



## **BACKGROUND INFORMATION:**

August 2021, Malawi hosted the 41st SADC Heads of State Summit which conferred upon the President of the Republic, Dr. Lazarus McCathy Chakwera, the Chairship of SADC for a conventional 1 term which comes to an end this coming August 2022. On behalf of other Heads of State, President Chakwera in that capacity as the incoming Chair of SADC received Petitions contained in a Communiqué from Southern African People's solidarity Network –SAPSN Summit, which was hosted by Malawi Economic Justice Network – MEJN and a diverse Non-State Actors in Malawi. At the passage of nearly 12 months now and as preparations are at an advanced state towards instant years SAPSN Summit to be held in Kinshasa, Democratic Republic of Congo – DRC, the CSOs community in Malawi led by MEJN with technical support from IM Swedish Development Partners, in collaboration with Zambia Social Forum – ZSF, Zimbabwe Code on Corporate Governance - ZIMCOD and Foundation of Social Economic Justice – FSEJ, seek to conduct audit of progress that has been made in respect of the petitions, highlight challenges faced and carry forward critical outstanding petitions to inform the forthcoming outline of issues to be considered both by SADC Heads of State and SAPSN Summit. On Monday, July 25th 2022, a National Stakeholders Consultative Workshop was held for Malawi and the following are the highpoints of the meeting.

### **1. Natural Resources and Extractive Governance**

**Context:** In June 2016, Malawi signed an agreement with a consortium led by Bureau de Recherches Géologiques et Minières (BRGM) and partnered by GTK and the Geological Survey Organizations of Finland and South Africa to implement a Geological Mapping and Mineral Assessment for a period of 4.5 years ending June 2021. The objective of this project and €10.2 million investment made was to assist Malawi undertake a geological mapping and mining inventory was to survey on geochemical stream sediments and a document a detailed analysis of small scale mining sector for purposes of ensuring that the country has adequate Legal and Policy Frameworks for governing the mining and the extractive industry. In consequence thereof, the project made revelations that Malawi is endowed with Limestone, uranium, coal, bauxite, phosphates, graphite, granite, black granite, aquamarine, tourmaline, rubies, sapphires, rare earths. In seeking to achieve substantial economic growth, around 2009 on the sidelines of Agriculture as the back-bone of the economy, Malawi kick-started to sign many contracts with extractive multi-nationals in an anticipation to increase exports.

As of 2016 the economic outlook for Malawi was that in 10 years' time the uranium industry alone, would raise Malawi's GDP by 10 percent, account for 30 percent of exports and increase exports by 25 percent. In the recent weeks, there have been revelations on authority that Malawi has the largest rutile deposit at 1.8 billion tonnes. Reportedly, mining activities are estimated to commence during the 2025 – 2026 Financial Year

**CONCERNS:** In line with the Theme for 42nd SADC Heads of State Summit, CSOs community in Malawi has a shared view and seek to bring to the attention of the summit that Legal and Policy Framework governing mining in Malawi is not adequate and competent to strike a delicate balance between economic development and social responsibility.

**CALL TO ACTION:** The State is called upon to review all Laws and Policies to ensure that they are competent to foster social, institutional and economic development at the same time. i). Enact specific laws that will not only protect the indigenous rights and people affected by mining activities, but also places mandate on the State to coordinate and govern social corporate responsibility for multi-nationals. ii). Malawi subject the process of finance resourcing the National Mining Company that was duly registered in order to timely invest in sophisticated extractive equipments and establish laboratories and beneficiation facilities. iii). Expedite the legislative processes of creating Mining Regulatory Authority and quickly decentralize the functions to District Council to ensure that the industry is extensively sanitized systematically, supportive of the Ministry which presently is either overwhelmed or generally lacks appropriate capacity. iv). The State to promote, protect and fulfil the international commitments it made at joining the Extractive Industry Transparency Initiative – EITI in respect of establishing institutions, systems, processes and procedures that elevates revenue transparency in

## **2. Economic and Democratic Governance:**

**Context:** In March 2022, Malawi Parliament passed the National Peace and Unit Bill. CSOs community applauds the State for this great progress bearing in mind that peace and unity are pre-requisites of solid and durable socio-economic development of any country. In the same vein, human rights and freedoms enshrined in the Constitution are promoted, protected and fulfilled in an environment in which citizens are at peace with another and united to concentrate on building strong foundations for development. There are however some pockets of resistance that weighing down on this indispensable trajectory.

In terms of Fiscal Governance, CSOs community has become aware that contraction of debt has been neglected for many years giving regimes that exercise legal and political authority an avid and glaring latitude to present Loan Authorization Loans proceeds of which only finance political expediencies. In view of that, public debt whether procured locally or externally is now an area of growing interest in order to preserve value for money for all kinds of public financial resources irrespective of source.

The State is commended for creating a conducive environment for joining the Open Budget Partnership at which it made several voluntary commitments including facilitating voluntary disclosure of public information. The State is further commended for enacting the Access to Information Law, instituting a tripartite law implementing unit consisting of Ministry of Justice and Constitutional Affairs, Ministry of Information and Digitization and Malawi Human Rights Commission. Notwithstanding other challenges

CSOs community continue to face, it is commendable that State is forthcoming to ensure that CSOs are centrality for social accountability monitoring and economic governance.

a) **Human Rights: Shrinking Civic Space:** In the intervening period, the State has enacted pieces of legislation which have been publicly perceived as intruding into entitlement of fundamental rights and freedoms for citizens. The State has extensively been accused of imposing the legislations on the people without giving the citizens greater opportunity to input into the framing. Of particular mention are the Labour Relations (Amendment) Act, 2001 (No 16 of 2021), which has expressive provision considered to restrain unsatisfied workers to stage protest in the process of their collective bargain, the recently enacted NGO (Amendment) Act, 2001, (No. 12 of 2022) considered to be limiting the civic space and the Electronic Transactions and Cyber Security Act of 2016

**Police Brutality:** Police Service has heavily been criticized for heavy handedness, ruthlessness and inhumanness due to manner in which crowd control officers handle mass demonstrators and protesters against the State. It is alleged that Police continue old methods and primitive equipment for crowd control either due to low capacity or backwardness

b) **Corruption:** In terms of Good Governance, notwithstanding increasing financial resources the State has allocated and disbursed to the Anti-Corruption Bureau, the State is yet to demonstrate serious steadfastness to combat fraud and corruption which reportedly misappropriates 40% of national budget resources. This is evidenced by embarrassing statistics of comparative escalating corruption prevalence by the Transparency International and the Afro-barometer Report disseminated on April 14th, 2022.

**Press Freedom and Whistleblowing:** Arbitrary arrests of Investigative journalists and a social media commentator did not reflect well on State commitment to preserve enjoyment of rights to freedom of publishing stories and freedoms of conscience, forming an opinion and freely expressing the same on the internet

**At the Regional Level:** At SADC Level, while appreciating the intervention by SADC for sending the envoy to mediate the conflict and political upheavals in eSwatini, however, this has not been extremely condemned by SADC loudest regional voice. Lack of decisiveness is not sending a deterrence to countries in the region. Overall, SADC should not have piece-meal intervention rather collectively work as SADC to ensure there is peace and prosperity in the region.

Human rights violations in eSwatini and Lesotho, and civil war in Capo Delgado, Mozambique perpetrated by a mix of history, ethnicity, religion and compounded by abject poverty require unreserved attention of SADC Leadership and membership.

**CONCERNS AT REGIONAL LEVEL: i).** There is no information shared from SADC on its interventions Regional Economic Governance, Human Rights, Debt and Aid and Civic Space. The website is limited on information regarding. It is common knowledge that if progress is not seen at Regional level, it is unlikely that Member States would be compelled to share public information willfully and dutifully through strategic portals and websites. SADC countries continue to fall short of good governance as evidenced by

ranking on latest Open Budget Surveys. ii). There seem to be continued shrinking space with no spaces for dialogue and engagement with the Civil society. Spaces for engagement with SADC are hugely limited

**CALL TO ACTION:** i). The State give attention to accept the concerns in aforesaid legislations considered to be excessively severe during the development of Regulations. ii). The State subject to expedited schedule the adoption of SADC Protocol for engagement with Non-State Actors in line with Article 5 (2b) and (16a) and Article 23. iii). The State institutionalize harmonize working relationship amongst good governance public agencies, law enforcement agencies and prosecutorial agencies and the Court Justice System to ensure that criminal cases bordering on fraud and corruption are subjected to coordinated and speedy trial.

Only this way stands out to restore confidence in the public that corruption is the evil that requires to be expunged from amongst the societies. iv). The State is called upon to invest both human and financial resources to achieve accelerated devolution or decentralization. The State is commended for progress being realized through the GESD Project with technical and financial support from the World Bank. v). The State is called upon to continue implement Public Service Reforms including the Security Agencies to ensure that human rights and fundamental freedoms are seen to be promoted, protected and fulfilled at all times. vi). At Regional Level, the State must join hands with the rest of the community to review the relevance of SADC Tribunal in resolving disputes and conflicts amongst SADC member States and therefore push for return of this Regional Court.

**CALL TO ACTION AT REGIONAL LEVEL:** i). SAPSN should propose an accountability and collaboration mechanisms with SADC. Currently there is no measured to capture public participation in SADC processes. ii). MEJN as Secretariat for SAPSN in collaboration with IM Swedish Development Partners as strategic partner to consult Regional Secretariat ZIMCODE on how SADC has engaged civil society in respect of taking petitions included in the communique to inform agenda of different layers of decision makers in the ranks of SADC structure. iii). There is need to follow up on the status of National SADC committee as CSOs have not been involved in any meetings this far.

### **3. HUMAN CAPITAL DEVELOPMENT AND SOCIAL INCLUSION**

**Context:** Human capital development and social inclusion sub-theme is integral to SADC protocols and programmes and is pivotal to the realization of the UN SDGs by 2030. In Malawi the Malawi 2063, MIP 1, and sectoral strategies are aligned towards various international instruments including SADC protocols and the UN SDG Agenda. It is therefore critical that the upcoming SADC Summit considers the needs and priorities of this sub theme, particularly in relation to Education, Health, Agriculture, Gender Equality as well as Youth, Children, Elderly, and Persons with Disability.

- a) **Education: Status Quo:** The SADC Education Ministers' summit held in Lilongwe from 14th to 15th June 2022 deliberated on several issues affecting SADC countries with special focus on Education and Skill Development, Teacher Education and Training, Financing Education, and Digital Learning and Transformation. While there is some progress on these focus areas, most SADC countries including Malawi are lagging behind in realization of SADC protocol on Education, Training and Development as well as SDG#4. Most of the challenges affecting

access, quality, equity and management of education services require adequate financing which the recent SADC Education Ministers considered as a cross-cutting issue.

- b) **Concerns:** As CSOs we have noted that most SADC countries are failing to abide by international recommendations of allocating 6% of their GDP and 20% of their national budgets to the education sector, an issue which makes it difficult for all education sub-sectors including early childhood development (ECD), primary, secondary, teacher education, higher education, and adult education to get recommended share and ensure provision of quality and inclusive education. In addition, most of the countries heavily depend on foreign aid to finance education systems. In Malawi government provides only 4% of the GDP and 17.5% of the national budget to education. While overall the sector budget is more than 30% dependent on donors, some sub-sectors are heavily dependent especially ECD, where donors account for over 90% of the budget.

**CALL TO ACTION:** Going forward we call on SADC heads of Government to ensure that their countries explore innovative funding mechanisms to generate more resources domestically and allocate adequate funding for education of not less than 6% of the GDP and 20% of the national budget. To achieve equity and social inclusion in the sector, at least 5% of the education budget should be allocated to special needs and inclusive education, and that a minimum of 10% education budget should be allocated to ECD. Finally, government should reduce dependency on donors by increasing the tax to GDP ratio to more than 20% and exploiting proven innovative funding mechanism such as Cooperate Social Responsibility, Education Levy, Public Private Partnership, Education bonds, and Diaspora Fund.

- c) **Health:** - Whereas the State made progress to facilitate the first ever Laboratory for sequencing of Covid 19 virus, CSOs community believes SADC lost great opportunity failing to implore on World Health Organization to take heed of calls that Covid 19 Vaccination has a localized manufacturing capacity in South Africa. It is the considered view that producing the vaccination on the continent could not only have reduced the landing cost but also more importantly explained away some of myths associated with the vaccine. Access and voluntary uptake for the vaccination could have been higher than it is the case now.

d) **Gender Equality, Youth, Children, Elderly, and Persons with Disability**

**Context:** In the recent months, CSOs community has noted with profound gratitude that Malawi has made significant progress in terms of fulfilment of fundamental gender equalization expressive provision in section 11 of Gender Equality Act, towards progressive realization of equal opportunity in respect of public service appointments. However, in order to consolidate the gains, it is imperative that Malawi establishes conducive environment for increased implementation of own existing laws and policies to improve overall rating of gender balance and social inclusion. Aside from full implementation, Malawi requires to resolve how best, it can improve Treaty Reporting to Regional, Continental and International Treaty Bodies.

It is a considered view of CSOs Community in Malawi that consistent conformity to treaty reporting requirements is paramount considering that feedback in form of General Comments, Concluding Observations, Recommendations and Decisions of Committee of Experts inform detailed review of laws

and policies, programming and interventions as well as justifying and explanation for national budget allocations and virements. Further, improved reporting to Treaty Bodies is strong foundation for ensuring laws and policies are adequately harmonized on one hand while on the other hand ensure that fundamental prescriptive regulations to which Malawi made voluntary commitments on are entrenched and extensively implemented. For instance: Minimum National Budget allocation to Health, Minimum Budget allocation to Agriculture, Local Government, Free Primary Education and now the emerging Universal Health for All.

**CALL TO ACTION:** i). The State is called upon to adhere to regional and international commitments in human rights, health, education, agriculture and adopt deliberate efforts to allocate more resources towards children, youth and gender responsive social protection to ensure that these vulnerable groups are protected. ii). Accelerate the adoption of economic transformative policies such that will eliminate social discriminatory norms, inequalities and injustices affecting women and youth and persons with disabilities iii). Implementation of national development blue-print; Malawi Agenda 2063 should be aligned to SADC Legal and Policy Instruments. iv). CSOs Community and the State to harmoniously work towards development of a Portal that would generate and process statistical evidence of progress.

**CALL TO ACTION AT THE REGIONAL LEVEL:** Member States are called upon to accelerate adoption of economic transformative policies such that will eliminate social discriminatory norms, inequalities and injustices affecting women and youth and persons with disabilities.

#### **4. CLIMATE CHANGE, ENVIRONMENTAL JUSTICE AND DISASTER RISK MANAGEMENT**

**CONTEXT:** Malawi and other SADC countries continues to suffer due to climate change impacts attributed to extreme climate and weather events such as floods, droughts, heat waves and heavy winds. For instance, on average Malawi loses US\$9 million or 0.7% of gross domestic production (GDP) each year due to floods in the Shire Basin alone while droughts and dry spells cause on average about 1 percent (US\$13 million) annual GDP loss in Malawi<sup>1</sup>. The impact of Cyclone Idai in Malawi alone in March 2019 resulted in production losses to a value of about US\$ 9.96 million to the economy in 2019, equivalent to 0.13 percent of GDP<sup>2</sup>. Just recently in February 2022, Malawi was hit by Tropical Storm Ana which caused heavy flooding in about 19 districts resulting into 46 deaths, 206 injuries, 995 thousand households impacted and 153 thousand people displaced<sup>3</sup>.

These major climate sensitive disasters negatively affect national development endeavors as they have also substantial budgetary impacts resulting in additional unplanned expenditure, increased fiscal deficits and domestic borrowing and thus, raising domestic interest rates and additional inflation. The recognition of the reality of the impacts of climate change and the need for ambitious and urgent actions to curb these impacts led the United Nations to adopt the Sustainable Development Goals (SDGs) with Goal 13 urging each and every country to **“Take urgent action to combat climate change and its impacts”**.

Studies confirm that Malawi and other SADC countries are facing an energy poverty and environmental crisis. Millions of people, especially in urban setting, rely on biomass especially in font charcoal for cooking. The dependence on illegal and unsustainably produced charcoal is growing caused by the historic lack of

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<sup>1</sup> CISONNECC Working Paper: Making Climate Insurance Work for the Most Vulnerable in Malawi, July 2021

<sup>2</sup> Government of Malawi, Malawi 2019 Floods Post Disaster Needs Assessment (PDNA), 2019

<sup>3</sup> United Nations-Malawi: Tropical Storm Ana Response Flash Update No. 3 16th February 2022

available, accessible and affordable cooking and heating energy alternatives. As a result, Malawi for instance, is losing almost 30 thousand hectares of forest. Other factors such as population growth and increasing demand for agricultural and development land are also contributing to forest and environmental crisis. Recently, deforestation induced flooding robbed Malawi of 30% of its generating capacity (129 MW), leading to the current energy crisis and blackouts. While the cost to the country, has not yet been finalized various recent reports suggest the figure will be in billions of Malawi Kwachas.

In a quest to support climate change, environment and disaster risk management in the country and in the SADC region, Governments have been making tremendous efforts through the development of policy and legislative frameworks aimed at creating a favorable environment for the implementation of climate change, environmental management and disaster risk management interventions. Some of the initiatives, particularly in Malawi, include development of the Disaster Risk Management Bill, development of the National Resilience Strategy, implementation of the National Climate Change Management Policy, Disaster Risk Management Policy and Environmental Management Act and Policy. However, Malawi and other SADC country's needs updated and relevant climate change, environment and disaster risk management policy and legislative frameworks. Malawi, for instance, has been using the obsolete Disaster Preparedness and Relief Act of 1991 which focuses more on disaster response than disaster risk management. Enactment of the draft DRM Bill would be a step towards risk containment thereby lessening the impacts of disasters from extreme climate and weather events. Government of Malawi also established the National Climate Change Management Fund, Malawi Environmental Protection Authority and Carbon Levy to advance environment and climate change management.

**CALL TO ACTION:** i). There is need to ensure enforcement of the right to a “clean and health environment” by ensuring that mechanisms are in place to safeguard this universal human right for the most marginalized and climate vulnerable communities. ii). SADC must prioritize innovation and research on climate adaptation, loss and damage and disaster risk management, renewable energy to generate evidence for informed climate actions. iii). Boost investment to increase preparedness, early warning, and early action to prevent extreme weather events leading to disasters, including anticipatory action and commitments to the Risk-informed Early Action Partnership. iv). Exploitation of the Private sector as an ally in addressing climate change through provision of climate financing. The Private sector remains a key sector at national, regional and global level to support financing of climate adaptation and mitigation. v). Provision of financial support to support implementation of the NDC targets especially those that are conditional in nature in order to meet the temperature goals set in the Paris Agreement. vi). There is need to establish regional and Global Climate Justice Commission within the UNFCCC framework to ensure climate justice issues are tackled with great urgency to keep the impacts of climate change minimal on the livelihoods of people. viii). There is need for adequate and innovative financing for addressing energy poverty of the people in SADC to support adoption of solar, wind energy and other clean energy sources. ix). The Office of the President and Cabinet should convene an energy accelerator lab, bringing together Ministries of Energy, Finance and Natural Resources and Climate Change and Trade and Industry; Malawi Energy Regulatory Authority; state owned and private energy companies and non-governmental organizations to come up with a plan of increasing availability of alternatives to illegal charcoal for immediate action. x). Government should enact the DRM Bill and ensure that's the DRM framework will support disaster risk reduction efforts in the country and in SADC not just response and recovery

## 5. LABOR, TRADE AND MARKETS:

**CONTEXT:** Malawi ratified AfCTA (Africa Continental Free Trade Area) in January 2022. The AfCTA has precipitated the Joint partnership with neighboring countries to collaborate and establish One Stop Trade Centers on the border lines. Malawi for the first time implemented Duty Free Week to support small medium enterprises. Malawi government removed VAT on essential goods like cooking oil. The private sector and other partners invested huge amount of resources to increase access to loans for women. NEEF was restructured and 75 billion was allocated to have more women access the loans. NASFAM is working Rural Women Assemblies as a concept which aims at, mobilizing women to participate in agricultural sector. Recently The Head of State made a Presidential Directive on mega farms which will help in promoting agro ecology, farm managed seed systems and gender responsive public services. Malawi Government through Ministry of Agriculture and Irrigation Services partnered with Mwapata Institute to invest in mechanization, increased production and commercialization. Mechanization has been substantively highlighted in Malawi Vision 2063.

**CALL TO ACTION:** i). Engage Presidential Advisor on Civil Society Organization to highlight on lack of collaboration mechanisms between the CSOs community in the Region and the SADC Secretariat, interact with Minister and Ministry of Foreign Affairs and International Cooperation in the capacity as Chairperson of SADC Ministerial Council, and request the Presidential Advisor and Ministry of Foreign Affairs to facilitate a High Level meeting with the Head of State and outgoing Chairperson of SADC Chair before the next August summit in DRC. ministry of Foreign Affairs; ii). Neighboring for instance Malawi, Zambia, Zimbabwe and Mozambique enhance Joint Co-operations amongst to subject processes of institutionalizing One Stop Trade Centers to expedited schedules in order to modernize regional customs, immigration and trading procedures. iii). Harmonize standards for goods and services produced in the SADC countries to ensure that regulation is consistent and systematic, quality control and cost reduction.

**CONTRIBUTIONS BY:** See Attached document; Subsets for Thematic Areas

1	Economic and Democratic Governance <ul style="list-style-type: none"> <li>• Peace and Security</li> <li>• Human Rights</li> <li>• Civic Space</li> <li>• Prevention and Combating Corruption</li> <li>• Debt and Aid</li> <li>• Tax Justice and Illicit Financial Inflows</li> </ul>	Malawi Economic Justice Network (MEJN), Citizen Alliance (CA), Council doe Non-Governmental Organisations in Malawi (CONGOMA), Center for Human Rights and Rehabilitation (CHRR)	MEJN
2	Human Capital Development and Social Inclusion: <ul style="list-style-type: none"> <li>• Gender Equality</li> </ul>	EDU-KANS, Malawi Health Equity Network (MHEN), Civil Society Agriculture Network (CSANET), National Small-	EDU-KANS

	<ul style="list-style-type: none"> <li>Youth, Children, Elderly and Persons with Disability</li> <li>Health</li> <li>Education Financing &amp;</li> <li>Agriculture</li> </ul>	Holder Farmers' Association in Malawi (NASFAM), Save the Children, Plan Malawi, Youth Activist	
3	<p>Natural Resource and Extractive Governance:</p> <ul style="list-style-type: none"> <li>Extractive sector governance</li> <li>Corporate Social Responsibility for indigenous people or communities affected by Mining.</li> <li>Natural Resources sustainability and management.</li> </ul>	Natural Resources Justice Network (NRJN), Catholic Commission for Justice and Peace (CCCJP), OXFAM, Action Aid	NRJN
4	<p>Labor, Trade and Markets:</p> <ul style="list-style-type: none"> <li>Rural Women Farmers</li> <li>Agricultural mechanization, commercialization, research and development of pest and disease resistant seed and planting materials.</li> <li>Access to local and international Markets</li> <li>Cross-Border Trade</li> <li>Labour related issues.</li> </ul>	Cross Border Trade Association (CBTA), Malawi Congress of Trade Union (MCTU), Human Rights Consultative Committee (HRCC), CHRR and National Tax Justice Network (NTJN)	CBTA
5	<p>Global Warming and Environmental Management:</p> <ul style="list-style-type: none"> <li>Climate Change Adaptation,</li> <li>Climate Change Related Disasters and</li> <li>Climate Change Financing.</li> </ul>	Civil Society Network for Climate Change (CISONECC), Network for Youth and Climate Change (NYCC), Water-Aid and Water and Environmental Sanitation Network (WESNET)	CISONEC