmful practices should be abolished and that more awareness is required to shift the mindset of society away from the culturally harmful practices which have a limiting effect on the freedom of expression of children.

The same applies to the other freedoms and rights under the civil rights sections of the CRC. However, in promoting awareness on these CRC related child freedoms and rights, caution needs to be taken by

Government, NGOs and other actors so that children recognize the key principle that human rights are not all absolute and that there are limitations to certain freedoms.

In line with Article 37 (a), there is more effort required on the part of Malawi Government to reduce the congestion in prisons. Due to the absence of national registration and identification systems, it has been difficult for prison authorities to ascertain the actual age of children.

As a result, children continue to be mixed up with adults especially in the highly congested prisons including the infamous Maula prison in Lilongwe. The conditions in these prisons are unhygienic with the potential for exposing children to health risks and even death.

## **FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

The family environment has tended to be harsh for some children in Malawi especially those belonging to vulnerable and poor households. OVC has experienced the most harsh family environments due lack of support and general fatigue by communities to care for OVC. The high poverty levels in rural and some urban settings have been a source of desperation for OVC and their communities.

In Malawi, it is organizations like NGOs and faith institutions that are a primary source for the caring of OVC as a result of scanty care and support from communities and households. Some households even reach the extent of voluntarily surrendering their children to organizations arguing that they have no resources and that NGOs are better placed to care for their children.

However, this is contrary to provisions of the CRC which recognizes communities and the family as crucial units for general development of children. In response to this, however, some NGOs have adopted approaches where they are caring and providing support to OVC within their community and household settings instead of taking the children away.

On another note, Malawi needs to harmonize and review its Child Adoption laws to avoid children being unprocedurally taken away from their families and communities under the pretext of adoptions. The recent case of adoption of David Banda by Madonna exposed such legal weaknesses and the need for capacity in the MoWCD to conduct proper assessments in any

adoption proceedings. The bottom line being that children need to be cared and supported within their communities instead of taking them to alien communities or overseas.

For children who are temporarily or permanently deprived of the care of their parents or guardians, Malawi has established institutions like Mpemba Boys Home and Chilwa Approved Schools which also operate as rehabilitation centers. Some NGOs on the other hand provide care and support to infants who are in similar circumstances and they have foster parents.

However, the main challenge is sustainability of funding on the part of both the Government and the NGOs. As a matter of fact, some CBOs have workers operating on purely voluntary basis where communities contribute food for feeding the children. These conditions make it difficult for children out side of care of their parents not to grow and develop in the most desirable way.

## **BASIC HEALTH AND WELFARE**

The state of poverty in Malawi is inhibitive to the provision of basic health and welfare by most poor households and communities where for example a majority of the households can afford a meal per day. These are also households which are subsisting on less than a dollar per day. However, Malawi Government has taken bold steps to redress the poverty situation as is evident by the current drop in the poverty incidence from 52.4 percent in 2005 to 40 percent in 2007. Government of Malawi has prioritized food security and this is likely to have an improving effect on nutrition for most poor households and their children.

However, the health sector in Malawi continues to be bedeviled with a number of problems. These include inadequate health personnel, perennial shortage of drugs, ineffective budgetary allocations and non-needs based financing, and low incentives for health workers with its attendant effects on brain drain. These challenges translate into inadequate provision of basic health care to the population including to children. This, as was noted earlier, is in exception to the infant mortality sector where improvements are remarkable, yet is in stark contrast to the maternal mortality levels which are among the highest in the world.

Welfare of children with special needs and children with disabilities needs to be given additional attention. This is in recognition of the circumstances where persons with disabilities are generally treated as a marginalized group. However, civil society in Malawi acknowledges government's efforts and the political will in this area as shown through the establishment of a Ministry responsible for persons with disabilities.

Challenges faced by children with special need and those with disabilities as highlighted in the aforementioned sections need to be addressed as a matter of urgency so that the State Party is in compliance to the CRC.

In terms of the right for every child to benefit from social security, Malawi is in the process of embracing a Social Protection policy which would partly cater for social security needs. The policy would also allow households or families to have access to financial capacity to cover just their basic needs and on the premise that this would spill welfare benefits to children. However, there is an urgent need Government to generate more job opportunities and create employment for sustainability and self-reliance. In addition, there is need for the adoption of the Social Protection policy which is currently and too long at Cabinet level.

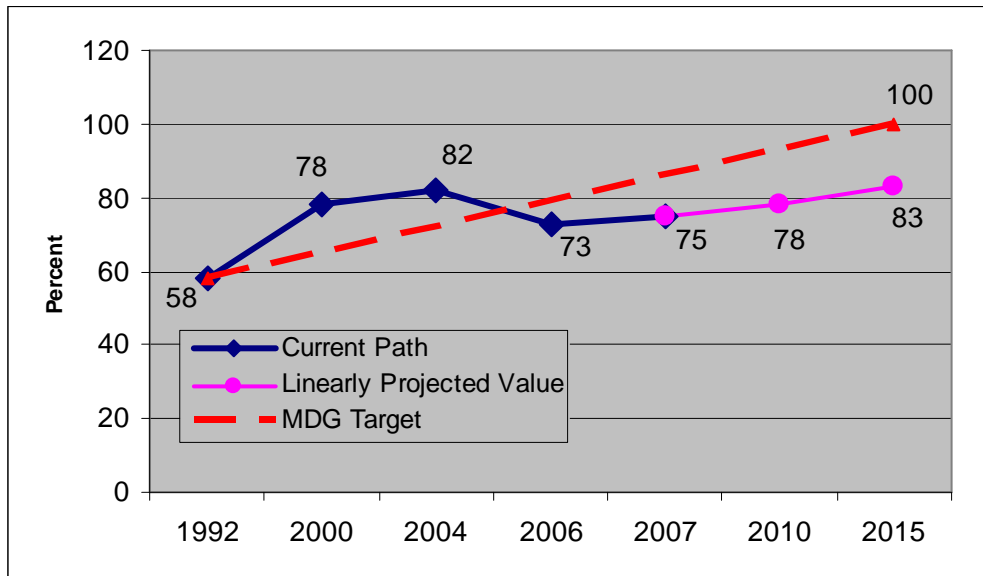
## **EDUCATION, LEAISURE AND CULTURAL ACTIVITIES**

Malawi continues on the policy path of free primary education. However, the compulsory aspect is missing and this is an area for urgent policy and legislation. In addition, FPE has its teething problems which include lack of adequate class rooms, lack of adequate number of teachers, and lack of adequate teaching and learning materials. Civil society recommends that funding to the education sector should be increased in alignment with the needs of the sector and also in accordance with the international obligations of allocating about 20 percent of annual budget to education.

In the spirit of promoting accountability as enshrined in the CRC and other governance instruments to which Malawi is a party, civil society expects that government should answer a number of questions for dismal and even zero progress in a number of areas. For instance, government should account as to why it failed to finalize and/or approve the review of the Education Act, the Special Needs Education Policy, National Adult Literacy Plan and the National Education Sector Plan. Government should provide answers for its failure to distribute teaching and learning materials (especially for STD 6 syllabus) and special needs materials, in time (LEG: 2008 Budget Analysis).

Additional accountability statements are also expected on the inability by the Government to actualize the commitment made earlier to start constructing the Institute of Special needs Education. In the absence of clear accountability in these areas, Malawi's chances of meeting the EFA and MDG targets will continue to be slim as demonstrated in the chart below.

## Net Enrolment Ratio in Primary Education



**Source: GoM 2008 MDG Report**

The chart presents a graphical trend highlighting Primary school net enrollment from 1992 to 2007. Compared to the 2015 MDG target, the rate at which the NER is increasing shows that the target may not be achieved by about 17 percentage points. Although the rate increased in the years immediately following the introduction of free primary education policy in 1994, in recent years the rate has fallen below the required target (GoM: 2007 MDG Report).

In addition, Government should offer a concise explanation to the nation on its inability to finish constructing 3 out of 10 girls' hostels that were promised in the 2007/08 budget. Other areas that require answers to the people of Malawi are highlighted below:

- Why Government only constructed 300 out of 1000 planned teachers' houses?
- Why it failed to provide K5, 000 per month allowance to HIV positive teachers in line with government pledge to provide the allowance to all HIV positive civil servants?
- Why teachers' salary arrears are still outstanding?
- Why hardship and headship allowances were not paid to teachers and head teachers?

Similar accountability statements are expected on the part of the MoWCD which should give reasons for failure to assist 85,600 villagers out of 100,000 with literacy skills, failure to increase honorarium for instructors which is at miserable K500 per month, and failure to assist 4,500 out of 5,000 malnourished children (LEG: 2008 Budget Analysis).

As civil society we recommend that Government should build on some of the achievements made and minimize the failures to ensure adequate compliance with the CRC.

## **SPECIAL PROTECTION MEASURES**

With support and cooperation from the UNHCR, Malawi is offering protection to refugees and is supporting the needs of asylum seekers. Government has designated certain places as camps for refugees. These include Dzaleka Camp near Lilongwe. Children within the camps are provided with support through material support and food rations that are provided through their guardians.

Under the Employment Act, minimum age restrictions are enacted in line with ILO conventions as a way of safeguarding children from exploitative labour practices. However, the introduction of compulsory education is recommended by the civil society since some children are found in work places as their next best alternative in the absence of any coercive mechanisms for them to be in school. On another hand, the tobacco and tea estate sector continues to be a source of child labour which is a form of economic exploitation.

It is noteworthy that Malawi has put in place most of the special protection measures defined under the CRC. The key challenge remains enforcement on account of weak capacity by public institutions. These include human resource capacity, logistical constraints, and funding bottlenecks. Apart from increasing awareness on the provisions of the CRC, civil society in Malawi strongly recommends addressing the highlighted challenges and bottlenecks through human resource recruitment and motivation, provision of adequate budgetary financing to enable compliance to the CRC, and the need for coordination within the public sector and also with non-state actors

in the implementation of programmes aimed at ensuring compliance by Malawi as State Party to the CRC.