

**REPORT OF THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND
WELFARE OF THE CHILD (ACERWC)-WORKING GROUP ON CHILDREN WITH
DISABILITIES IN AFRICA- ON THE FACT-FINDING MISSION ON THE
SITUATION OF CHILDREN WITH ALBINISM IN THE REPUBLIC OF MALAWI**

AND

**STATUS OF IMPLEMENTATION OF ACERWC'S DECISION ON
COMMUNICATION NO 004/COM/001/2014 SUBMITTED BY THE IHRDA AGAINST
THE REPUBLIC OF MALAWI.**

29-31 AUGUST 2022

LIST OF ACRONYMS

ACRWC	African Charter on the Rights and Welfare of the Child
ACERWC	African Committee of Experts on the Rights and Welfare of the Child
CSOs	Civil Society Organizations
NGOs	Non-Governmental Organizations
OUA	Organization of the African Unity
AUC	African Union Commission
UNICEF	United Nations Children's Emergency Fund
UN	United Nations
MFAIC	Ministry of Foreign Affairs and International Cooperation
MoGCDSW	Ministry of Gender, Community Development, and Social Welfare
MoJCA	Ministry of Justice and Constitutional Affairs
MHRC	Malawi Human Rights Commission
INGOs	International Non-Governmental Organizations
CWA	Children With Albinism
MPS	Malawi Police Services
DPP	Director of Public Prosecution
IHRDA	Institute for Human Rights and Development in Africa
SADC	Southern African Development Community

I. BACKGROUND

1. The African Charter on the Rights and Welfare of the Child (ACRWC/the Charter) was adopted by the Assembly of Heads of State and Government of the Organization of African Unity (OAU) during its 26th Ordinary Session in Addis Ababa on 11 July 1990. The ACRWC entered into force on 29 November 1999. To date, 50 AU Member States have ratified the Charter. The ACRWC is a regional instrument that defines the rights of African children, including the rights of children with albinism (CWA) and the protection of children from all forms of violence, exploitation and abuse, discrimination, ill-treatment, harmful social and cultural practices and the sale of, abduction and trafficking of children, among others.
2. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC/the Committee) was established under Article 32 of the African Children's Charter to promote and protect the rights and welfare of the child. Article 42 of the African Children's Charter mandates the Committee to undertake several activities and initiatives to promote and protect the rights and welfare of the child. In response to the promotion and protection of children with disabilities in Africa, the ACERWC adopted a resolution to establish a Working Group on children with disabilities during its 35th Ordinary Session held from 31 August to 8 September 2020. The Committee established this Working Group according to Article 38(1) of the African Children's Charter and Rule 58 of its revised Rules of Procedure, which mandate the Committee to establish its own rules of procedures and establish special mechanisms, including the working group. The ACERWC would like to recall that the Working Group on children with disabilities in Africa aims to promote the inclusion of children with disabilities in all spheres of life by using a child rights-based approach that ensures the protection of their rights and welfare as enshrined in the African Children's Charter and other regional and international Human Rights instruments.
3. Additionally, the ACERWC would like to recall that article 45 of the African Children's Charter indicates that the Committee may resort to any appropriate method of investigating any matter falling within the ambit of the Charter, may request from the States Parties any information relevant to the implementation of the Charter and may also resort to any appropriate method of investigating the measures a State Party has adopted to implement the Charter.
4. The Committee undertook a fact-finding mission in the republic of Malawi pursuant to Article 45 of the African Children's Charter. The Committee, through Note Verbal, sent to the Government of Malawi in August 2022, requested the State Party's authorisation of the fact-finding mission to assess the situation of CWA in the republic of Malawi and the level of implementation of its decision concerning Communication No 004/Com/001/2014 submitted by the Institute for Human Rights and Development in Africa (IHRDA) against the Republic of Malawi. The Committee received a positive response from the Government of

Malawi, approving the Committee's request to undertake a fact-finding mission and providing adequate assistance and support to the ACERWC's delegation to undertake a fact-finding mission effectively.

5. The ACERWC would like to take this opportunity to extend its appreciation to the Government of Malawi for allowing the ACERWC's delegation to undertake a fact-finding mission from 29-31 August 2022 in the State Party.
6. The ACERWC's delegation would like to highlight that the ACERWC received and registered Communication No 004/Com/001/2014 submitted by the IHRDA against the Republic of Malawi in October 2014 which was declared admissible in May 2016 during the 27th Ordinary Session of the Committee; and, an amicable settlement under the auspices of the Committee was reached in October 2016 during the 28th Ordinary Session.
7. Further, the ACERWC's delegation would like to highlight that the amicable settlement indicates that Malawi shall submit a periodic report every three months to the ACERWC on its progress in implementing the agreement. The ACERWC's delegation appreciates that, to date, the Republic of Malawi has submitted eight reports, and the latest was submitted on 14 March 2022. To assess the implementation of the amicable settlement, the ACERWC's delegation would like to indicate that the Committee held one implementation hearing in Mali during its 31st Ordinary Session, whereby both parties made presentations.
8. Recognising the progress made and applauding the Republic of Malawi for the various measures it has undertaken, the Committee remains concerned about the situation of CWA and the lack of full and effective implementation terms of the amicable settlement. Hence, the Committee has undertaken the fact-finding mission on 29-31 August 2022.

II. Objectives of the fact-finding mission

9. The ACERWC's fact-finding mission in the republic of Malawi had the main following objectives:
 - i. Assess the nature and gravity of violations that CWA are facing in Malawi;
 - ii. Assess the impact of the discrimination, including on education, health services and other basic services;
 - iii. Examine the vulnerability of CWA in a particular vulnerable situations, including the girl child, IDPs, and those who are separated from their families and caregivers;
 - iv. Monitor the adequacy, appropriateness and inclusiveness of the Government of Malawi's response to the challenges that CWA are facing;
 - v. Assess whether CWA are receiving appropriate healthcare services e.g. free sunscreen, information on preventing skin cancer, skin

- cancer screening and treatment, as well as the ophthalmological exam;
- vi. Assess whether CWA are receiving reasonable accommodation, as well as assistive and adaptive devices in school;
 - vii. Provide policy and technical recommendations and guidance to the Government of Malawi and other relevant stakeholders to effectively address the challenges of CWA; and,
 - viii. Assess the level of implementation of its decision on Communication No 004/Com/001/2014 submitted by the IHRDA against the Republic of Malawi.

III. List of the ACERWC's delegation

10. The ACERWC designated a delegation to undertake a fact-finding mission in the republic of Malawi which was composed by:

- Honorable Aver Gavar, Head of the Delegation and Chairperson of the Working Group on Children with Disabilities in Africa;
- Honorable Robert Doya Nanima, Country Rapporteur for Malawi;
- Honorable Anne Musiwa, Member of the Working Group on Children with Disabilities in Africa;
- Catherine Wanjiru Maina, Officer-in-Charge of the Secretariat of the Committee;
- Ayalew Getachew Assefa, Senior Child Protection Officer at the Secretariat of the Committee;
- Chiti Kampamba Mwatula, Finance and Administration Assistant at the Secretariat of the Committee; and,
- Aline Nininahazwe, Legal Researcher at the Secretariat of the Committee.

IV. Methodology

11. The delegation of the ACERWC conducted a fact-finding mission in the Republic of Malawi to assess the situation of CWA and the level of implementation of its decision on Communication No 004/Com/001/2014 submitted by the IHRDA against the Republic of Malawi. The delegation held various meetings and consultations with Government officials, Children's Parliaments, CWA, organizations of persons with albinism, local and international CSOs, the UN Agency and other relevant stakeholders in the republic of Malawi. The delegation held various meetings with the following stakeholders:

➤ **National Authorities**

- Ministry of Foreign Affairs and International Cooperation;
- Ministry of Gender, Community Development, and Social Welfare;
- Ministry of Justice and Constitutional Affairs;
- Ministry of Health;
- Ministry of Education;
- Malawi Police Services; and,
- Malawi Human Rights Commission.

➤ **Children's Parliament, Civil Society Organizations (CSOs) and UN Agency**

- Representatives of CWA and Children's Parliamentarians;
- UNICEF;
- Save the Children International;
- Plan International;
- Child Rights NGOs Coalition;
- Association of Persons with Albinism in Malawi;
- Standing Voices;
- Beyond Sun Care;
- Good Samaritan Children's Home; and,
- World Vision International

SECTION I

FINDINGS ON THE SITUATION OF CHILDREN WITHOUT ALBINISM

i. Measures undertaken by the Republic of Malawi to improve the situation of CWA

12. The ACERWC's Delegation notes, with great appreciation, that the Republic of Malawi has made major progress in addressing the attacks and other forms of children's rights violations targeting CWA. ACERWC's Delegation further notes with appreciation that the Republic of Malawi has undertaken legislative, policy and institutional measures to address the challenges of CWA, which have led to a decline in the rate of attacks and killings against CWA. Furthermore, the delegation appreciates that the Republic of Malawi launched in June 2018 a National Action Plan (NAP) for Persons with Albinism (2018-2022) and allocated resources to implement the NAP.
13. However, the delegation learned from the fact-finding mission that there are gaps of knowledge about the NAP and a lack of adequate training and orientation on the implementation of the NAP, especially at the district level; inadequate allocation of the resources, including issues related to the delays of funds, delays in implementing the activities and slow progress in NAP activities, accountability and mismanagement of resources; lack of mid-term review to inform the level of implementation of the NAP; non-involvement of CWA at all processes of NAP especially in the planning of the activities; and, weak coordination among government entities, among others.
14. The delegation appreciates that despite the gaps identified, the NAP plays a significant role in improving the situation of CWA. The delegation further appreciates that the processes to renew the NAP are ongoing and urges the Government of Malawi to assess the level of NAP's implementation, take stock of the gaps and challenges faced during the implementation of the NAP and take all appropriate measures to address them in the new NAP to ensure its effective coordination and implementation.
15. Furthermore, the delegation notes with great appreciation that since 2015, the Republic of Malawi celebrates International Albinism Awareness Day to educate the public on albinism issues. In this regard, the delegation recommends that the Republic of Malawi ensure systematic awareness-raising efforts on albinism occur frequently, especially in rural and remote areas as well as border communities and not only on commemorative days. In addition to this, the ACERWC's Delegation appreciates that there has been increased participation of persons with albinism in public and political spaces in the State Party. In this regard, the delegation encourages the government to continue including qualified persons with albinism in significant government and public offices and

promote positive information about persons with albinism in the State Party. Although the ACERWC's Delegation appreciates the measures that the Republic of Malawi has undertaken to improve the situation of CWA, it is still concerned about the challenges that CWA are still facing at the household, community and national levels.

ii. **Challenges of CWA in the Republic of Malawi**

16. The delegation was informed that since 2009 attacks on persons with albinism have emerged and are known to the public in Malawi. The delegation was further informed that attacks against CWA have increased since 2014, with the highest number of cases reported in districts that share borders with Mozambique and Tanzania. The delegation learns that CWA are the most vulnerable, targeted and exposed to experience various forms of violence and abuse. Moreover, during its fact-finding mission, the ACERWC's Delegation notes that the Government of Malawi is facing various challenges to effectively address the issues of CWA. The challenges identified include gaps in resource allocation, poor coordination among relevant Ministries, lack of cross-border cooperation among neighbouring countries, insufficient knowledge and awareness of the NAP on Persons with Albinism; lack of centralized and harmonized database including lack of disaggregated data on CWA in each district to inform the development of policies and areas of intervention that need to be prioritized; high-level of donor dependence and low donor support to respond to the challenges of CWA; among others. Furthermore, the delegation was informed by government officials and child rights actors that the COVID-19 pandemic exacerbated the vulnerability of CWA and affected the implementation of most of the planned activities under the NAP.
17. The delegation observes that as a State Party to the African Children's Charter, the Republic of Malawi has an obligation to prevent the violations targeting CWA and take all effective measures to respect, protect and fulfil the rights and welfare of CWA. Considering the challenges of CWA in the State Party, the delegation urges the Republic of Malawi to take urgent actions to respond to the issues of CWA from the district to national levels. The delegation further notes that CWA needs special protection and reasonable accommodation to effectively enjoy their rights as enshrined in the African Children's Charter and other regional and international human rights instruments. From its fact-finding mission, the delegation notes the following major challenges and children's rights violations that CWA are facing in the Republic of Malawi.

iii. Bodily attacks and killings against CWA- Threats to the right to life, survival and development

18. Article 5 of the African Children's Charter indicates that every child has an inherent right to life. The delegation notes that Article 5 further indicates that States Parties have an obligation to ensure, to the maximum extent possible, the survival, protection and development of the child. The delegation further notes that the right to life is necessary for the enjoyment of all other children's rights, and the right to life also depends on the enjoyment of other rights. Moreover, the delegation notes that the principle of life, survival and development requires the government of Malawi to ensure the survival and full development of CWA to the maximum extent possible.
19. The delegation was informed by Government officials and child rights actors that CWA continue to face various forms of violence, including killings, maiming/mutilations, abductions, grave exhumations and selling of human tissue, among others. The delegation is strongly concerned that the killings and bodily attacks on CWA constitute a violation of multiple children's rights, including the right to life which has negative impacts on the enjoyment of other rights of CWA. Further, the delegation is strongly concerned that in many cases of attacks targeting CWA, a person who is close to a child, including a relative or a friend, is involved, especially in cases of abductions and murder, including conspiracy to murder and attempted murder. To this effect, the delegation is strongly concerned that CWA live in constant fear of attacks, including fear of close relatives and friends. The delegation notes that the involvement of family members in the attack presents serious barriers for CWA to report any form of abuse and violence. Thus, the delegation is strongly concerned that many cases targeting CWA can be unreported to relevant authorities. To this effect, the delegation is strongly concerned that attacks and killings against CWA are not adequately documented.
20. Moreover, the delegation notes with strong concern that investigations on bodily attacks and killings are not only slow but also the quality of investigation is compromised. In this regard, the delegation recommends that the Government of Malawi allocates adequate financial, human and technical resources to MPS and ensure that the latter adopts a comprehensive strategy to ensure the protection of CWA and their families inside and outside their homes and build the capacity of its personnel to improve its expertise in conducting a forensic investigation. The delegation further recommends the government to take all appropriate measures to assist CWA, victims or survivors of attacks with medical, legal and psychosocial support and assistive technology devices to cater with different forms of disabilities following the bodily attacks and take all necessary measures to provide early identification, intervention and services for CWA designed to minimize and prevent further disabilities.

21. The delegation is strongly concerned that CWA have lost their lives; and, those who are still alive live in constant fear for their lives, severe pain and suffering, tears and despair due to different forms of disabilities occurring from bodily attacks which are limiting the full enjoyment of their rights including their right to life, survival and development and participation in all matters that concern them. Additionally, the delegation is strongly concerned that CWA daily encounter various forms of barriers to living a life of dignity.
22. The delegation is further concerned that lack of knowledge usually results in sun-burned at a very early age, a lack of protective clothing, sunscreen lotion and visual aids which are collectively vital to their daily life. To this effect, the delegation is strongly concerned that CWA are highly at risk to be exposed to sunlight and skin cancer, which is increasing suffering, early mortality and threatening their lives.
23. Moreover, the delegation is strongly concerned that CWA are abandoned in their early childhood by their close relatives, especially their fathers which is negatively affecting their standard of living. Further to this, the delegation is strongly concerned that CWA and their families live in constant fear every day. The delegation is concerned that this situation impedes CWA from fully enjoying their rights to the highest attainable standards of living, actively interact with other children and participate in all matters that concern them, or freely associating with friends anywhere. The delegation is further concerned that this situation has a strong impact on the quality of life of CWA which is likely to limit them to have a fruitful life that will allow them to actively contribute to the development of their families and communities. To effectively protect the right to life, survival and development of CWA, the delegation recommends the government of Malawi to take all appropriate measures to assist CWA from birth and throughout their school careers; ensure that accurate and reliable information concerning albinism including their susceptibility to skin cancer is communicated to them and their family members from their birth and at a very early stage ; take all appropriate measures that facilitate CWA to conduct eye assessments and examinations from a very young age, among others. The delegation notes that the high risk of developing skin cancer makes it imperative for the government to adopt sun protection strategies to assist CWA from birth, including wearing protective clothing and avoiding sun exposure as much as possible.

iv. Security and safety issues

24. The delegation is further concerned that although the reports of attacks and abductions have receded, families of CWA live in constant fear of attacks which pushes them to escort their CWA while going or coming back from different

areas or lock them in the houses and oblige them to stay at home. The delegation is concerned that this situation is negatively affecting the effective enjoyment of the rights and freedoms of CWA including their freedom of movement, association with their friends and peers (article 8 of the ACRWC) and the right to play and recreational activities (article 12 of the ACRWC), among others. Moreover, the delegation is strongly concerned that security and safety issues that CWA are facing within and outside their households push them to experience psychological distress as a result of constant fear of being attacked or killed. The delegation is concerned that traditional gender roles (e.g., fetching wood and water for young women and girls) expose women and girls with albinism to a higher risk of facing security and safety issues.

25. The delegation appreciates that after observing that most CWA live in poor housing structures that do not provide enough security, the Government of Malawi allocates resources for constructing decent and secure houses for families with CWA. To improve the security and safety of CWA, the delegation recommends that the Government of Malawi allocate sufficient human, technical and financial resources to MPS and ensure that all appropriate measures are implemented for CWA to be safe within and outside their households. The delegation further recommends the Government continue building houses of families with CWA; take all appropriate actions and innovative interventions to protect CWA¹, including establishing reporting mechanisms in rural and remote areas, engaging with telecommunication companies to provide toll-free lines and mobile phones to report any incidents, equipping all CWA with personal working security tools; reinforcing alert networks and visiting CWA on a regular basis to hear any complaints and emerging security issues they may be facing; provide emergency shelters and other forms of assistance accessible to CWA and strengthen the capacity of community policing structures including in crime prevention and albinism related laws to effectively protect CWA at home and outside their homes.

v. Sale, trafficking and abduction

26. The delegation is strongly concerned that CWA are being abducted and their body parts are being trafficked in to neighbouring countries. The delegation notes with strong concern that CWA who have been abducted and trafficked in suffer death, physical injury, and psychosocial challenges, among others. Further to this, the delegation is strongly concerned that parents/families with CWA who have been abducted or trafficked do not have information on where their CWA are and if they are still alive or not. Moreover, the delegation is

¹ In Mali, a mobile phone application on albinism (Yefeke) was created and made available to download free of charge. It contains information to raise awareness on albinism (including in the local language) and collect data on persons with albinism, their family members and their health status. It also contains an emergency number to call in case of an attack or to report human rights violations.

strongly concerned that CWA have been forcibly taken from one area to another within or outside Malawi for the purposes of selling their body parts. Further, the delegation is strongly concerned that there have been several incidents of cross-border trading of body parts of CWA whereby the body parts of CWA who were killed in Malawi have been taken and sold in other countries across borders.

27. The delegation is further concerned that abduction and other serious cases of violence targeting CWA occur in rural and remote areas, especially in the districts that share a border with Tanzania and Mozambique, to facilitate trafficking. The delegation learns from the fact-finding mission that abductions and trafficking targeting CWA are still happening in the State Party; however, they are not sufficiently reported. Furthermore, the delegation was informed that cases of failed abduction or trafficking are not being reported due to the lack of evidence. In this regard, the delegation is strongly concerned about the psychosocial distress that CWA, survivors of failed abduction or trafficking and their immediate families are going through.

28. The delegation notes that article 29 of the African Children's Charter obliges the Government of Malawi to take all appropriate measures to prevent the abduction, the sale of, or traffic of children for any purpose or in any form, by any person, including parents or legal guardians of the Child. Therefore, the delegation urges the Government to take all appropriate measures to closely collaborate and cooperate with relevant stakeholders, including the law enforcement authorities and police, among others of the involved countries (especially Tanzania and Mozambique) and urgently take concrete actions to stop, prevent and protect CWA against all forms of sale, trafficking and abduction targeting them and their body parts. The delegation further recommends the government take all necessary measures to protect CWA by urgently gathering data on the sale, trafficking and abduction targeting CWA and their body parts, identifying the black markets and the network of perpetrators both inside and outside Malawi and designing appropriate strategies and interventions to address the issues identified based on the findings in collaboration with neighbouring countries.

vi. Protection against harmful social and cultural practices

29. The delegation was informed that multiple forms of harmful social and cultural practices that CWA are facing in Malawi are rooted in cultural superstitions that impede them from living a dignified life. The delegation is strongly concerned that CWA are trafficked and abducted, and their body parts are used for ritual practices. Further, the delegation is concerned that, in Malawi, the body parts of CWA are broadly believed to bring wealth and good luck and are therefore desired for use in various forms of witchcraft, charms and potions.

30. The delegation notes that the ACRWC under article 21(1) obliges the Government of Malawi to take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child, and this extends to CWA. Further, the delegation recommends that the Government of Malawi urgently take concrete actions to eliminate harmful social and cultural practices targeting CWA. The delegation further recommends that the Government take all appropriate measures to prevent and protect CWA from various forms of harmful social and cultural practices, including the practices prejudicial to the effective realization of the rights of CWA and their welfare and those practices discriminatory to CWA and their families based on their condition.

vii. Discrimination, stigma and social exclusion

31. During its fact-finding mission in the Republic of Malawi, the delegation was informed that CWA experience multiple and intersecting forms of discrimination, stigma and social exclusion based on their albinism, gender, age, location, and economic status, among other factors. The delegation is strongly concerned that discrimination, stigma and social exclusion prevent CWA from fully participating in all matters that concern them and enjoying their rights as enshrined in the African Children's Charter and other regional and international human rights instruments. Moreover, the delegation notes that the denial of reasonable accommodation for CWA in accessing basic needs and public services including lack of adequate public services required for their condition such as lack of adequate and regular healthcare information and services, among others is a discriminatory practice that is negatively affecting the effective realization of their rights and welfare. Furthermore, the delegation notes with strong concern that CWA are discriminated against and stigmatized within their families and communities through name calling, verbal abuse, intimidation, bullying, and other discriminatory practices.

32. Moreover, the delegation is deeply concerned that in the majority of cases, mothers who give birth to CWA are often blamed/insulted after giving birth to a child with albinism. As a result, they are likely to experience domestic violence, rejected and abandoned by their husbands/partners, families and communities; which is strongly impacting their mental health and parenting and limiting their socioeconomic opportunities. Consequently, the delegation is strongly concerned that this situation exacerbates the vulnerability of CWA who are likely to be raised by single parents especially their mothers and, as result, they are highly exposed to attacks and other forms of violence and abuse.

33. The delegation notes that Article 3 of the African Children's Charter indicates that every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the Charter. The delegation further notes that

article 3 of the African Children's Charter prohibits all forms of discrimination on any basis. To address the issues of discrimination, stigma and social exclusion against CWA, the delegation recommends the government of Malawi to allocate sufficient human, technical and financial resources to relevant stakeholders at district level, in rural and remote areas to intensify its efforts to change discriminatory practices using a variety of approaches including regular media campaigns and public awareness on albinism for CWA, parents, caregivers, traditional, community and religious leaders, traditional healers/doctors, among others ; enact appropriate laws and policies to eliminate discriminatory practices against CWA including developing inclusive policies and practices to end discriminatory practices against CWA inside and outside their homes and take all appropriate measures to provide reasonable accommodation to all CWA and ensure that concrete actions are taken to prevent and end discrimination, stigma, social exclusion as well as negative perception and attitudes against CWA and their families.

viii. Right to health

34. The delegation notes that CWA are characterized by the absence of pigment in any or all of the skin, hair and eyes; a condition with which, if timely and adequate information and services are not provided, often results in skin disorders, skin damage and skin cancer. Moreover, the delegation notes that the melanin deficit due to albinism often results in low vision and an increased vulnerability to the sun's ultraviolet rays. The delegation is further concerned that lack of adequate knowledge about albinism by CWA and their families negatively affects their health and the way they are treated, which is likely to result in complications with their skin. Further to this, the delegation is strongly concerned that CWA experience various forms of healthcare challenges including visual and hearing challenges, bleeding of the lips, challenges in accessing adequate and regular healthcare information and services required for their condition such as regular treatment/check-ups and timely, accurate and reliable healthcare information and services required for their healthcare needs, among others. The delegation notes that a lack of proper medical attention for CWA often compromises their health needs and, as a result, CWA face the highest risk of developing skin cancer due to the inconsistency in using different types of sun protection. Furthermore, the delegation was informed that there is only one radiotherapy centre in the State Party, and there is no training institution on dermatology in Malawi. In this regard, the delegation is strongly concerned about the safety and security of CWA who have to travel long distances in the sun to access healthcare facilities. The delegation is further concerned about the limited capacity of health workers how to adequately assist CWA, especially at district levels and in rural and remote areas; non-availability of sunscreen lotion, limited radiotherapy equipment; unavailability of assistive devices for CWA; existing cases of skin cancer; shortage of healthcare

personnel; and, issues related to accessibility and affordability of dermatologists and ophthalmologists, especially in rural and remote areas and refugee camps, among others. Further to this, the delegation is strongly concerned that CWA do not adequately access healthcare information and services which hinder them from fully enjoying their right to health.

35. The delegation notes that Article 14 of the African Children's Charter indicates that every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health. To address the issues related to healthcare for CWA, the delegation recommends the Government of Malawi to allocate sufficient resources to the Ministry of Health to strengthen coordination among healthcare personnel at the national and district levels including in rural and remote areas and ensure that all healthcare facilities have sufficient equipment and qualified personnel to provide adequate healthcare information and services free of charge to CWA including providing eye- assessment and assistive and adaptive devices (such as glasses to all CWA free of charge), increasing the number of healthcare personnel including dermatology and ophthalmology officers especially in rural and remote areas. Moreover, efforts need to be enhanced to establish mobile healthcare centers including mobile specialized skincare clinics/ dermatological and ophthalmological mobile clinics and sunscreen distribution to unable CWA to access adequate healthcare services and treatment, provide adequate healthcare information and services to CWA and their families free of charge and community-based and child- and albinism-friendly information on where such services can be provided. The delegation also recommends the Government of Malawi to provide training and capacity building to health workers, social workers and other frontline workers to effectively assist CWA in meeting their specific needs and assist them in adequately accessing healthcare information and services.

36. Furthermore, the delegation is strongly concerned that CWA experience different forms of violence, which have harmful emotional and mental effects. In this regard, the delegation strongly recommends that the Government of Malawi urgently provide psychosocial support to CWA and all survivors of attacks and their families, especially those who are living in constant fear of the attacks. Further, the delegation strongly recommends the Government to adopt a comprehensive approach to ensuring that healthcare services specifically cater to the specific needs of CWA; take all appropriate measures to eliminate discriminatory practices in accessing healthcare information and services for CWA by providing child- and albinism- friendly information and advice in accessible formats. Furthermore, the Government need to ensure that anti-sunburn lotions and other goods and services are available and of good quality to every child without discrimination in sufficient quantity in healthcare facilities at the national and district levels, including in rural and remote areas, free of charge; and adopt appropriate and effective laws, policies and programs that

adequately respond to healthcare needs and services of CWA. The delegation further recommends that the Government develop albinism-sensitive and gender and age-sensitive sexual and reproductive health information and services, especially for young women and girls with albinism.

xi. Right to education

37. The delegation notes that article 11 of the African Children's Charter indicates that every child shall have the right to an education. The delegation appreciates that the Government of Malawi has undertaken several measures to ensure that CWA have access to education. The delegation was informed that, despite the measures that the Government has undertaken, schools are located very far, and they are few secondary schools in the State Party. Further to this, the delegation was informed that some parents have taken their CWA out of school and some CWA are refusing to go to school due to fear of being attacked or abducted, and; as a result, some CWA have stopped going to school. The delegation was further informed that parents that have CWA feared sending their child to school because they are concerned about name calling, the security and safety of their CWA in schools and while walking long distances (in the sun) going and coming back from school and the lack of confidence in teachers and schools' abilities to keep them safe. To this effect, the delegation is strongly concerned that some CWA are not attending schools; and, due to sun exposure, CWA are extremely vulnerable to skin infections and cancer. Further, the delegation was informed that some CWA are taught in braille which, in the delegation's view is not always appropriate given that a majority of CWA have low vision to cope using large print and low vision devices. Hence, the delegation is concerned that some CWA are not receiving adequate support required for their condition to effectively access their right to education. In addition to this, the delegation is strongly concerned that schools are poorly built in rural and remote areas and some classrooms do not have roofs, which is highly exposing CWA to the sun, and as a result, to a high risk of developing skin cancer. Further to this, the delegation is concerned that CWA struggle to overcome several barriers that hinder them from effectively accessing their right to education including fear of attacks; bullying; the challenges in accessing adequate assistive devices which are affecting their school enrolment and attendance as well as their educational outcomes.

38. Additionally, the delegation was informed that CWA are learning in resources centers or mainstream schools and girls with albinism who attend secondary schools are accommodated in hostels. However, the delegation is strongly concerned that the lack of reasonable accommodation in classrooms including the lack of adequate teaching and learning materials for learners with albinism, limited space and inadequate funding to accommodate learners with albinism in resource centres that have boarding facilities for students with albinism are

among the barriers that are hindering CWA from fully enjoying their right to education. The delegation notes that CWA have the same right as every child to quality education with reasonable accommodation to facilitate their learning. However, the delegation stresses that the font size in the textbooks used in class is too small for them to read comfortably. Additionally, the delegation is strongly concerned that teachers, school administrators, and educational supervisors still have a limited understanding of the learning needs of learners with albinism and how they can adequately support learners with albinism. Further to this, the delegation is strongly concerned that assistive devices are not available locally and they are very expensive; and special needs teachers are not available, especially in rural and remote areas, to accommodate learners with albinism. The delegation notes that the barriers and challenges faced by CWA in accessing their right to education worsen their school experiences and educational performance, which is likely to lead them to school dropouts. The delegation further notes that CWA who do attend school still struggle to read and need visual aids to adequately participate in class.

39. Considering the challenges related to the right to education for CWA, the delegation strongly recommends the Government of Malawi to allocate sufficient financial, human and technical resources to the Ministry of Education to effectively ensure that CWA enjoy their right to education and take all appropriate measures to ensure that all educational institutions in the State Party are well equipped with the teaching aids, materials and equipment suitable to CWA free of charge to effectively address the specific needs and adequately support all learners with albinism. The delegation further recommends the Government to ensure that learners with albinism are not exposed to the sun and receive reasonable accommodation and adequate support in schools, including large-print textbooks or seating arrangements next to the blackboard, playgrounds suitable for CWA to allow them to play without being exposed to the sun, among others to facilitate the full enjoyment of their right to education. Moreover, the delegation recommends the Government to support the production and distribution of assistive devices and equipment for CWA in schools required for their condition; and ensure that learners with albinism have access to continuous and adequate healthcare information and services while in boarding schools, resources centres and hostels in particular adequate skincare information and services. The delegation further recommends the Government to promote the development of initial and continuous training for teachers on how to effectively educate, support and interact with learners with albinism; take all appropriate, reasonable and effective measures to renovate schools ; strengthen the security and safety measures to ensure the safety and security of CWA in schools and while working to and from schools including measures to ensure the safety and security of learners with albinism in boarding schools ; resource centers and hostels where they are accommodated and develop sun protection strategies to

protect CWA from sun exposure. The delegation strongly recommends the Government to promote inclusive education for learners with albinism in mainstream schools through the adoption of inclusive education policies, plans, strategy and take all appropriate measures to ensure that CWA access to pre-primary schools and alternative education programs such as vocational training and regularly conduct awareness raising campaigns in schools.

X. Access to justice

40. The delegation appreciates that the Government of Malawi adopted several measures to ensure there is the prosecution of perpetrators of children's rights violations targeting CWA through the production of a handbook for magistrates, prosecutors and investigators for handling cases of persons with albinism; capacity building and law reforms to ensure that there is efficiency and effectiveness in the administration of justice; among others. However, the delegation is strongly concerned about the delays in the administration of justice including the delays in conducting investigations at the MPS, DPP (Director of Public Prosecution) and judicial levels and the delays in concluding cases of children's rights violations targeting CWA. Further to this, the delegation is concerned that the limited human, financial and technical resources, the unavailability of suspects and witnesses who fled to neighbouring countries, the lack of adequate capacity in conducting the forensic investigation, poor coordination and lack of clarity about the referral mechanism especially between the DPP and MPS causes serious delays that negatively affect the ability of CWA to expeditiously access justice. Additionally, the delegation is concerned that legal responses, including investigation and case management of attacks and killings against CWA are very slow to adequately respond to children's rights violations. Moreover, the delegation was informed that access to justice could be very much challenging for CWA, who can time to time, face direct or indirect pressure from family members and communities to report the violations of their rights or withdraw the complaints because relatives are often the perpetrators of crimes against them. Furthermore, the delegation was told that witnesses can also be traumatized or afraid to testify due to the sensitivity of the cases or because they are close or related to the suspects. Additionally, the delegation was informed by government officials and child rights actors that restrictions on movement due to the COVID-19 pandemic made it more difficult for CWA, who were victims of children's rights violations, to report such violations to relevant authorities.

41. The delegation notes that the Government of Malawi has a duty to prevent children's rights violations targeting CWA and take all appropriate measures to ensure effective and equal enjoyment of their legal protection. The delegation further notes that access to justice for CWA requires urgent attention and

effective measures. Thus, the delegation recommends the State Party to allocate sufficient financial, human and technical resources to relevant stakeholders such as the judiciary, MPS, DPP and the Legal Aid Bureau among others and take all reasonable, appropriate and effective measures to ensure CWA expeditiously access justice. Among other measures, the delegation recommends the Government of Malawi to prioritize the investigation and prosecution of cases targeting CWA by providing adequate equipment and regular specialized training for investigators, prosecutors and magistrates to deal with the violations targeting CWA; ensure effectiveness, efficiency and expedition in tracing whoever is involved in these violations against CWA and closely collaborate with the relevant stakeholders from neighbouring countries to ensure the extradition of suspects who flee; adopt protective measures of the police, prosecutors and members of the judiciary that extend to the physical protection as well as their families to ensure the latter are able to carry out their duties without fear of intimidation, hindrance, harassment or improper interference; provide counselling services, appropriate witness and victim protection and assistance systems before, during and after the trial ; and take all appropriate measures to remove all barriers that impede CWA to access to justice including sociocultural and financial barriers (the cost of transportation to courts of law for CWA, their families, witness, etc.), among others. Further to this, the delegation recommends the government of Malawi to take all appropriate steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for CWA.

42. The delegation further recommends the Government of Malawi to provide accurate, reliable, child-friendly and albinism-sensitive information and services to CWA and their families regarding legal processes (at all phases of the administration of justice) including existing procedures to follow to access to justice in the formal justice system; information on the length of the process ; possible outcome, including effective remedies and reparations for the violation of their rights. Further to this, the delegation recommends the Government of Malawi to take all appropriate measures to ensure that CWA and their families receive adequate support and assistance including the provision of competent legal aid free of charge, especially in rural and remote areas. The delegation also recommends the government to provide public education and organize regular awareness raising and advocacy campaigns on albinism and their specific needs and services to CWA and their families, MPS, law enforcement and judicial professionals, among others ; and inform local communities about the danger of violating the rights and welfare of CWA. The delegation further recommends the Government of Malawi to identify all the challenges that are affecting the speedy and successful investigation, prosecution and conclusion of cases of offences targeting CWA and take all appropriate measures to effectively address them through the establishment of victim/survivor support, sufficient mobile courts and legal aid clinics with experienced legal

representatives specifically in rural and remote areas to ensure accessibility to courts for the victims and witnesses and establish child-friendly justice systems that provide procedural, age and gender-appropriate accommodations to facilitate the participation of CWA through all stages of the legal proceedings and ensure such systems are available, accessible and closer to CWA especially in rural and remote areas to fast track the judicial procedures ; accelerate access to justice for CWA and their families and strengthen the capacity of service providers including the police, prosecutors and members of the judiciary at the district levels and in rural and remote areas especially in forensic investigation techniques to appropriately investigate, prosecute and sentence cases of attacks against CWA and permanently end violence against CWA.

SECTION II

IMPLEMENTATION OF COMMUNICATION NO 004/COM/001/2014 SUBMITTED BY THE IHRDA AGAINST THE REPUBLIC OF MALAWI

43. The delegation appreciates that a Constitutional Amendment Bill on the definition of the child had been passed by Parliament on 14 February 2017; the President of the Republic of Malawi assented to the Bill on 2 April 2017, and the Act (No15 of 2017) was gazetted on 7 April 2017. To this effect, the delegation appreciates that in 2017, Malawi amended its Constitutional provisions in conformity with the African Children's Charter; thereby it defines a child as a person under the age of 18 as an outcome of the amicable settlement under the auspices of the ACERWC. Additionally, the delegation was informed that the Ministry of Justice, through the legislative audit, identified eight pieces of legislation that need to be amended. The delegation was further informed that a two-stage process was adopted to ensure the harmonization of all child-related laws in accordance with the Constitutional amendment on the age of a child. The delegation was told that the first stage is concerning about all non-contentious amendments that will be brought before Parliament in the form of a Statute Law (Miscellaneous Amendments) Bill from several pieces of legislation where the age of the child is being amended from sixteen years to eighteen years. The delegation was further informed that the second stage of the process is concerning the substantive amendments, with which, the major legislation requiring substantive amendments is the Penal Code.
44. Moreover, the delegation was informed that the Ministry of Justice processed the Penal Code (Amendment) Bill, which was approved by Cabinet and tabled before Parliament during the August 2022 sitting. The delegation was further informed that the Bill was referred to the Legal Affairs Committee of Parliament and the latter will present its report before the entire Parliament during the November 2022 sitting; hence, the delegation was informed that the Statute Law (Miscellaneous Amendments) Bill is outstanding. Further, the delegation was informed that the substantive amendments which have a direct impact on the rights of a child contained in the Penal Code (Amendment) Bill once passed, it will enhance the rights of the child in Malawi. The delegation appreciates the government's effort and commitment to implementing the amicable settlement under the auspices of the Committee. Further, the delegation recommends the Government to take all appropriate measures to ensure the effective implementation of the amicable settlement and fast-track the harmonization of all child-related laws in conformity with the constitutional amendment on the age of the child and article 2 of the African Children's Charter.

CONCLUSION AND RECOMMENDATIONS

45. The delegation from the ACERWC appreciates the measures that the Republic of Malawi has undertaken to address various challenges that CWA are facing in the State Party. The delegation further appreciates several measures that the Government of Malawi in collaboration with relevant stakeholders including CSOs and UN Agencies, among others has made to address the plight of CWA. In this regard, the delegation would like to encourage the CSOs, UN Agencies and other relevant stakeholders to collaborate with the Government in finding sustainable solutions to adequately realize the rights of CWA in the republic of Malawi. Although the delegation appreciates the efforts of the Government and other relevant stakeholders; it is still concerned about the situation of CWA in the republic of Malawi. The delegation observes from the fact-finding mission that CWA are not fully enjoying their rights and welfare as enshrined in the African Children's Charter.

46. The delegation notes that as a State Party to the African Children's Charter, the Government of Malawi should comply with its obligation under the African Children's Charter and other international and regional human rights and children's rights instruments that Malawi has ratified. The government of Malawi should also ensure that all reasonable, effective and appropriate measures are in place to effectively protect the rights and welfare of CWA in the republic of Malawi. The ACERWC's delegation would like to recommend the Government of Malawi and other relevant stakeholders the following recommendations with a view to improving the realization of children's rights and protection needs of CWA in the republic of Malawi.

Recommendations to the Government of Malawi and other relevant stakeholders:

- ✓ Develop effective albinism-specific social protection and poverty reduction programs for CWA and their families and consult CWA, their parents and representative organizations at all stages of policy development, program planning and implementation which must be supported by adequate financial and human resources to ensure their effective implementation;
- ✓ Provide medical, emotional and other support; emergency accommodation shelter for CWA, their families and witnesses and urgently establish counseling and trauma/rehabilitation centres to adequately assist CWA, their families and witnesses, who are direct or indirect victims/survivors of different forms of violence;
- ✓ Develop a comprehensive strategy to ensure systematic collection of disaggregated data on CWA based on sex, disability, geographical location,

family earning, health and parental status to inform the review and development of reasonable, appropriate and effective legislation, policies, national/district implementation and monitoring systems and effective coordination across sectors that specifically address the challenges of CWA in Malawi;

- ✓ Carry out a situational analysis on the rights and welfare of CWA through comprehensive research with CWA on the number of CWA in the country and each district, the issues that affect them (for instance, epidemiological studies on albinism) as well as the availability of services and the gaps in the provision of such services, laws and policies ; the root causes on discriminatory practices and the specific nature of violations targeting them to understand their reality and their specific challenges and needs and gather the data necessary to guide the State and consider CWA's views in the development of plans, policies and resource allocation to adequately address the issues identified based on the findings;

- ✓ Continually monitor and evaluate the impact of measures adopted and adapt such measures as required through, among other things, data collection on the number of CWA in refugee camps, foster parenting or children's homes; their health needs ; accessibility and availability of relevant services and support, and barriers in accessing basic needs and public services and ensure there are supervising and monitoring mechanisms to ensure the effective protection of all CWA;

- ✓ Develop guidance for health personnel on how to adequately support CWA and their families ; incorporate albinism into existing public health initiatives such as maternal and family support policies ; cancer prevention policies and take steps to ensure that timely and adequate healthcare information and services are available in rural and remote areas through the use of mobile clinics to carry out free skin cancer prevention, early identification and treatment (distribution of sun care products by showing CWA and their families how and when to apply the sunscreen lotion, skin care screening and treatment, ophthalmological examinations, among others) and provide adaptive and assistive devices to all CWA;

- ✓ Equip traditional birth attendants and village health teams, midwives and other healthcare professionals with responsibility for childbirth and early childhood care with knowledge about albinism ; provide counseling and adequate information to families with newborns with albinism about how to care for their child and ensure that family and caregivers are provided with adequate information and support upon the birth of a child with albinism ;

- ✓ Provide tax exemptions on imported products and other subsidies to ensure the provision of sunscreen lotion, sunglasses with high UV protection and low vision aids, regular optometric services, eye care, or eye surgery, among others for CWA free of charge;
- ✓ Develop national, regional and global collaboration platforms to promote and replicate best practices in a coherent, strategic and effective manner;
- ✓ Create child- and albinism-friendly booklets on albinism to CWA, their families and local communities in accessible formats and local languages to inform CWA, parents/caregivers and local communities on the rights of CWA and how to care for their children;
- ✓ Carry out research and collect data to understand the challenges of CWA to effectively access their right to education ; develop booklet/guide/guidelines on reasonable accommodation for teachers which provides information on how to adequately assist CWA in classroom ; provide schools with relevant resources to adequately assist CWA, including textbooks in large print, or printers to provide large-print material, as well as assistive and adaptive devices ; ensure CWA can access early childhood care and education and adopt measures to assist CWA to transition from school to the workforce;
- ✓ Support financially and technically CSOs representing CWA and persons with albinism and ensure transparency and active participation of CWA and their representative organizations in resource mobilization, allocation and expenditure;
- ✓ Undertake justice needs assessment and take all appropriate measures to ensure effective law enforcement in response to attacks and violations against CWA through comprehensive investigations and identification of the black market targeting CWA inside and outside Malawi; cross-border cooperation; strong partnership and coherent coordination mechanisms to provide a regional response at the SADC level;
- ✓ Develop national guidelines on reasonable accommodation measures for CWA and prioritize the best interests of the individual child at all times and invest in high-quality and free services that prevent and respond to the challenges of CWA at the national and district levels;
- ✓ The delegation notes that CWA are not a homogenous group and recommends the government to take all appropriate measures to respond to children's diversities and experiences from different forms of intersectional discrimination

and other forms of violence in the State Party and implement the principle of reasonable accommodation in all facets of life for CWA;

- ✓ -Develop a comprehensive strategy that prioritizes the development and implementation of preventive measures and sustainable interventions at national and district levels to prevent different forms of abuse and violence against CWA;
- ✓ Ensure mandatory registration of births and deaths of CWA and take all appropriate measures to ensure all CWA have the birth certificates to access public services, safe reintegration for CWA who have been displaced and promote the positive images of persons with albinism as role models;
- ✓ Closely collaborate with the CSOs and UN Agencies to renew the NAP on persons with albinism by incorporating emerging issues such as COVID-19 pandemic and ensure strong partnership, effective coordination and execution of the NAP and hold duty bearer accountable at the national and district levels;
- ✓ Finance and support the creation of a local sunscreen production for CWA in collaboration with medical practitioners and other relevant stakeholders;
- ✓ Continue monitoring the implementation of the rights of CWA and timely submit the State Party and alternative/complementary reports to the ACERWC by providing information on the situation of CWA, the measures that have been undertaken including good practices and challenges to ensure the protection and promotion of the rights and welfare of CWA;
- ✓ Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa;
- ✓ Closely collaborate with MHRC, UN Agencies, CSOs and other relevant stakeholders to effectively implement the amicable settlement on Communication No 004/Com/001/2014 submitted by the IHRDA against the Republic of Malawi under the auspices of the Committee.