**ADVANCE QUESTIONS TO MALAWI (SECOND BATCH)**

**LIECHTENSTEIN**

* **What steps has Malawi taken to join the Code of Conduct regarding Security Council action against genocide, crimes against humanity or war crimes, as elaborated by the Accountability, Coherence and Transparency Group (ACT)?**
  1. The Government of Malawi is primarily guided by the Constitution of the Republic of Malawi, which is supreme to any other law. The Constitution clearly prohibits all acts of genocide and sets to prevent and punish all such crimes.
  2. Further to this, Malawi has ratified several key international law instruments relevant to atrocity crimes including; Geneva Conventions (I-IV), Additional Protocol I to the Geneva Conventions, Additional Protocol II to the Geneva Conventions, Rome Statute of the ICC and the Compulsory Jurisdiction of the ICJ.
  3. At the moment, Malawi is having consultations at the highest level possible in order to support the Code of Conduct regarding Security Council action against genocide, crimes against humanity or war crimes as elaborated by the ACT.
* **Liechtenstein recognizes Malawi’s commitment to international criminal justice, as evidenced by its ratification of the Rome Statute of the International Criminal Court (ICC).**
* **What steps has Malawi taken to ratify the Kampala Amendments to the Rome Statute on the crime of aggression?**

1. Ratification of the Kampala Amendments is currently at an advanced stage in accordance with the Constitution of the Republic of Malawi.

* **What steps has Malawi taken towards the abolition of the death penalty?**

1. The response is the same as paragraph 44 to the question of the United Kingdom of Great Britain and Northern Ireland.

* **What steps has Malawi taken to ratify the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime?**

1. Malawi acceded to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime on 17 March, 2005.

**BELGIUM**

* **Is the government of Malawi considering ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty?**

1. The response is the same as paragraph 44 to the question by the United Kingdom of Great Britain and Northern Ireland.

* **Will the government of Malawi consider decriminalizing same-sex relations, and how does it plan to prevent discrimination and acts of harassment and violence against persons to be perceived lesbian, gay, bisexual, transgender and intersex as well as their families?**

1. The response is the same as paragraph 34 to the question by the United States of America.

* **Belgium notes the existence of the Gender Equality Act Implementation and Monitoring Plan (2016-20) and the focus on gender in education. What efforts did the government of Malawi undertake in order to guarantee the right to education for adolescent girls and underage mothers?**

1. Government of Malawi has taken a number of steps to guarantee the right to education for adolescent girls. For a detailed response, please refer to paragraphs 11 to 13 of the replies to first batch of questions.

* **How is the government of Malawi addressing the recommendation of the Committee on the Elimination of Discrimination against Women (CEDAW) to effectively implement the existing legal provisions prohibiting harmful practices, to punish perpetrators, and to give victims access to effective remedies?**

1. Perpetrators of harmful cultural practices are being prosecuted. In November, 2016, there was a landmark case in which an HIV positive man was accused of having unprotected sex with over 100 newly bereaved widows in harmful cultural practice called "widow cleansing". He was charged with indulging in harmful cultural practices and an attempt to commit the same offence contrary to Section 5 sub-sections 1 and 2 of the Gender Equality Act. He was sentenced to 24 months in prison with hard labour.
2. Furthermore, chiefs have implemented by-laws which proscribe any harmful practices. Any person who practices harmful practices or encourage another person to engage in harmful practices is fined.
3. Victims of harmful practices are provided access to psycho-social support, through One Stop Centres. The centres also provide counselling and medical services. About 18 One Stop Centres are operational in all major hospital and district hospitals. In addition, psycho-social support is also provided at the community level through Mother Groups.

* **Belgium commends Malawi for the peaceful transfer of power after the re-run of elections. What measures is the government of Malawi taking or planning to take in order to guarantee the safety of human rights defenders, journalists and civil society organizations and preclude acts of intimidation or incitement of violence against them?**

1. Unfortunately, during the 2019 demonstrations a number of human rights defenders were intimidated. However, Malawi reaffirms its commitment to allow human rights defenders to do their work safely. Any human rights defender who is intimidated or whose life is threatened can report to the Malawi Police Service who can provide protection to the human rights defender, in addition to investigating the complaint.

**URUGUAY**

* **Following the recommendation submitted by Uruguay in the second cycle of the UPR which was accepted by Malawi, additional information would be appreciated on the actions that have been taken to ensure effective access to justice for victims of gender-based violence.**

1. Victims of Gender-Based Violence (GBV) who require legal representation to pursue a case of GBV, if indigent, can be assisted by the Legal Aid Bureau. The Legal Aid Bureau is currently operating in 8 districts. Plans are underway to open district offices 5 more districts. Progressively the Government of Malawi intends to have a Legal Aid Bureau office in every district.
2. Furthermore, several Civil Society Organisations provide free legal aid services to women. Notably Women and Law in Southern Africa (WILSA), Women Legal Resources Centre (WOLREC), the Human Rights Resource Centre, Women Lawyers Association (WLA) and Women Judges and Magistrate Association (WOJAM). In addition, through the access to justice project under the Justice and Accountability (Chilungamo) Programme, the Paralegal Advisory Services Institute (PASI) recruited local volunteers as village mediators who support women vindicate their rights.
3. In terms of the courts hearing GBV bases, Magistrates conduct mobile courts to ensure that women in rural areas have access to courts in remote areas.

**CANADA**

* **Could Malawi please elaborate on how the newly elected government plans to tackle the problem of child, early and forced marriage?**

1. The newly elected Government will continue to implement the current policy aimed at ending child and forced marriages, namely the National Strategy on Ending Child Marriages (2018-2020). The Plan is tackling the key drivers of child marriage by seeking to improve girls’ economic standing through increased economic opportunities, and initiating incentive-based programs to support girls to enrol for school, reduce the dropout rate and keep them in school through to secondary level.
2. Furthermore, the Ministry of Gender, Children and Community Development is implementing various programmes in collaboration with CSOs and international cooperating partners to end child marriages. Sensitization campaigns are also being run through radio programmes. Chiefs are also crucial players in the fight against child marriages. Currently, by-laws are being implemented in districts which proscribe child marriages. Any chief found encouraging/ facilitating child marriages is subjected to sanctions.

**PORTUGAL on behalf of the Group of Friends on NMIRF’s**

* **Could the State-under-review describe its national mechanism or process responsible for coordinating the implementation of accepted UPR recommendations and the monitoring of progress and impact?**

1. Implementation of accepted UPR recommendations is coordinated by the Ministry of Justice through the National Task Force which comprises major Ministries, Departments and Agencies, CSOs and Academia. The Ministry of Justice holds quarterly working sessions where the members of the Task Force provide updates on the implementation of UPR recommendations.

* **Has the State-under-review established a dedicated ‘national mechanism for implementation, reporting and follow-up’ (NMIRF) covering UPR recommendations, but also recommendations/observations generated by the UN human rights Treaty Bodies, the Special Procedures and relevant regional mechanisms, which, *inter alia*, clusters all the above, manages them in national databases, coordinates implementation actions across government, monitors progress and impact, and then streamline reporting procedures back to the UN? If so, could the State-under-review briefly share its experience on creating such mechanism, including challenges faced and lessons learnt, as well as any plans or needs to strengthen the NMIRF in the future?**

1. Currently, the Human Rights Section in the Ministry of Justice acts as Malawi’s NMIRF. There is need ofcourse to capacitate the Section further and we have already reached out to the UN and Commonwealth Secretariat for technical assistance..