

# POLICY BRIEF

## TARGETED ADVOCACY IS KEY TO PROTECT WOMEN & GIRLS' RIGHTS

FEMALE GENITAL MUTILATION | EARLY & CHILD MARRIAGES | SAFE ABORTION



MALAWI



The African Women's  
Development and  
Communication Network



Sida



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# HIGHLIGHTS

## FEMALE GENITAL MUTILATION

- There are no national statistics on FGM in Malawi but there are reports of the practise occurring in southern regions of the country.
- Reports from Malawi indicate that FGM is viewed as a rite of passage within some communities however the type of cutting is unknown.

## EARLY AND CHILD MARRIAGE

- Malawi is one of the top ten countries with the highest rates of early marriage in the world, where over 50% of girls in Malawi are married by their 18th birthday compared to the regional average in sub-Saharan Africa of 37%.
- There is high prevalence of child marriages in the central region (57%), followed by the northern region (50%) and southern region (44%).
- Women who are between the ages of 20–24 and living in rural areas are almost twice as likely to be married before age of 18 than their urban counterparts.
- Furthermore, 66% of women aged 20–24 with no education and 62% with primary education are married or in a union at age of 18, compared to only 16% of women with secondary education or higher (UNFPA 2012).

## ACCESS TO SAFE ABORTION

- 7,4% post-abortion care patients are between 12-17 years of age.
- 42.6% post-abortion care patients are were between 18-24 years of age.
- Unsafe abortion is the second leading cause of pregnancy related mortality in Malawi, accounting for approximately 18% of all maternal deaths.
- Voluntary abortion is illegal in Malawi. An abortion can only be legally induced when the life of the expectant mother is in Danger
- Legal induced abortion occurs at the discretion of obstetric specialists.
- Two independent obstetricians must agree that an abortion is necessary in order for one to be approved.
- All approved abortions must be reported to the authorities.

# SYNOPSIS

**T**his policy brief builds on evidence from the review of key legal, policy and programmatic efforts for ending early child and forced marriages, Female Genital Mutilation (FGM) and promoting access to abortion services. Malawi has an average of 50% prevalence of child marriages. The issues focused on in this policy brief are serious common practices that violate women and girls' human rights. To redress the three vices concerted policy reforms through strategic advocacy and community level social behaviour change communication efforts are critical for the promotion of comprehensive Sexual Reproductive Health Rights (SRHR).


The impact of COVID-19 is explored to determine any impact on promoting or preventing the harmful practices, un/under reporting and subsequently propelling the continuation of child marriages, female genital mutilation prevention and limited access to safe abortion services in Malawi. This paper will contribute to achieving major advocacy priorities in the Strategic Plan for the African Women's Development and Communication Network (FEMNET) Strategic Plan (2020-2029), and the priorities of the Swedish International Development Cooperation Agency (SIDA).

2022 policy  
brief



# BACKGROUND

## FEMALE GENITAL MUTILATION



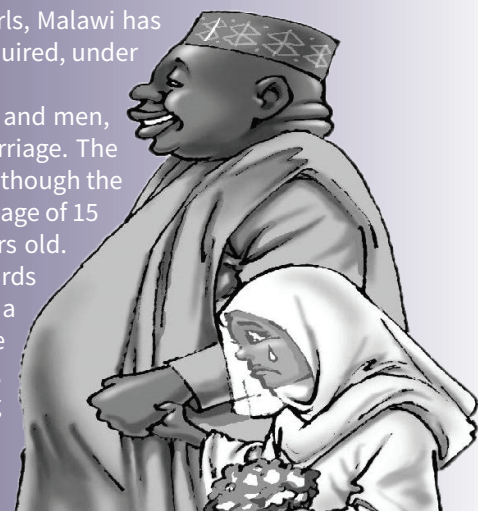
Female Genital Mutilation (FGM) includes all procedures that intentionally alter or injure female genital organs for non-medical reasons. However, there are no national statistics on FGM in Malawi but there are reports of the practise occurring in southern regions of the country. Reports from Malawi indicate that FGM is viewed as a rite of passage within some communities however the type of cutting is unknown.

## EARLY AND CHILD MARRIAGES

Early marriage—which is also referred to as child marriage—refers to marriages that occur when one or both of the spouses are below the age of 18. There is a dramatically high proportion of girls who are already in marriage by the age of 18 years in Malawi. Early, child and forced marriages have damaging consequences for young women and their families, as noted by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) (2014). These include higher than average maternal morbidity and mortality rates; higher infant mortality among their children; incapacity to responsibly raise their children to be productive citizens; higher rates of school dropout/limited education; lack of personal and economic autonomy; limited participation in development; limited decision-making in relation to their own lives; increased risk of domestic violence and HIV; and severe limitations in the enjoyment of the right to freedom of movement.

Malawi is in the top ten countries with highest rates of early marriage in the world, where over 50% of girls in Malawi are married by their 18th birthday, (UNFPA 2012) compared to the regional average in sub-Saharan Africa of 37%. While early marriage is common across Malawi, its prevalence is highest in the central region (57%), followed by the northern region (50%) and southern region (44%). Women aged 20–24 and living in rural areas are almost twice as likely to be married before age 18 than their urban counterparts. Furthermore, 66% of women aged 20–24 with no education and 62% with primary education are married or in a union at age 18, compared to only 16% of women with secondary education or higher (UNFPA 2012). Despite the physical harm to end the persistent discrimination against young girls, Malawi has made little progress towards ending the practice of early marriage. While it is required, under Section 13(a) of the Constitution, to progressively adopt and implement policies and legislation aimed at ensuring equality between women and men, Malawi continues to fail to adequately address the high prevalence of early marriage. The Constitution allows marriage with parental consent as early as age 15.<sup>1</sup> Further, although the Constitution requires the State to “discourage” marriages where one is under the age of 15 years, it does not expressly prescribe marriages between persons under 15 years old. This is in direct contradiction to international and regional human rights standards that set the minimum age of marriage to be 18 without exceptions<sup>2</sup>. In 2006, a Marriage, Divorce and Family Relations Bill which proposed that the minimum age of marriage be raised to 18 was developed (Human Rights Watch 2014). However, even though the President had, in 2012, issued a presidential directive ordering the Bill be presented to the parliament, this directive is yet to be carried out.

Despite the physical harm to end the persistent discrimination against young girls, Malawi has made little progress towards ending the practice of early marriage. While it is required, under Section 13(a) of the Constitution, to progressively adopt and implement policies and legislation aimed at ensuring equality between women and men, Malawi continues to fail to adequately address the high prevalence of early marriage. The Constitution allows marriage with parental consent as early as age 15. Further, although the Constitution requires the State to “discourage” marriages where one is under the age of 15 years, it does not expressly prescribe marriages between persons under 15 years old. This is in direct contradiction to international and regional human rights standards that set the minimum age of marriage to be 18 without exceptions. In 2006, a Marriage, Divorce and Family Relations Bill which proposed that the minimum age of marriage be raised to 18 was developed (Human Rights Watch 2014). However, even though the President had, in 2012, issued a presidential directive ordering the Bill be presented to the parliament, this directive is yet to be carried out.



## ACCESS TO SAFE ABORTION

Malawi is one of many African countries who do not allow voluntary abortion. Abortion is allowed for medical reason and under approved circumstances. For this reason, the country has a higher rate of unsafe abortions. This situation is not unique to Malawi - 98% of unsafe abortions occur in the developing world. In addition, 60% of unsafe abortions in Africa occur among young women. The risk of death from abortion is highest in Africa (650:100,000 versus 10:100,000 in the developed world), and 46% of these deaths are among women under 24 years of age (Levandowski et. al., 2012). In Malawi, however, the high rate of unsafe abortion stems from a number of key underlying factors, including early sexual activities and low contraceptive uptake.

Regardless of high Knowledge of contraception among women (97.9%) and men (98.6%) in the 15-49 age group, the unmet need is high. Among sexually active unmarried women aged 15-19, 50.2% have ever used a method of contraception. However, having ever used contraception is not an indicator of consistent use of contraceptives. At the same time there are structural and cultural barriers to contraceptive use, for example, unavailability of appropriate contraceptives at clinics; attitudes of health workers to young women seeking contraception; beliefs that contraception should only be used after first pregnancy; beliefs that contraception causes infertility; and beliefs that husbands/boyfriends are the ones who make decisions on contraception.

Unsafe abortion is the second leading cause of pregnancy related mortality in Malawi, accounting for approximately 18% of all maternal deaths. These unsafe abortions also result in other long term complications including infertility. Although post-abortion care is available, women fear judgment and being reported to the authorities and consequently do not seek post-abortion care. In a policy discussion forum with policy makers, health practitioners, and civil society organisations, medical officials expressed their frustration at the unnecessary deaths. They also highlighted the costs associated with post abortion care, with one official indicating that as much as 350 million Malawi Kwacha could be saved annually if women had access to safer abortions.

Since abortion is for exceptional only there are also limited services for post abortion care. However, to help victims of unsafe abortion and to avoid unsafe abortion completely the nation should allow voluntary abortion and increase access to quality post-abortion care (PAC). It is critical for Malawi to prevent maternal mortality and morbidity as a result of unsafe abortion<sup>3</sup>. Although, in 2003, the Malawi Reproductive Health Unit developed a National Post Abortion Care Strategy that planned to increase the number of public facilities that provide the service, access to quality PAC remains inadequate. In order to provide effective PAC, trained providers need constant access to the critical tools, which many of the facilities in Malawi lack. A 2011 research revealed that the manual vacuum aspirations (MVA)—the recommended method by the government’s Standard Equipment List to treat incomplete abortion—was not available in many of the facilities visited for the research. Even when available, they were worn or rusted, or locked away to prevent them from being used for inducing an abortion. Additional barriers to PAC include lack of staff resulting in delays in provision of care, and prohibitive costs; the median cost for a simple case is about \$16 and more complicated cases involve higher costs.

A study of post-abortion care patients found that 7.4% were between 12-17 years of age, while 42.6% were between 18-24 years of age (Munthali et. al, 2004). Furthermore, abortion rates in Malawi are significantly higher (38:1000) than the global average (29:1000). Self-induced abortions are also indicative of the stigma around young women’s sexuality, which is likely to impede access to health services.



# POLICY & LEGAL FRAMEWORK

## FGM

There are no national statistics on FFM in Malawi but there are reports of the practise occurring in southern regions of the country. Reports from Malawi indicate that FGM is viewed as a rite of passage within some communities however the type of cutting is unknown. The Ministry of Health developed an Essential Health Package in 2001 consisting of 11 cost effective interventions responding to Malawi's burden of disease. Although the package included reproductive health, treatment of abortion complications and family planning, it was resource rather than need-driven, and thus was never expected to achieve the Millennium Development Goals (MDGs). However, it became the vehicle for sector-wide funding for health from several international agencies. Malawi has an international and regional mandate to address child, early and forced Marriages. To ensure its commitment, Malawi has ratified important treaties which include but not limited to:

- Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).
- Convention on the Rights of the Child (CRC).
- the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, Southern African Development Committee on Gender and Development Protocol.
- Malawi also subscribes to the Universal Periodic Review (UPR) process.

## EARLY AND CHILD MARRIAGES

The relationship between formal law and customary law in Malawi is clear in that formal law has the capacity to invalidate and declare as illegal any other law that is harmful. Thus the Constitution only promotes laws (including religious and customary) that are compatible with Constitutional provisions, principles and values <sup>4</sup>. Furthermore, harmful practices (including cultural and religious) are specifically outlawed by the Gender Equality Act No. 3 of 2013, and the Child Care, Justice and Protection Act No. 22 of 2010. Apart from the differences in how customary, religious and civil marriages are celebrated, the Marriage, Divorce and Family Relations Act No. 4 of 2015 has unified formal law and customary/religious law by prescribing only one law which applies to all forms of marriage in Malawi.

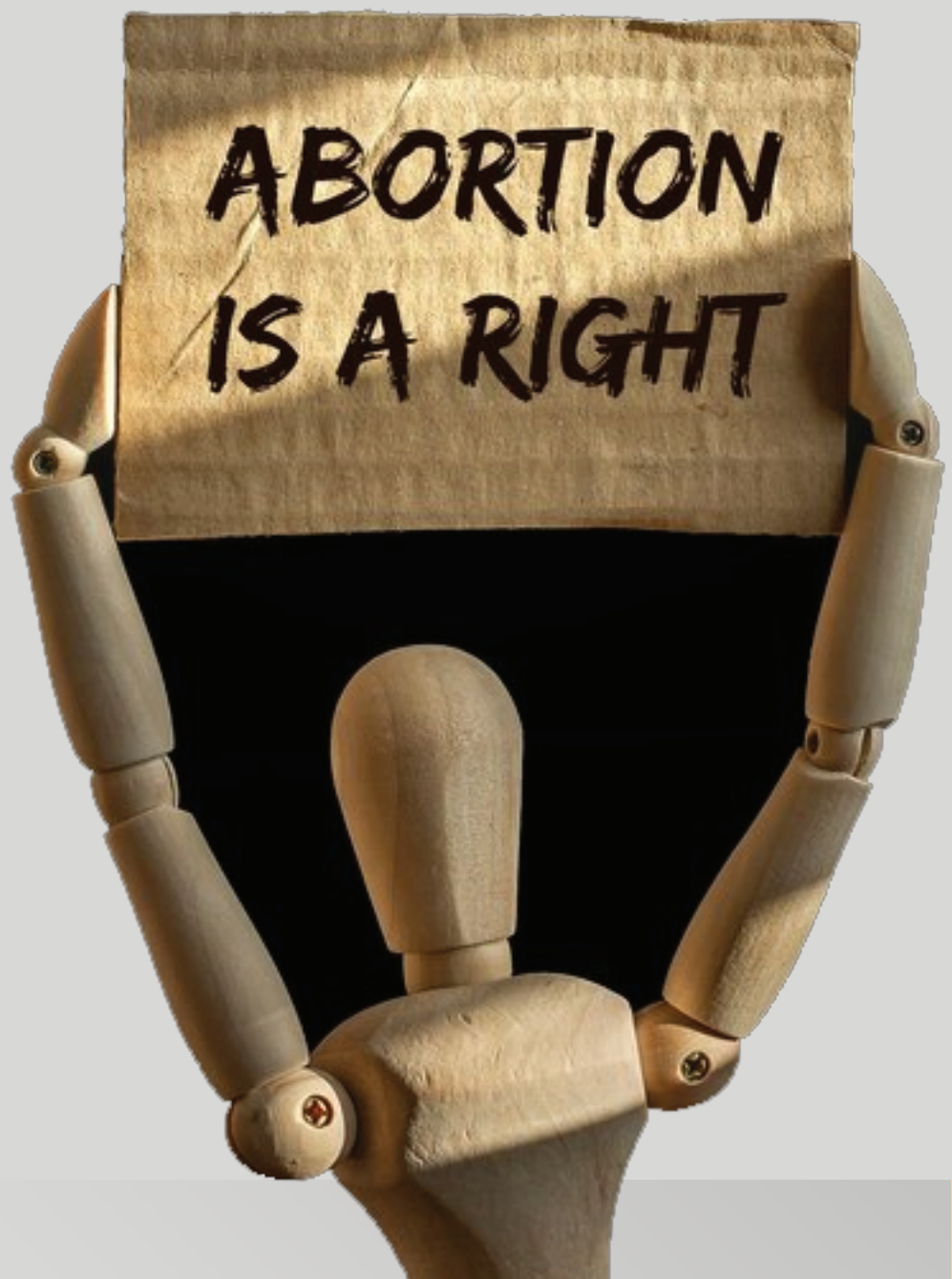
Malawi has ratified all key international and regional human rights frameworks that uphold the minimum age of marriage of 18 years. Through the enactment of the Marriage, Divorce and Family Relations Act No. 4 of 2015, Malawi has one law that governs all forms of marriage, and which fixes the minimum age for marriage at 18 for both boys and girls. However, the minimum age of marriage under the new marriage law is not absolute, since the Constitution of the Republic of Malawi (1994) allows those between 15 and 18 years to get married with parental consent, and only discourages marriages for those aged below 15 years. Unless these Constitutional amendments are immediately amended, the new marriage law will lack authority, since parents or guardians who want to practice child marriage will use the Constitution to do so.

CHILD  
NOT  
BRIDE

## ACCESS TO SAFE ABORTION

Malawi's current law regulating abortion, a vestige of the antiquated British Offences against the Person Act 1861, imposed under British rule (1891–1964), allows abortion only for preservation of a woman's life. In practice, the endorsement of two independent obstetricians is required before abortion can be performed, and spousal consent is necessary<sup>6</sup>. According to the law, any attempt to procure an abortion is punishable by 7–14 years imprisonment. Many African countries inherited similar restrictive colonial laws regarding abortion. Since the International Conference on Population and Development in Cairo (1994), however, a number have initiated or enacted legal reform, with varying success in establishing safe abortion services<sup>7</sup>.

Furthermore, there is a pervasive lack of awareness of the sole exception to the ban on abortion. A 2011 research found that, in Malawi, abortion services to save a woman's life are usually provided on the discretion of health care providers, are rare, and only available at the tertiary health care level<sup>8</sup>. This study also found that most health providers refuse to provide life-saving abortion out of fear of risking providing an “illegal” one<sup>9</sup>. Consequently, many women rely on untrained providers, traditional healers or resort to self-induced methods of abortion, risking their lives and health<sup>10</sup>. Due to these misconceptions and fear of prosecution, there are very few recorded cases of legal abortions.



# CAMPAIGNS

Policy advocacy and community outreach campaigns should seek to influence behavioural change and promote alternatives for protecting young girls against child marriage, FGM and ensure access to abortion services in Malawi. Campaigns should be multi-pronged, focusing on legal reform, bi-lateral and multi-lateral advocacy and awareness raising efforts. The three linked issues should be addressed through:

- Robust community informed and integrated, multi-sectorial and evidence-led prevention and response efforts - to up-turn harmful social practices, promote positive social behaviour change and effect policy reforms. It is especially important to address the traditional and cultural beliefs that are driving child and early forced marriages, FGM and the lack of commitment to accessible safe abortion services.
- “Awareness Caravans” - Stakeholders from all the key relevant ministries, traditional leaders and practitioners and community leaders should collaborate in setting up “awareness caravans” to take information and services on these three linked issues, other educational and developmental opportunities, accompanied by legal experts who give relevant advice including on human rights, women and girl’s rights, gender equality, Gender Based Violence (GBV) and women’s empowerment to the far and hard to reach rural communities.
- Community dialogues - are a critical way to engage communities. Community engagement efforts should be scaled up through partnerships with civil society organizations and networks, traditional communicators, community radios, religious leaders and traditional chiefs, in order to combat all forms of gender-based violence in Malawi.
- Policy advocacy - should target law reform to align with regional and global commitments and respond to community needs.
- Collaborative and collective understanding facilitated - Social behaviour change communication strategies and programmes should be crafted with inputs from all relevant stakeholders and a strong referral system for education, services and support.
- Involve and influence local and national political and traditional leadership - to openly denounce the harmful practices and discourage silence, under-reporting and condonement.
- Advocate for a responsive justice system - and encourage effective law reform and enforcement.

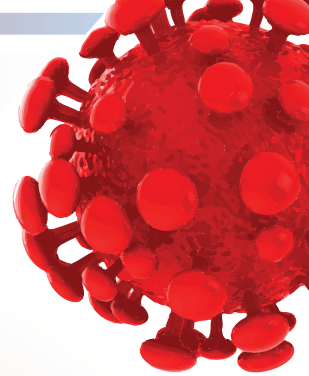
Some specific campaigns include:

Africa Union Campaign to End Child Marriages - The African Union (AU) has led the continental efforts to end child marriage and female genital mutilation (FGM) and has developed various normative frameworks for the elimination of child marriage and FGM in Africa. To improve the lives of millions of girls and foster implementation of these frameworks, the AU launched a continental Campaign to End Child Marriage in Africa on 29 May 2014 <sup>11</sup>.

The research recognizes that Malawi is among countries with high child marriage prevalence rates but has become global and continental champion as a result of the demonstrable progress that has been achieved at national and community levels, backed by a high-level political commitment in the efforts to eradicate child marriage (African Union, 2020). It Takes a World to End Violence Against Children Campaign - World Vision is contributing to the organization’s global campaign, 'It Takes A World To End Violence Against Children', which aims to catalyse a global movement of people committed to keeping children safe from harm, including child marriages and female genital mutilation.

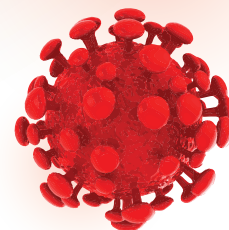
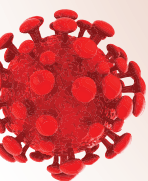
International health organizations like Population Services International (1994), Care (1998), Ipas (1999), Engender Health, and Jhpiego (1999), in addition to the Family Planning Association of Malawi registered as a national nongovernmental organization in 1999 and an affiliate of the International Planned Parenthood Federation from 2004. These organizations began to influence the government to liberalize the service delivery environment, including by creating family planning and post-abortion care programs. In 1999, Ipas, a US-based reproductive health and rights organization, provided medical supplies and equipment for manual vacuum aspiration at Queen Elizabeth Hospital in Blantyre. In 2000, Jhpiego and Engender Health provided financial and technical resources for piloting and, in 2002, for the scale-up of post-abortion care services, training, the development of standard operating procedures, and participation in policy efforts to incorporate post-abortion care as a component of reproductive health. This was done so as to reduce unsafe abortion for women and girls in Malawi <sup>12</sup>.

# COVID 19 IMPACT



The COVID-19 pandemic profoundly affects the everyday lives of girls: their physical and mental health, their education, and the economic circumstances of their families and communities. Changes like these increase the likelihood of child marriage and FGM practices which are recorded even worse, with less accessibility to abortion services.

The Government put in place a series of restrictions and social distancing measures including school and Church closures, movement. Restrictions led to a drop-in economic activity, the loss of livelihoods, and household poverty. The resulting economic insecurity limited the ability of parents to provide for their children. Worsening household income caused some adolescents living in especially difficult circumstances to view child marriage as a viable option.





# CONCLUSIONS AND RECOMMENDATIONS

The analysis of the data, trends and projections clearly demonstrate the importance of addressing child marriage, child and forced marriages and on improved services for post abortion care through large-scale, integrated, multi-sectoral and evidence based legislative review, policy making, community awareness, education and mobilisation. In particular, key actions that are needed are:

## FGM

### IMPROVING LEGISLATION

Malawi should streamline more progressive legislation so that it is not up to individuals to choose between the more progressive civil code and customary code in family law. All need to be aligned to minimise the misinterpretation of the law, effective implementation and clear accountability mechanisms and practice. Expanded legal grounds for abortion should be adopted to align with guidelines modelled World Health Organisation international medical standards and now offer safe, facility-based abortions. The Malawian government should work towards implementing and enforcing the numerous policies. It has signed and ratified many international treaties, but there is still a lot of work to do by applying those laws in practice. Malawi must ensure child marriage is a national, regional and international priority.

### RESOURCES

Developing and allocating sufficient resources for the implementation of a national plan to combat these harmful practices, including a media campaign and communication plan as well as national education programmes, is essential.

### CAPACITY BUILDING

Mid-level personnel such as nurses and midwives and registered nurses should be capacitated with the necessary skills trainings, resources and adequate facilities to provide post abortion care services.

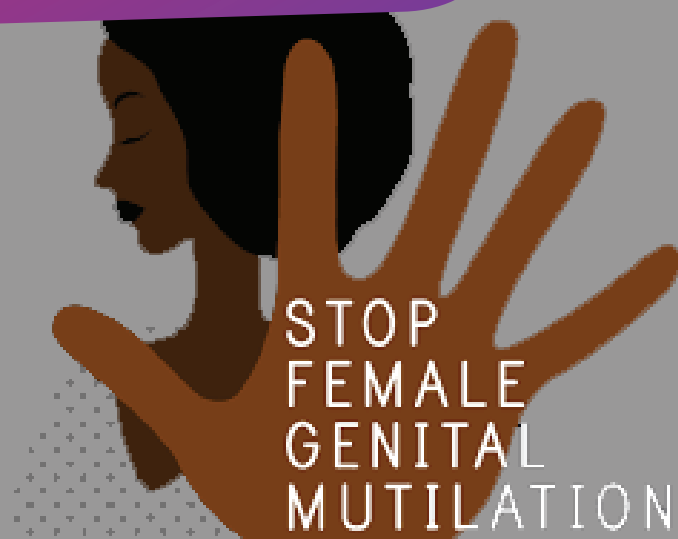
### ADVOCACY

Continued advocacy for policy action and programming on sexual and reproductive health and rights (SRHR) issues for young people, including young people living with HIV is essential in order to change the policy environment.



## MEDIA AS PLATFORM AND TOOLS FOR AWARENESS RAISING AND COMMUNITY EDUCATION

Girls need to be empowered and become aware of their rights in order to overcome this conservative culture that makes them victims of such practice. Empowering girls through education, leadership and life skills training, coaching and mentoring using role models could help reduce the practice: every girl has the right to decide on her own future, but not every girl knows this. When girls are confident in their abilities, armed with knowledge, they are able to claim their freedom and independence. Since one of the causes of child marriage are economic difficulties, providing families with livelihood opportunities like small loans could prevent child marriages that happen as a result of such financial needs. Once the financial situation of families is modest and stable, daughters would not be seen as economic burdens and parents could allow them to go to school and get an education in order to acquire skills to secure a profitable future for the family.




# REFERENCES


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- <sup>2</sup> Munthali, A., Chimbiri, A., & Zulu, E. M. (2004). Adolescent sexual and reproductive health in Malawi: A synthesis of research evidence. The Guttmacher Institute.
- <sup>3</sup> Malawi Ministry Of Health And Population Reproductive Health Unit, National Post-Abortion Care Strategy 2, 2003
- <sup>4</sup> Constitution Of The Republic Of Malawi (1994)
- <sup>5</sup> Malawi Penal Code, ch. 701, sec. 243.
- <sup>6</sup> [http://www.postabortioncare.org/strategies/MOHMal\\_PAC\\_Strategy.pdf](http://www.postabortioncare.org/strategies/MOHMal_PAC_Strategy.pdf) .  
LEVANDOWSKI ET AL., THE ESTIMATED INCIDENCE OF ABORTION IN MALAWI 4 (2011), available at <http://paa2011.princeton.edu/papers/112064> Strategic Assessment of Unsafe Abortion in Malawi, supra note
- <sup>7</sup> The Human Rights Committee 2014 Re: Supplementary Information on Malawi scheduled for review by the Human Rights Committee during its 111th Session
- <sup>8</sup> Levandowski, B. A., Kalilani-Phiri, L., Kachale, F. Awah, P., Kangaude, G., & Mhango, C. (2012). Investigating social consequences of unwanted pregnancy and unsafe abortion in Malawi: The role of stigma. *International Journal of Gynecology and Obstetrics* 118(S2), S167-S171.
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**The African Women's  
Development and  
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## Targeted Advocacy is Key To Protect Women & Girls Rights

Female genital mutilation • Early & Child marriages • Safe Abortion

Malawi

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