



Recent Status & Progress of Article 14 of the Maputo Protocol in Malawi

When did Malawi sign and ratify the Maputo Protocol, and what impact has it had on women's rights?

The Government of Malawi Ratified and deposited the instruments on 20/05/2005 and 29/06/2005 respectively. Since then, Malawi has moved to domesticate the protocol through formulation, review and enactment of several gender related policies and Laws such as: Prevention of Domestic Violence Act, Marriage (2006), Deceased Estate (Wills Inheritance and Protection Act), 2011, Gender Equality Act (2013), Marriage, Divorce and Family Relations Act (2015). Some policies, Strategies and programmes include among others; • National Gender Policy • The Readmission Policy for Teen Mothers • Gender Mainstreaming Guidelines in the transport sector • Gender and HIV and AIDS Strategy Guidelines on Gender Mainstreaming • National GBV Plan of Action • Generic Guidelines for Mainstreaming Gender in the Programme Cycle and Policies • Gender in Public Budgeting: Guidelines and Checklist • National Strategy for Adolescent Girls and Young Women • Gender and Youth Strategy • National Sexual Reproductive Health and Rights Policy • Public health policy • Youth Friendly Health Services Strategy

Malawi Vision 2063: Enabler 5: Gender: "Gender inequalities shall be addressed to improve the socioeconomic status of people in Malawi by accelerating the pace of inclusive wealth creation policies"

Since 2020, what has been done to encourage the state to implement the commitments made in the Maputo Protocol?

Advocacy support to civil society organizations to train state parties on the implementation and use of the MP to hold states accountable, Training of community and grassroots' networks on advocacy for policy implementation and law enforcement; Mobilization of traditional leaders, religious leaders and other opinion leaders to advocate for the implementation and domestication of article 14 of the Maputo Protocol. The vibrant women's movement represents another key strength that also contributes to enforcing the progressive legislations described above. For instance, the Women's Manifesto (2018) lays out an advocacy agenda on the fulfilment of women's rights, coordinated by diverse women's rights organisations (WROs) such as; the Women's Manifesto Movement, NGO Gender Coordination Network, Malawi Human Rights Resource Centre, Coalition for the Prevention of Unsafe Abortion.

How do ratified policies like the Maputo Protocol affect domestic law in Malawi?

Over the past two decades there has been extraordinary growth in international, regional and national efforts to address gender inequalities in Africa. Ratification of different treaties affect domestic law in that through domestication of these international policies countries are able to ensure that the rights of every woman and girl are protected. Domestication of international instruments like Maputo Protocol facilitates policy and law reforms at national level. Advocacy by CSOs and other stakeholders for policy and law reforms becomes easier at the same time helps in holding government accountable on its obligations as a State party. Likewise, at the time of state party reporting and during its subsequent reviews of the same, Malawi government is easily called upon to account based on its obligations.

This factsheet looks at Safe Abortion under Article 14 of the Maputo Protocol

In 2005, the Malawi Government became one of the first 15 countries to ratify the Maputo Protocol and soon after the protocol came into force. Article 14 of the protocol is very clear on Sexual Reproductive Health and Rights that includes safe abortion but regardless of the speedy ratification of the protocol, the Malawi Government remains non-committal on putting in place a liberalized abortion law. While Malawi may be progressive on the implementation of other articles of the protocol but does not seem providing hope on abortion related problems because there no specific law to address challenges that women face with the after effects of unsafe abortion that can easily be resolved if medical abortion properly legislated.





What is the current state of Safe Abortion in Malawi? What progress has been made/what are the challenges in this area?

The country's abortion law, dating from British colonial rule, allows induced abortion only to save a woman's life. Nevertheless, induced abortions are common. A recent nationally representative survey estimated that there were approximately 141,044 induced abortions in Malawi in 2015. Despite the legal restrictions, medical professionals in the private sector and traditional healers administer abortions, and many women self-induce, often with unsafe methods. An estimated 51,693 abortions result in complications requiring post-abortion care. Unsafe abortion is among the top five direct causes of maternal deaths, contributing to nearly 18% of maternal mortality. Though women or providers are rarely, if ever, prosecuted for inducing abortions, traditional religious values and societal norms underpin stigmatized and discriminatory attitudes toward those who have abortions (Political Priority for Abortion Law Reform in Malawi, June 2018).

What is the Government of Malawi doing to realize Safe Abortion, including legislation, policy and other methods?

Legislation measures

The public health burden of unsafe abortion in Malawi became the basis of a review of abortion law and policy, which resulted in a draft Termination of Pregnancy (ToP) bill, released in July 2015. Since then, the ToP bill awaits debate in Parliament, and if approved, it will expand the grounds for legal abortion to include threats to the woman's physical or mental health; pregnancy resulting from rape, incest, or defilement; and severe fetal malformation. Its adoption, however, is surrounded by uncertainty due to an opposition based on religious and cultural values, as well as a lack of popular public support for change.

Policies:

Sexual Reproductive Health policy, Post Abortion Policy guidelines

Institutional measures

Comprehensive Abortion care services provided in all health facilities though expensive for the Government; Maternal health services provided at mission health facilities covered by Government; creation of youth friendly services in most health facilities

Administrative measures

National health Delivery Guidelines

Standards and Guidelines for Comprehensive Abortion Care

What can I do if I am not able to access my right to Safe Abortion?

- Lobby members of Parliament in my area to pass and enact the Termination of Pregnancy bill into law
- Raise awareness and mobilize people in my community to advocate for safe abortion
- Mobilize traditional and faith leaders as gate keepers to advocate for safe abortion by engaging their communities
- Support abortion legal litigation
- Commit to the change that I want to see in my community and country

Malawi Human Rights Resource Centre (MHRRC)

MHRRC is a local human Rights organization established in 1997 with a mission to promote a Sustainable human rights Culture in Malawi by working with Civil Society Organizations and other Institutions through capacity building, resource Provision, networking and research. MHRRC strategic Focus areas are as follows: Participation in and demand for effective governance; HIV and AIDS, Gender Based Violence (GBV) Sexual and Reproductive Health Rights; Intensive and Extensive interventions; supporting national level advocacy and lobbying efforts for NSAs and CSOs; and Institutionalized Collaboration.

MHRRC APPROACH

a) Strengthen social movements, networks and civil society organizations that mobilize people to pursue their rights and participate in decisions that affect their lives; b) Form strategic alliances with civil society organizations, academic institutions, public institutions, private institutions, and international agencies so that we can better support poor and marginalized sections of society such as women, girls, persons with disabilities, PLHIV, share expertise and increase our impact as a resource center; c) Build solidarity by ensuring that our work always links people's experiences in local communities with decision making structures at all levels, and by connecting our donor partners with the experience of the people we serve; and, d) Develop a platform for evidence based advocacy by collecting relevant research materials and conducting research to inform advocacy programs for human rights focused NSAs, CSOs and NGOs

