

Human Rights Council - 46th Session
Outcome of the Universal Periodic Review – Malawi
Action Canada for Population and Development

Action Canada makes this statement on behalf of Community Health Rights Advocacy, Female Sex Workers Association, African Sex Workers Alliance, and the Sexual Rights Initiative.

We welcome the finalization of the UPR process and commend the government of Malawi for accepting recommendations on supporting health sector strategies that are aimed at ensuring coverage for all; and continuing to strengthen mechanisms to prevent and prohibit discrimination against marginalized groups.

We regret the government's rejection of 14 recommendations relating to decriminalization of same sex conduct and 5 recommendations about the right to health and sexual and reproductive health and rights.

This is deeply upsetting considering that our government is a party to the African Charter that recognises states' obligations to respect, protect and fulfil the rights of all persons. These obligations are elaborated on by ACHPR Resolution 275 which calls on member states to ensure that all individuals regardless of their sexual orientation, gender identity and gender expression, enjoy all human rights enshrined in the African Charter.

Rejection of these recommendations represents the government's deliberate abrogation of duty to serve, defend and protect the Constitution and the rights of all.

Furthermore, the legal, policy, social and economic conditions for sex workers in Malawi remain challenging and without improvement. Despite advocacy during the past and current UPR cycle, Malawi has not received any recommendations addressing violations of sex workers' rights. The ongoing harassment, violence and precarious working conditions of sex workers have only worsened under the Covid-19 pandemic.

We reiterate our demand to government to;

1. Respect its obligations under the African Charter in accordance to Resolution 275 and ensure that the rights of all people in Malawi are respected, protected and fulfilled.
2. Decriminalise all aspects of voluntary sex work, including 'Living on the proceeds of sex work' and place a moratorium on the use of all laws that are used to harass, detain or extort money or sex from sex workers.
3. Repeal laws that criminalize LGBTI people, same sex relations, and those who work with the LGBTI community.

Thank you.