

Malawi's
Compliance
with **African Union**
Protocols and Charters



2015
COMPLIANCE REPORT

ACRONYMS

ACB	Anticorruption Bureau
AFORD	Alliance for Democracy
ARC	African Risk Capacity Agency
AU	African Union
AYC	African Youth Charter
CA	Citizen Alliance
CAADP	Comprehensive Africa Agriculture Development Programme
CISANET	Civil Society Agriculture Network
CRC	Convention on the Rights of the Child
CSO	Civil Society Organization
DPP	Democratic Progressive Party
EFD	Eye for Development
GBV	Gender Based Violence
GDP	Gross Domestic Product
GOM	Government of Malawi
HRCC	Human Rights Consultative Committee
IPI	Institute for Policy Interaction
MACRA	Malawi Communication Regulatory Authority
MCP	Malawi Congress Party
MDG	Millennium Development Goal
MEC	Malawi Electoral Commission
MEJN	Malawi Economic Justice Network
MESN	Malawi Electoral Support Network
MHEN	Malawi Health Equity Network
MHRC	Malawi Human Rights Commission
MOFAIC	Ministry of Foreign Affairs and International Cooperation
NAP	National Advocacy Platform
NASAF	National Salvation Front
NCC	National Consultative Committee
NDA	National Democratic Alliance
NEPAD	New Partnership for Africa's Development
NGO-CCR	Non-Governmental Organizations Coalition on Children's Rights

NGO-GCN	Non-Governmental Organization Gender Coordinating Network
NICE	National Initiative for Civic Education
NSO	National Statistical Office
OAU	Organization of African Unity
OPC	Office of the President and Cabinet
PEA	Parliamentary Elections Act
PP	Peoples Party
SADC	Southern African Development Community
SOTU	State of the Union
UIP	United Independence Party
UN	United Nations
YCF	Youth Consultative Forum

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EXECUTIVE SUMMARY

Introduction and Methodology

This assessment and monitoring of domestication and implementation of African Union Protocols, Conventions, Decisions and best practices in Malawi was undertaken in the first half of 2015. The main purpose of the study is to determine the extent to which Malawi has domesticated and implemented the ratified instruments and to assess the level of compliance and the impact of implementation on citizens' quality of life. The ultimate goal is to help the different stakeholders, from Government, civil society and international donors to refocus, refine and rediscover the best strategies for domestication and implementation on the basis of the findings. It goes without saying that the signing and ratification of international instruments without actual implementation and domestication means that the protocols and charters will have limited or no effect on ordinary citizens.

As a way of gathering as much information as possible, this study relied on two data collection methods: literature review and key informant interviews. A wide range of documents were reviewed and analysed for their content in relation to the AU protocols and treaties. Key informant interviews were done with three categories of respondents: government officials, civil society leaders and leaders of political parties. Interviewees were selected purposely based on projected familiarity with international instruments.

Findings

Ratification and domestication of African Union Protocols in Malawi

The findings of this study show that there were no changes regarding the ratification of AU instruments¹ after the 2014 Compliance study. As was the case in 2014, Malawi had ratified 13 of the 14 AU instruments, which are being championed by the State of the Union (SOTU) coalition of civil society organizations. The only instrument of the 14 that Malawi has not ratified remains the Revised African Convention on the Conservation of Nature and Natural Resources. Malawi's failure to sign this Convention can be explained by over-reliance on existing legislation; and a general sidelining of the Legislative arm of Government from the ratification process. The biggest weakness in the domestication chain can be traced to the dualist system of ratification and domestication, which places the authority for ratifying international instruments exclusively in the hands of the Executive branch of Government. Because the two arms operate separately in the process, most instruments remain undomesticated and, hence, unimplemented.

Popularization of AU protocols, Policy Standards and Frameworks

The findings of this study have shown remarkable progress in terms of the popularization of African Union instruments in the last two years among key actors. This popularization has largely been a result of the intervention of the Malawi SOTU National Advocacy Platform (NAP). This campaign has contributed

¹ AU instruments comprise protocols, charters, conventions and best practices. Notably, some are legal instruments in that legally binding; others are policy frameworks that demand commitment for implementation and domestication from state parties.

to increased knowledge and discussion of African Union protocols, both within the civil society sector and within the public sector.

Although this study has found evidence of increased awareness of AU instruments, the knowledge appears to be general and mostly limited to awareness of the existence of the instruments but not the specific contents of each instrument. The study therefore concludes that awareness is wide, but not deep. Accordingly, it is recommended that civil society and Government efforts aimed at sensitizing the public and other key stakeholders on the existence of the protocols should be continued.

Action Points

The findings of the study reveal that there are still a number of actions that need to be taken, in order for Malawians to enjoy the full benefits of the African Union instruments. To achieve this, the study has recommended a number of action points that are summed up after each chapter of the report. The key ones include the following:

Actions Required by the Government

- Review the ratification and domestication procedures to ensure that all protocols that the country has ratified and signed are fully domesticated;
- Revise all existing laws to bring them in line with all AU protocols and Treaties that Malawi has already ratified;
- Formalize a regular process for the reporting of all AU protocols to Parliament, including follow up on any activities carried out on the existing protocols;
- Sign and Ratify the Revised African Convention to the Conservation of Nature and Natural Resources;
- Provide sufficient resources towards implementation of AU instruments;
- Establish the country co-ordination and monitoring mechanisms for the implementation of AU charters and protocols;
- Enact law that requires the Executive to consult Parliament before ratifying any new international instruments;
- Consult on the merits and demerits of enacting a law that would give the African Union protocols full effect under domestic law once an instrument is ratified;
- Enact the Access to Information bill into law to empower citizens to hold leaders accountable and effectively participate in AU and local policy affairs.

Actions Required by Civil Society

- Lobby for the ratification of the Revised African Convention to the Conservation of Nature and Natural Resources;
- Lobby for the formalization of a role for the Legislative arm of Government in the implementation of African Union instruments;
- Sensitize local government councilors about African Union instruments;
- Lobby for the incorporation of AU protocols and charters in Government policies;
- Lobby line ministries to follow up on protocols and charters affecting their ministries and ensure complete domestication where none or only partial domestication exists;
- Extend sensitization efforts about African Union instruments to the wider public;
- Lobby political parties to incorporate provisions of AU protocols and charters in their policy agendas, particularly during elections;
- Engage other CSOs that are not part of the National Advocacy Platform to actively participate in advocacy to enhance domestication and implementation.

CHAPTER 1: INTRODUCTION

1.1 Setting the Context

At the beginning of January 2015, the African Union (AU) had adopted a total of 49 Charters, Treaties, Protocols, and Conventions. Although AU members states are expected to ratify and domesticate these instruments, countries often exercise discretion in deciding what instruments to ratify, sign and domesticate. As a result, there is a variation in the number of instruments that have been signed and ratified. For example, while all 54 AU member countries have ratified the Constitutive Act of the African Union, no single country has ratified the Agreement for the Establishment of the African Risk Capacity (ARC) Agency. Meanwhile, some countries have ratified a relatively high number of instruments, with Mali taking the lead by ratifying 36 of the 49 instruments. On the other hand, Africa's newest state, South Sudan, has only ratified one instrument (Table 1). Even among the countries that have signed and ratified, there is also variation in terms of domestication. The net result of the varied adoption and domestication is that ordinary African citizens do not benefit equally from the application of the various AU instruments.

It is against this varied background of ratification of AU instruments that the State of the Union (SOTU), a coalition of civil society organizations, was formed with the aim of collective efforts towards holding African Governments accountable for the ratification and implementation of African Union decisions. As at June 2015, SOTU was operating in 10 countries, namely: Cameroon, Ghana, Kenya, Malawi, Mozambique, Nigeria, Rwanda, Senegal, South Africa and Tunisia. In each member country, SOTU's work is being co-ordinated by a local Civil Society Organization (CSO). In Malawi, SOTU's work is being championed jointly by the National Advocacy Platform coalition (NAP) through the collaboration of the Eye for Development (EFD) and the Malawi Economic Justice Network (MEJN), who are the overall coordinators of SOTU's work in Malawi, and other citizen groups that advocate for the ratification, domestication and implementation of key African Union policy and legal instruments in the country.

Table 1. Performance Analysis of Compliance to (Ratification of) AU Instruments

Most Ratifying Countries

No.	Country	No. Of Instruments Ratified
1	Mali	36
2	Congo	33
3	Niger	32
4	Rwanda	30
5	Gabon	28
6	Burkina Faso	28
7	Togo	28
8	Libya	27
9	Senegal	26
10	Nigeria	26

Most Ratified Instruments

No.	Instruments	Year of Adoption	Number of Ratifications
1	Constitutive Act of the African Union	2000	54
2	African Charter on Human and Peoples' Rights	1981	53
3	Treaty Establishing the African Economic Community,	1991	49
4	Protocol Relating to the Establishment of the Peace and Security Council of the African Union	2002	49
5	Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament	2001	49
6	African Charter on the Rights and Welfare of the Child	1990	47
7	OAU Convention Governing the Specific Aspects of Refugee Problems in Africa	1969	45

Least Ratifying Countries

No.	Country	No. Of Instruments Ratified
1	South Sudan	1
2	Sao Tome & Principe	4
3	Somalia	6
4	Eritrea	6
5	Botswana	10
6	Djibouti	12
7	Sierra Leone	13
8	Madagascar	13
9	Equatorial Guinea	13
10	Seychelles	15

Least Ratified Instruments

No.	Instruments	Year of Adoption	Number of Ratifications
1	Agreement for the Establishment of the African Risk Capacity (ARC) Agency	2012	0
2	Protocol on the African Investment Bank	2009	2
3	Revised Constitution of the African Civil Aviation Commission	2009	3
4	Protocol on the Statute of the African Court of Justice and Human Rights	2008	5
5	Convention for the Establishment of the African Centre for Fertilizer Development	1985	6
6	Inter-African Convention Establishing an African Technical Co-operation Programme	1975	6
7	Revised African Maritime Transport Charter	2010	7

Source: SOTU, 2015

The SOTU campaign meanwhile has chosen, as its area of focus, a set of 14 legal instruments and policy standards. The list includes the following:

1. The African Charter on Human and People's Rights (1990);
2. African Charter on Democracy, Elections and Governance (2007);
3. African Charter on the Rights and Welfare of the Child (1990);
4. Protocol to the Treaty Establishing the African Economic Community (1991);
5. Protocol to the Treaty Establishing the African Economic Community Relating to the Pan African Parliament (2001);
6. African Union Convention on Preventing and Combating Corruption (2003);
7. NEPAD-Comprehensive Africa Agricultural Development Plan (CAADP) (2003);
8. Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003);
9. Revised African Convention on the Conservation of Nature and Natural Resources (2003);
10. Abuja Call for Accelerated Action Towards Universal Access to HIV/AIDS, Tuberculosis, Malaria and Other Related Infectious Diseases Services (2001);
11. African Youth Charter;
12. Maputo Plan of Action for Sexual and Reproductive Health and Rights 2007-2010 (2006);
13. Africa Health Strategy: 2007–2015; and
14. Sharma El-Sheikh Commitments for Accelerating the Achievement of Water and Sanitation Goals in Africa (2008).

SOTU's rationale for focusing on these 14 protocols and treaties is motivated by the view that, if implemented, this set of instruments will have so much promise for a positive impact in the lives of millions of people in Africa generally and in Malawi in particular. It is for this reason that through its advocacy work, SOTU seeks to ensure that ordinary citizens are informed and empowered to act to claim key rights and freedoms; to ensure that the African Union's Member States act to ratify, popularize, and monitor implementation of key standards and to ensure that inclusive national and continental Platforms are capacitated to popularize, engage and hold Governments accountable.

As part of its monitoring efforts, the SOTU Malawi platform conducted a review of the country compliance and status of implementation of the selected AU instruments for the benefit of ordinary citizens in 2014. The 2014 study revealed, among several findings, that Malawi has performed well at the level of signing and ratifying the AU charters and protocols. However, the report established important gaps at domestication and implementation levels that among others included lack of popularization, popular

participation and enforcement. The National Advocacy Platform (NAP) therefore commissioned a second study in 2015 to re-assess the level of compliance on AU instruments at the levels of domestication and implementation to inform its advocacy and engagement agenda. This report presents findings of this second compliance study.

1.2 Objectives and Methodology of the 2015 Compliance Study

The objectives of this study as per the Terms of Reference (TORs) developed by the Malawi SOTU country team; with the main objective premised around determining the extent to which Malawi has domesticated and implemented the ratified instruments; and assessing the level of compliance and the impact of implementation on citizens' quality of life. In order to address this broader objective, the study was driven by a set of nine specific objectives, namely to:

- a) Establish the status of domestication and implementation of AU instruments at country level;
- b) Assess the coordination, monitoring, popularisation and enforcement mechanisms for the implementation of the AU instruments in Malawi;
- c) Measure the level of participation by the Legislature and the Judiciary in the implementation process;
- d) Analyse the benefits and losses to citizens for the domestication and implementation and lack of it;
- e) Assess the political environment and roles of political parties in the domestication and implementation process;
- f) Project the magnitude of benefit or loss to citizens due to failure to ratify, domesticate and implement AU legal and policy instruments;
- g) Document best practices and available strategies to enhance implementation and monitoring, as well as the key challenges;
- h) Identify actions by civil society and citizens groups in engaging the Malawi Government and the AU;
- i) Contribute to the continental compliance report, involving all member states targeted by the SOTU coalition.

1.3 Study Methodology

The study adopted a qualitative approach in data collection and analysis to enable deeper probing into the current status in the domestication, popularization and implementation of AU instruments in Malawi. The study relied on primary and secondary data sources to develop its findings. Secondary data were collected from multiple sources, including reviews of relevant literature. Based on this, aspects on the current status of Malawi's compliance that could not be obtained through primary data collection method were determined. Primary data were derived from interviews with key stakeholders who were purposively identified based on an assessment of their expertise. This was done in close consultation with the Malawi SOTU secretariat. Other experts were selected using a snowballing sample, where additional respondents were recommended by individuals that had already been interviewed. A list of the individuals that were consulted is attached at the end of this report (as Appendix 3). The results of these interviews were transcribed and analyzed using content analysis and basic statistics.

CHAPTER 2: STATUS OF RATIFICATION AND DOMESTICATION OF AFRICAN UNION PROTOCOLS IN 2015

2.1 Status of the protocols that were not ratified by 2014

The Malawi 2014 Compliance report revealed that the country had ratified 13 of the 14 instruments that the SOTU campaign is focusing on. The only instrument that Malawi had neither signed nor ratified was the Revised African Convention on the Conservation of Nature and Natural Resources. By mid-2015, Malawi still had not ratified this instrument. Officials in the Ministry of Natural Resources, Energy and Mining, were unable to provide insights into why Malawi has not signed or ratified this instrument. The country is, however, not unique among the other member States in not ratifying this protocol.

While the reason for non-ratification could not be ascertained from Government officials, a closer analysis of the countries that have not ratified the instrument still sheds some light. All the countries, including Malawi, that had ratified the predecessor of this instrument, the 1968 African Convention on the Conservation of Nature and Natural Resources, have not taken the move to ratify the recently revised version of the protocol. This suggests that the African Union might probably not have done a convincing job of convincing countries that were signatories to the old Convention to sign up the revised instrument. It is thus also possible that AU-member countries, including Malawi, remain unconvinced of the value of signing the new instrument, 12 years after it was adopted by the African Union.

2.2 Domestication of AU instruments

Malawi follows a dualist system of domesticating international instruments. This approach means that there are separate processes of ratification and domestication. On one part, signing and ratification are the responsibility of the Executive branch. The process of domestication on the other hand, involves a separate process that requires the contribution of the Legislative branch. After ratification, the Executive is supposed to draft legislation that is supposed to be tabled for debate in Parliament. At the end of the process, the Legislature enacts a law that gives legal effect to the instrument.

Malawi's ratification and domestication process, while common, is different from that of South Africa. In this particular case, an international instrument cannot be ratified by the Executive unless it has been debated and approved by Parliament beforehand. Thus after ratification, the international instrument automatically gains the status of domestic law. Table 2 provides the ratification and domestication status as of mid-2015:

Table 2. Status of Malawi's Domestication of the 14 AU Protocols and Charters, June 2015

	AU Protocol and Charter	Date of Ratification	Domesticating Policy/ Legislation
1	African Charter on Human and Peoples' Rights (1981)	17 Nov. 1989	Malawi Constitution (1995)
2	African Charter on Democracy, Elections and Governance (2007)	11 Oct. 2012	Malawi Constitution (1995); Presidential and Parliamentary Elections Act (1993); Electoral Commission Act (1998); Immunities and Privileges Act (1984); Declaration of Assets, Liabilities and Business Interests Act (2014)
3	African Charter on the Rights and Welfare of the Child (1990)	16 Sept. 1999	Child Care, Protection and Justice Act (2010)
4	The Treaty Establishing the African Economic Community (1991)	26 June 1993	N/A
5	Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament	03 July 2002	N/A
6	African Union Convention on Preventing and Combating Corruption (2003)	26 Nov. 2007	Corrupt Practices Act (1995) Declaration of Assets, Liabilities and Business Interests Act (2014)
7	NEPAD Comprehensive African Agricultural Development Plan (2001)	19 April 2010	N/A
8	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	20 May 2005	Malawi Constitution (1995); Marriage, Divorce and Family Relations Act (2015)
9	Revised African Convention to the Conservation of Nature and Natural Resources (2003)	Not ratified	Environmental Management Act
10	Abuja Call for Accelerated Action Towards universal Access to HIV/AIDS, Tuberculosis and Malaria by 2010 (2001)	Ratified, but no date	Malawi National HIV/AIDS Policy (2004); Malawi National HIV/AIDS Strategic Plan (2011-2016)
11	African Youth Charter (2006)	13 August 2010	National Youth Policy (2013)
12	Maputo Plan of Action for Implementing the Continental Sexual and Reproductive Health and Rights Policy Framework 2007-2010 (2006)	Malawi is listed as a signatory, no date indicated	Marriage, Divorce and Family Relations Act (2015)
13	Africa Health Strategy 2007-2015	Ratified, but no date indicated.	N/A
14	Sharma El-Sheikh Commitments for Accelerating the Achievement of Water and Sanitation Goals in Africa (2008)	Malawi ratified, but no date available	N/A

Sources: African Union, Ministry of Foreign Affairs

Malawi's system of ratification and domestication means that ratification does not automatically lead to domestication of AU and other international instruments. This notwithstanding, a number of Government respondents during the study cited several pieces of national policies and domestic

legislation which drew inspiration from AU instruments as an indication of the country's willingness to fully or partially domesticate AU protocols and charters.

Among the policies that were mentioned was the National Youth Policy of 2013, which specifically states that it took cognizance of international instruments, including the reflection of Malawi's international commitment. Among the laws that were cited included the Marriage, Divorce and Family Relations Act (2015) which drew on the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Other laws that were cited as incorporating aspects of AU instruments include the Child Care, Protection and Justice Act (2010), the Environmental Management Act (1996) and the Immunities and Privileges Act (1984). Meanwhile, Government's budgetary allocations for HIV/AIDS² and Agriculture³ are also said to be similarly driven by the country's AU commitments.



Malawian Legislators are largely excluded from the ratification process.

Source: United Nations

2.3 The gains and losses from domestication and non-domestication

In order to assess the gains and losses of ratification, non-ratification, domestication and non-domestication, the study selected two AU protocols, namely the 1981 African Charter on Human and Peoples' Rights and the 2008 Sharma El-Sheikh Commitments for Accelerating the Achievement of Water and Sanitation Goals in Africa. Malawi ratified the Charter on Human and Peoples' Rights in 1989 and domesticated it through the inclusion of a Human Rights chapter in the 1995 Constitution

² Abuja Call is an AU policy commitment for members to devote 15 percent of national budgets towards the health sector to, among others, enhance the fight against HIV/AIDS, malaria and tuberculosis

³ To raise agricultural productivity by at least 6% per year, CAADAP, demands that signatories commit 10 % allocation of public budget towards agricultural investment. Since 2005/2006, Malawi has attained this commitment though much of the allocated funds have largely been directed to input subsidy.

(Government of Malawi, 1995). The Sharma El-Sheikh Commitments on the other hand have never been domesticated.

2.3.1 The gains from ratification and domestication: a case study of the African Charter on Human and Peoples' Rights

The Charter on Human and People's Rights made it obligatory for African governments to "promote and protect human and people's rights and freedoms taking into account the importance traditionally attached to these rights and freedoms in Africa,"(page 2).

Although Malawi ratified the Human Rights Charter in 1989, the country only domesticated the instrument in 1995 through the inclusion of a Human Rights Chapter in the 1995 Constitution⁴. Malawi's failure to domesticate the instrument until 1995 meant that Malawians could not lay claim to the human rights and freedoms that were advocated in Charter even after Malawi had ratified this instrument in 1989.

It was only after the adoption of the new Constitution in 1995, which provided guarantees of rights and freedoms under Chapter 4, that Malawians could enjoy in full the rights and freedoms that had been enshrined in the Human and People's Rights Charter. In language that was almost an exact copy of the Charter, the 1995 Constitution prohibits discrimination of persons in any form and that "...all persons are, under any law, guaranteed equal and effective protection against discrimination on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, property, birth or other status."⁵



Malawians wait to exercise their right to vote, at Zomba Gymkhana Polling Center, 20 May 2014. Picture by Kim Yi Dionne

In addition to the extensive guarantees of human rights, Chapter XI of the 1995 constitution established

4 The 1995 Malawi Constitution contains well detailed enunciation of human rights that incorporates several aspects of the African Human and Peoples' Rights Charter.

5 Malawi Constitution, Article 20 (1).

the Malawi Human Rights Commission (MHRC), whose functions include the promotion and protection of human rights and investigation of violations of the rights accorded by the constitution and other laws. Since its establishment in 1995, MHRC has augmented the efforts of civil society organizations in advocating for the promotion of human rights. Recognizing that the pre-democratic era institutionalized many forms of discrimination, the 1995 Constitution further mandated the State to enact legislation aimed at “addressing inequalities in society and prohibiting discriminatory practices and the propagation of such practices and may render such practices criminally punishable by the courts.”⁶ In addition to the Constitution, there exist other pieces of legislation that seek to prevent discrimination of particular groups in society, including persons with disabilities; women and children and other marginalized groups⁷.

The importance of domestication of AU instruments is reflected in the fact that before the adoption of the 1995 Constitution, Malawian citizens could not challenge Government in any court of law, whenever they were deprived of their rights and freedoms even if these were provided for in the Charter on Human and People’s Rights. Although the Constitutional protection of human rights and freedoms in the 1995 Constitution has not completely eliminated cases of human rights abuses in the country, it has provided a legal basis through which citizens can seek legal redress when they are denied their rights and freedoms.

2.3.2 Losses from non-domestication: the case of the Sharma El-Sheikh Commitments for Accelerating the Achievement of Water and Sanitation Goals in Africa

The Sharma El-Sheikh Commitments on Water and Sanitation goals were adopted at the Eleventh Ordinary African Union session at Sharma El-Sheikh in Egypt between 30 June and 1 July, 2008. According to the preamble to the instrument, African leaders were motivated in adopting this protocol after recognizing the importance of water and sanitation for social, economic and environmental development of African countries. The protocol commits AU members to undertake interventions aimed at raising the profile of sanitation and to address issues pertaining to agricultural water use for food security. Some of the key commitments in the protocols include the following:

- Developing/updating national water management policies, regulatory frameworks, and programmes, and to prepare national strategies and action plans for achieving the MDG targets for water and sanitation;
- Creating conducive environment to enhance the effective engagement of local authorities and the private sector;
- Significantly increasing domestic financial resources allocated for implementing national and regional water and sanitation development activities; and
- Promoting effective engagement of African civil society and public participation in water and sanitation activities and programmes.

6 *ibid*, Section 12(2)

7 See Malawi Disability Act (2012), Childcare Protection and Justice Act (2010), Gender Equality Act (2012)

Despite Malawi being one of the signatory countries to this commitment, the study was unable to find evidence that the Malawi Government has taken any steps to domesticate the Sharma El-Sheikh commitments. There is no policy or legislation that was passed to demonstrate Government's observance of the commitments. Consequently, there have been no notable achievements that can be attributed to Malawi's signing of the Commitment. For all intents and purposes, Malawi's commitment ended at the point when the country's leadership put pen to paper in endorsing the instrument and this has been followed by no tangible actions to actualize what the instrument calls for.

As a result, a large proportion of Malawian citizens continue to face challenges in accessing water and safe sanitation facilities despite the fact that their government made commitments to address these very challenges. Indeed, the poor water situation has not spared urban residents, as the country's water boards continue to face the challenges of inadequate water supply against an ever growing population. Meanwhile, many Malawian homes still have no toilets and the country lacks proper rubbish disposal policies.



A woman from Masasa Township in Mzuzu, collects water from an open stream.

Source: Times Media Group, Malawi

2.4 Challenges in the domestication chain

Notwithstanding the number of laws and policies that are attributed, at least in part, to the AU protocols, there is a wide held view, both among Government and non-government stakeholders, that the benefits to the public of AU instruments are minimal. This is largely attributed to the reportedly haphazard nature of domesticating the instruments within the country's legislative framework. For the most part, AU protocols have not been domesticated and where they have, this is often coincidental. Consequently, some of the rights enshrined under the various AU protocols that Malawi has ratified have remained undomesticated.

In the absence of full domestication, the enforcement of the protocols and treaties in the Malawi's legal system remains problematic. This also means that when it comes to implementation, line ministries are guided by domestic legislation, paying very little, if any, attention to the African Union protocols.

The limited domestication of international protocols, including those of the African Union, is considered to be largely a result of the country's domestication system. While the exclusion of Parliament from the ratification process ensures a relatively speedy process of ratification, the main drawback is that in the long run, law-makers (Members of Parliament) are less aware of the instruments that the country is a signatory to. As a result, the National Assembly is not in a position to make reference to them when debating legislation. In the few cases where aspects of the AU instruments have been incorporated into domestic legislation, this is mostly by chance to the extent that the laws coincide with the provisions of the international instruments. In some cases, public officials cite laws that were passed before the ratification of a particular AU instrument as an example of domestication when clearly such laws were never influenced by the instruments. A good example is the Corrupt Practices Act which was enacted in 1995, but is often cited as the enabling local legislation for the African Convention on Preventing and Combating Corruption, which Malawi only ratified in 2007.

Additionally, the study found that there is limited political will to amend old laws to incorporate aspects of newly adopted AU instruments. The exclusion of the National Assembly in the ratification chain further means that Parliament is hampered from playing its oversight role by requiring the Executive to fulfill its commitments. For example, the Comprehensive African Agricultural Development Plan (2003) and the African Health Africa Health Strategy both obligate Government to allocate specific proportions of the national budget toward the agriculture and health sectors. Yet, with most legislators unaware of these commitments, Parliament almost never takes government to task when the Executive allocates funds below the AU's minimum guidelines.

2.5 Action Points

Actions required by Government

- Ratify the Revised African Convention to the Conservation of Nature and Natural Resources (2003);
- Review and amend existing legislation where necessary to ensure compliance with the AU instruments that the country has signed and ratified;
- Streamline the ratification of AU protocols by involving the National Assembly from the very beginning to enhance ownership;
- Incorporate the legislature by legislating the involvement of Parliament before Government ratifies any international instrument;
- Engage all stakeholders on AU protocols before ratification to get the buy in.

Actions required by Civil Society Organizations

- Lobby for the ratification of the Revised African Convention to the Conservation of Nature and Natural Resources (2003);
- Continue working with Government to ensure full implementation of AU protocols;
- Sensitize members of the public on the AU and its protocols and the value to Malawi;
- Lobby for the enactment of Legislation that requires the Executive to consult Parliament before ratifying any international instrument;
- Lobby Government to domesticate all protocols that Malawi has ratified in full;
- Engage Government to debate the merits of enacting a law that would give international protocols full legal effect within the domestic jurisdiction;
- Commission studies to investigate factors that contribute to non-compliance.

Actions required by the African Union

- Promote the merits of the Revised African Convention to the Conservation of Nature and Natural Resources and solicit enough ratifications to bring this protocol into force;
- Engage the Malawi Government to fully domesticate the AU protocols and charters that the country has ratified.

Action Required by Donors

- Lobby the Malawi Government to ratify outstanding AU charters and protocols and advocate for the full domestication of ratified instruments;
- Provide resources to Civil Society Organizations to lobby for the implementation of AU protocols.

CHAPTER 3: COORDINATING, MONITORING, POPULARIZATION AND ENFORCEMENT MECHANISMS FOR AFRICAN UNION INSTRUMENTS IN MALAWI

3.1 Coordinating the ratification of AU protocols in Malawi

Since the 2014 Malawi Compliance report, there have been several initiatives aimed at advancing a coordinated process of ratification, domestication, popularization and enforcement of AU protocols in Malawi. These initiatives have sought to bring together various stakeholders, from Government officials, civil society organizations and members of the public. The necessity for adopting a coordinated effort is underscored by the fact that there are currently a number of challenges that are attributed to the uncoordinated approach that characterized the process of ratifying and domesticating international instruments, a number of which were discussed in the 2014 Compliance Report. Among the challenges the uncoordinated approach created include the lack of detailed knowledge of AU protocols and instruments among key actors such as officials from line ministries, Members of Parliament, Civil Society Organizations and members of the public. This situation leads to a scenario where it becomes difficult for the relevant stakeholders to push for the full domestication, implementation, popularization and enforcement of AU instruments. Because the public is less knowledgeable about the instruments, it becomes difficult and impossible for citizens to make demands on Government to honor its international commitments. Although until recently the domestication process has been largely uncoordinated, the SOTU campaign in Malawi has, since its inception in 2013, made significant contributions towards addressing this particular challenge. Through the National Advocacy Platform (NAP), that SOTU campaign has brought together Government officials from different line ministries together with Civil Society Organizations to work together with the goal of promoting the ratification, domestication, implementation and popularization of AU Charters and Protocols⁸. Whereas previously ministries worked in isolation, the SOTU campaign has thus far succeeded in bringing together different actors to discuss the AU instruments and identify common strategies for their implementation and popularization.



Minister of Foreign Affairs and International Cooperation, Dr. Gorge Chaponda (second right) opens the National Stakeholders Workshop on strengthening collaboration on the implementation of the African Union Instruments at Chikho Hotel, Kasungu, 16 December 2014

8 see Chapter 6 of this report

Although the SOTU engagements have provided a new impetus towards domestication and implementation of AU instruments in the country, there is still more work that needs to be done. As discussed in the preceding Chapter, several AU instruments remain undomesticated; there is only very limited awareness of the African Union itself and its protocols and charters, such that few Malawians consider the African Union to be of relevant value to them. An Afrobarometer survey in early 2014 for example found that a combined total of only 33% of Malawians think the African Union “helps somewhat” or “helps a lot” when asked the question “How much does the African Union do to help Malawi, or haven’t you heard enough to say?”. More tellingly, just slightly half of Malawians (44%) said they do not know much about what the African Union does to help Malawi.

3.2 Monitoring Implementation of AU instruments

The recent initiative by the SOTU Malawi National Platform to monitor the implementation of African Union instruments in Malawi comes against a backdrop that while internal monitoring mechanism for some international instruments exist⁹, the AU often does not often have enforcement mechanisms. Instead, it relies largely on the goodwill of the signatory members to live up to their commitments. Consequently, the absence of effective external actors to monitor government’s full adherence to the protocols has meant that Malawi often signs and ratifies instruments without worrying that there will be organized effort to ensure that it followed through on its commitments.

Under the pillar of engaging Government to follow through on its AU commitments, the SOTU Malawi team has been engaging Government and other stakeholders, developing the necessary rapport and understanding of each other to effectively and collectively embark on the process of monitoring the implementation of AU protocols in the country¹⁰. As part of its monitoring efforts, the Malawi SOTU team has shared/presented copies and findings of the 2014 State of Compliance report to Malawi Government officials. This report, among several issues, highlighted the status of compliance to the AU protocols, highlighting major achievements and areas where Government has fallen short. The report also highlighted action points requiring action by various stakeholders, including Government, civil society and the donor community. Not only have these engagements helped to sensitize Government officials about the full range of protocols and charters that the country has committed itself to, but they have also helped to kick-start a process of following up on the protocols on the part of Government.

The main outcome of these engagements was the development of a road map for coordinating and monitoring the implementation of AU instruments in Malawi. To this end, a National Coordination Committee (NCC) which is headed by the Ministry of Foreign Affairs and International Cooperation comprising Line Ministries and the National Advocacy Coalition (NAP), was established and has been tasked with the responsibility of spearheading the implementation of AU instruments in the country. This approach has helped to place the Ministry of Foreign Affairs and International Cooperation in the leading role in the promotion of AU Protocols and Charters whilst CSOs are providing an important

9 International legal instruments usually have a component that details the monitoring the compliance to the demands and obligations of that instrument for all signatories

10 see section 6.2.2 in this report

supporting role.

3.3 Popularization of AU Instruments

Thus far, there do not appear to have been any concrete efforts on the part of Government to popularize the African Union Instruments that the country has ratified. Consequently, the study findings showed that awareness of specific AU instruments is very limited among a cross section of society, including both Government and non-governmental stakeholders alike. This suggests that there have been no concrete efforts on the part of Government to popularize the African Union instruments. For most, awareness levels can be attributed to the SOTU-Malawi campaign over the last two years.

On their part, line ministries face the dilemma of choosing to popularize their own legislation or policies instead of prioritizing the AU instruments. The Ministry of Gender, for instance, indicated that they had organized several events to champion the new Marriage Act which incorporated aspects of the AU's Gender protocol. The Ministry of Youth was also equally focused on promoting the new National Youth Policy in lieu of promoting the African Youth Charter.

Indeed, despite the widespread claims of knowledge about AU instruments, it is clear that this knowledge is not very deep. When most respondents were asked to mention the instruments with which they were familiar, most mentioned one or two. Indeed, in many cases, respondents were mentioning protocols that are not part of the AU protocols. The study was also unable to document any involvement by the Ministry of Information in the popularization of African Union instruments.

While Government ministries were less involved in popularizing the AU instruments, the study findings reveal that the SOTU-Campaign on the other hand has had tremendous impact in reaching out to sensitize various stakeholders about the African Union instruments through organized campaign meetings, mass media and online platforms. A large number of respondents from Government, political parties, legislators and civil society indicated that they had heard about the My African Union campaign through the media and through engagement forums organized by the Malawi SOTU team. The extent to which the SOTU campaign is appreciated among the stakeholders is succinctly captured in the words of one long-serving Member of Parliament:

“Civil Society appears to be by far more conversant with the African Union instruments and is thus better placed to explain to the general public, Parliamentarians, to Government officials and other stakeholders about the contents of the instruments and what we stand to benefit as a country...”

3.3.1 Challenges in the popularization chain

While evidence points at civil society playing a commendable job in spearheading the popularization process, there are still gaps in the process. As it has been highlighted, the main effort thus far has been on raising awareness about the existence of AU protocols without specifically going into detail about the contents of each protocol. Although this is partially being addressed through district dialogues on specific instruments, this often means that a large proportion of stakeholders are only knowledgeable about one or two instruments at most. While this is not necessarily a bad thing as knowledge is being

streamlined to those affected by a particular protocol, it is important that the popularization efforts seek to increase awareness of the full battery of all the 49 instruments so that Government officials and civil society leaders can be sufficiently equipped to promote all AU instruments.

The local Government councilors, potential advocates of the implementation of AU instruments, also appear to have been left out from the engagement efforts. This was necessitated by the fact that there were no councilors in place until the general elections of 20 May 2014. With councilors envisaged to play an increasing developmental role at the grassroots level, it is imperative that future SOTU popularization campaigns reach out to this important group.

The civil society and Government should consider making available abridged and popular versions of the AU instruments in the country's main local languages. This would make it possible for many Malawians to access these instruments and thus help to realize SOTU's efforts at informing and empowering ordinary citizens to demand from government their rights and entitlements derived from the AU protocols.

3.4 Enforcement of AU instruments

As already discussed in, Malawi's jurisprudence stipulates that international protocols are negotiated, signed and ratified by the Executive arm of Government, with the Ministry of Foreign Affairs and International Cooperation playing a very prominent role in the process¹¹. In reality, Parliament is often isolated from the processes up to ratification. Because the Executive does not deposit any instruments that the Government has signed and ratified with the Legislature, Parliamentary debates often do not incorporate AU protocols and ultimately, the laws that the country enacts hardly draw inspiration from the AU's and other international instruments. In the absence of domestic legislation to give AU protocols full legal status, it means that Malawian citizens cannot make any claims to Government based on the AU Charters and treaties.

The AU itself appears powerless to compel member states to follow through on their commitments. Although the Pan-African Parliament was given power to enforce the implementation of AU Charters and Protocols, in reality, it has been unable to do this. Instead, claims of national sovereignty mean that the Pan-African Parliament is powerless to force states to honor their commitments. Within the Malawi context, the study was thus unable to find any evidence of the Pan-African Parliament chastening the country for not implementing fully any of the 13 Charters and Protocols that the country has ratified.

3.5 Action Points

Actions required by Government

- Streamline the ratification of AU protocols by involving the National Assembly from the very beginning to promote ownership and buy-in among legislators;
- Enact legislation requiring the Executive to seek Parliamentary approval of all international protocols and instruments that government is intending to ratify;
- Enact legislation that would make it a requirement that all international protocols and instruments

¹¹ Section 2.2 of this report

should acquire the status of law upon tabling in Parliament;

- Include the Ministry of Finance, Economic Planning and Development in the process of ratifying AU protocols;
- Allocate resources for popularization of all international instruments particularly through annual national budgeting;
- Ensure that the Ministry of Information and Civic Education takes an active role in spearheading popularization efforts of AU instruments.

Actions required by Civil Society Organizations

- Engage Government to ensure full implementation of AU protocols and charters;
- Continue the engagement efforts with Government and the wider public to popularize the AU and its protocols and charters and the value to Malawi;
- Reach out to local Government councilors to sensitize them about the 14 AU instruments;
- Develop and translate into local languages abridged versions of the 14 AU instruments being championed by the SOTU Network;
- Identify and justify priority protocols for local monitoring;
- Enhance Civil Society and citizen participation for wider popularization.

Actions required by the African Union

- Take a proactive role in engaging government and Civil Society to popularize the AU instruments;
- Work with the Malawi Government and other stakeholders to promote the domestication and implementation of African Union instruments;
- AU and Regional Offices should partner with Government and CSOs in popularizing the charters.

Action Required by Donors

- Provide financial and technical support to capacitate Civil Society Organizations and citizen groups to lobby for the implementation of AU protocols and charters.

CHAPTER 4: THE ROLE OF PARLIAMENT AND THE JUDICIARY IN IMPLEMENTING AU PROTOCOLS

4.1 Role of the Malawi Parliament in the signing and ratification of African Union instruments

The Malawi system of ratifying international instruments, as discussed in the 2014 Compliance Report and elsewhere in this study, does not provide much room for the participation of the Legislature in the signing and ratification of international instruments. While the law does not assign any role to Parliament in the signing and ratification of international instruments, the Malawi Constitution, under section 96(1) (f), requires Cabinet ministers to notify the National Assembly about all international agreements that Government has signed and ratified.

Notwithstanding this requirement, there are no records in the Hansards showing any Minister presenting a report informing Parliament on AU-related issues in the two years preceding this study. This mechanism of merely informing Parliament is not only poorly observed, but also less effective as it does not provide space for Parliament to play its oversight role. As a result, Parliament is less informed and engaged on the AU affairs and consequently does not provide checks and balances on international and regional issues to which Malawi is signatory.

4.2 Knowledge of AU instruments by Members of Parliament

In order to ascertain knowledge levels of AU instruments among Members of Parliament, 25 Members of Parliament were interviewed. The findings reveal that a large majority (22 of 25) of this group of respondents expressed very little knowledge of AU instruments and Malawi's resultant obligations. While almost all members interviewed claimed awareness of the existence of the AU itself, no MP respondent could comprehensively describe the signing and ratification process and neither could they articulate any AU charter or protocol.

It can thus be concluded that the dearth of engagement of Parliament during the signing and ratification process means that legislators, who are supposed to play a key role in the domestication processes, are less knowledgeable about the country's international obligations. A review of the Hansards of the preceding two years further show there was hardly any reference to AU protocols or Charters during deliberations in the National Assembly. This lack of knowledge and reference obviously negatively affects the role of Parliament to hold the Executive to account on international commitments. At the same time, it also means that legislation lacks input from the protocols and charters that the country has assented to. In such a scenario, it therefore can hardly be expected that AU instruments can be fully and consciously domesticated.

4.3 Role of Parliament in the Domestication Process

For the AU provisions to acquire legal status in the domestic set up, there is need to legislate the ratified charters and protocols into domestic law. The domestication process involves the alignment of local laws and policies to AU charters and protocols.

When asked to indicate any laws that have been passed as a result of Malawi's ratification of AU protocols and Charters, the Parliamentary respondents offered no specific law that could be directly attributed to the AU instruments. However, it was pointed out that a number of recent legislation, including the Gender and Marriage law (2014) and the Human Trafficking Bill that is currently before Parliament, incorporated a number of aspects from AU instruments, notably the African Charter on the Rights and Welfare of the Child. Similarly, the National Youth Policy of 2013 draws heavily from the African Youth Charter.

However, given the limited knowledge of AU instruments among Malawi's legislators, the findings reveal that Parliamentary debates are largely influenced by what legislators consider national priorities rather than Malawi's compliance with her obligations based on the AU instruments. To the extent that any of these laws are aligned to the AU instruments, such alignment is largely coincidental rather than deliberate.

4.4 Parliamentary Structures and Relevance to AU Affairs

The Malawi Parliament has various structures that include committees, caucus groups and forums that relate to issues covered in various AU Charters and Protocols. The most relevant committees and forums include Committee on Foreign Affairs and International Cooperation; Agriculture; Environment; Gender; Legal affairs; Children Rights; Health; the Pan African Parliament (PAP) and other committees.

However, findings of this study reveal that most of Malawi's Parliamentary structures are less informed and less engaged about AU instruments. As a result, they are hardly utilized to advance the affairs of the AU. When interviewed, Members of the various Parliamentary committees only demonstrated very basic knowledge of AU instruments and the commitments Malawi made as a member. Additionally, the study shows that relevant Parliamentary committees remain less engaged by the line ministries and the civil society.

4.4.1 Parliamentary Committee on Foreign Affairs and International Cooperation

The Parliamentary Committee on Foreign Affairs and International Cooperation remains the most relevant committee through which Parliament can be informed and engaged on AU affairs. The committee comprises 20 Members of Parliament drawn from all political parties represented in the National Assembly. Its core function is to provide an oversight role in international relations and diplomacy. However, the study findings revealed that the committee is less informed and engaged on AU issues. The majority of its membership is not aware of the signing and ratification process of the AU charters and protocols.

Additionally, due to funding constraints, the committee meets infrequently. During the 2014/2015 financial year, the committee reportedly met only twice due to underfunding. During the two sessions, no matters relating to the African Union Charters and Protocols were tabled or discussed. Despite not being engaged, members of the Foreign Affairs and International Cooperation committee however expressed great interest to be more engaged in the process of domesticating and implementing AU Charters and Protocols. This interest provides an opportunity for the implementation process and they

can therefore also serve as critical partners to the SOTU campaign in Malawi.

4.4.2 Pan-African Parliament and Malawi's Membership

The Pan-African Parliament (PAP) is the legislative body of the African Union launched in 2004. It exercises oversight and has advisory and consultative powers. Its membership is drawn from the National Assemblies of the member states. Among other objectives, PAP aims at: implementing the policies and objectives of the African Union; making sure the Member States adhere to good governance, transparency and accountability; and informing the peoples of Africa on the objectives and functions of the AU. However, while Malawi is represented in PAP, there is no domestic legislation to give the country's representatives at the continental Parliament any significant powers. Additionally, there are also no feedback mechanisms to feed the PAP deliberations and decisions into the National Assembly. As a result, the country's PAP representatives are reported to usually participate as individuals without corresponding duties at national level. There is no traceable evidence that Malawi's Participation in PAP activities has in any way strengthened the role of local legislature in the affairs of the AU.

4.5 Role of the Judiciary in the signing and domestication of African Union Instruments in Malawi

By their nature, the Judiciary is expected to play the role of adjudicators. The courts are therefore not expected to get involved in the process of ratifying and domesticating international instruments that Malawi is a party to. However, to the extent that the Judiciary interprets the law, the study findings suggest that the only involvement at interpretation can only come about when, and if the international instruments have been domesticated by having the appropriate legislation passed. To the extent that Malawi does not follow up explicitly in domesticating AU instruments into domestic law, it is only those aspects that end up in ancillary legislation such as the Corrupt Practices Act, the Bill of Rights, to mention but a few, that are acted on by the Malawi courts.

4.6 Action Points

Parliament remains a very critical institution to enforce the country's compliance with AU obligations. In order for Parliament to effectively contribute towards the implementation of AU charters and protocols, the following recommendations should be considered:

Actions required by Government

- Government should involve Parliament in signing, ratification and domestication of AU charters and protocols to enforce compliance and strengthen popularization among the citizens;
- Provide sufficient resources to the various Parliamentary committees, particularly the Committee on Foreign Affairs and International Cooperation to meet and discuss issues relating to Malawi's international obligations;
- Parliament must strengthen reporting and monitoring mechanisms on AU affairs focusing on

the Parliamentary committees and forums;

- Table before Parliament a report documenting progress on AU affairs;
- Streamline the ratification of AU protocols and charters by involving the National Assembly from the very beginning to enhance ownership at grassroots level;
- Domesticate all international instruments as a way of getting the Judiciary involved in the implementation process.

Actions required by Civil Society

- Lobby for the passage of a law that requires the Executive to consult the Legislature before ratifying any international instrument;
- Continue with the engagement efforts with Parliament and share copies of abridged versions of the 14 AU instruments with all Members of Parliament;
- Lobby Members of Parliament to consider relevant AU protocols when debating specific bills;
- Lobby for the tabling of annual reports by the Minister of Foreign Affairs and International Cooperation on status of compliance and domestication of the 14 AU instruments.

CHAPTER 5: THE POLITICAL CONTEXT: THE ROLE OF POLITICAL PARTIES

5.1 Knowledge of AU Instruments

The prospects of domesticating African Union protocols and charters can be significantly enhanced if political parties adopt platforms that seek to promote aspects of these instruments. In order to ascertain the extent to which Malawian political parties reflect the cornerstones of the 14 AU instruments, leaders of the country's main political parties were interviewed. In total, 14 representatives of various political parties were interviewed¹². The interviews were complemented by a review of the election manifestoes of the main political parties that contested the 2004, 2009 and 2014 elections.

Based on the interviews, it was established that knowledge of the existence of African Union protocols appears to be widespread among the small sample of political party representatives that were interviewed. Out of the 14 party respondents, 11(79 percent) indicated that they were aware of African Union instruments while only three said they were not.

However, in a demonstration that knowledge of African Union instruments is not very deep, only three party respondents were able to mention more than one protocol, when asked to provide examples of AU instruments with which they were familiar. In one case, one respondent indicated that they were aware of AU instruments but could not mention a single protocol while a second respondent cited a protocol that does not exist.

The only protocols that were mentioned more than once were the African Charter on Democracy, Elections and Governance (mentioned by three respondents); the African Charter on the Rights and Welfare of the Child (mentioned by three respondents); the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (mentioned by two respondents). Other protocols and charters mentioned included the following:

- Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament;
- Revised African Convention to the Conservation of Nature and Natural Resources;
- African Mining Vision;
- African Youth Charter;
- Abuja Call for Accelerated Action Towards Universal Access to HIV/AIDS, Tuberculosis and Malaria by 2010;
- African Charter on Human and People's Rights.

The fact that many party representatives claim knowledge of AU protocols but cannot mention more than one particular instrument therefore suggests that the knowledge of AU instruments among Malawian political parties might actually be widespread, but shallow. This calls for sensitization efforts

12 Alliance for Democracy (Aford); United Independence Party (UIP); National Salvation Front (NASAF); People's Progressive Movement (PPM); United Democratic Front (UDF); People's Party(PP); Democratic Progressive Party (DPP); and Malawi Congress Party (MCP)

that go beyond merely notifying leaders about the existence of AU instruments to sensitizing them not only about the wide array of instruments, but also about the actual contents and what the instruments offer to the ordinary citizen.

5.2 Matching AU instruments with Political party objectives

There is a wide-held belief among the sample of party respondents that the ideals of Malawian Political parties are well matched with the goals and objectives outlined in the African Union instruments. This was reflected in the fact that out of the 14 political party interviewees, 10 (over 70 percent) were holding the view that the goals and objectives of AU instruments are closely matched with their Political party ideologies. When probed to indicate how the AU instruments reflected party ideologies, most respondents pointed at their election campaign promises as reflecting various aspects of AU instruments. Examples that were commonly cited included: issues of gender equality; commitment to democratic principles; fighting corruption; HIV/AIDS policies; and respect for human rights.

Although most party respondents claimed that their campaign promises reflected aspects of AU protocols, more than half of the 14 political party respondents conceded that their parties do not consult AU protocols and charters when formulating their election manifestos. Given this scenario, it can be argued that the times when Malawi election manifestos match with AU instruments, this is often by chance rather than by design. This view was captured most succinctly by one respondent who pointed out that:

“When formulating our election manifestoes, we do not directly consult the AU protocols and treaties. But at the end of the day, our manifestoes reflect aspects of the AU instruments. The synergy is done indirectly or sub-consciously...”¹³

That Political parties do not directly consult the AU protocols in formulating their election manifestos is not entirely surprising. AU instruments are not designed to promote a particular partisan agenda and cannot thus be directly used in developing election campaign materials. However, to the extent that these instruments seek to advance the welfare of ordinary citizens, the failure of Malawian political parties to consult them represents a big missed opportunity. The sidelining of these instruments also poses a great challenge in the implementation of the protocols and charters, since Political parties are not directly committed to advancing them once elected into Government.

5.3 AU instruments and Political party manifestos 2004-2014

The second component of ascertaining the political context of the AU instruments involved reviewing election manifestos of the main political contestants in the 2004, 2009 and 2014 general elections. This undertaking was based on the fact that since political parties form Government after an election, there is a high likelihood that their campaign manifesto promises will be implemented to retain the prospects of winning the next election. To the extent that party programmes may deliberately or not deliberately reflect AU instruments, the possibility of domestication and implementation therefore increases.

13 Interview with Political Party respondents, 15 May 2015



Election campaign Manifestos of Malawi's major parties often contain issues related to the African Union instruments.

5.3.1 African Union Instruments in the 2004 and 2009 Election Manifestoes

For the 2004 elections, the UDF, Mgwirizano Coalition, MCP and National Democratic Alliance (NDA) manifestos were reviewed. For the 2009 elections, the reviewed manifestos were those of the DPP, MCP, UDF and the National Salvation Front (NASAF).

The review found no explicit mention of any of the AU instruments in the eight manifestoes for the 2004 and 2009 elections. However, while the AU instruments were not directly mentioned, all eight manifestos contained various aspects of the nine instruments that Malawi had signed by then. For example, all contestants committed themselves to promoting human rights, which was in line with the African Charter on Human and People's Rights. The 2004 manifesto of the NDA in particular committed the party to promoting children's rights, which appeared to draw from the Charter on the Rights and Welfare of the Child. All the main political parties also committed themselves to promoting and

strengthening regional trade, which was in line with the tenets of the Treaty Establishing the African Economic Community and the Protocol to the Treaty Establishing, the African Economic Community Relating to the Pan-African Parliament.

Although Malawi is not a signatory to the Revised African Convention to the Conservation of Nature and Natural Resources, the review of 2004 and 2009 manifestoes further shows that the issue of environment remains a major election topic. All the eight manifestos in the 2004 and 2009 elections included dedicated chapters on environment and natural resources, with the parties committing themselves to promoting reforestation, soil conservation and sustainable fisheries.

5.3.2 Status of AU Instruments in the 2014 election manifestoes

Although more than ten political parties contested in the 2014 elections, the general consensus was that the main protagonists were DPP, MCP, UDF and the then ruling People's Party, PP. An analysis of the 2014 election manifestos of these four political parties shows that the African Union, and to a lesser extent, the instruments, got occasional mention. The MCP manifesto, for example, pointed out that if elected to office, the party would "encourage and support the treaty establishing the African Union and the continental Economic Cooperation and other initiatives." (MCP, 2014:15). The party further promised that its governing priorities would "adhere to the principles enshrined in the charters of the AU and United Nations (UN) and to all international treaties of which Malawi is a signatory," (ibid, page 60).

The eventual winner, the Democratic Progressive Party, meanwhile, committed itself to adhering to "the treaty establishing the African Union and the continental economic cooperation initiatives," (DPP, 2014:24). On the part of the UDF, the party merely stated that it will "support the AU to ensure African solutions for African problems," (UDF, 2014:41).

Of the four leading parties in the 2014 elections, only the then ruling People's Party, made a direct reference to AU instruments when the party cited the African Union's Comprehensive Africa Agriculture Development Plan (CAADP) in the party's election manifesto, committing a future PP Government to spending at least 10% of the annual national budget on agriculture as prescribed under CAADP (PP, 2014:6).¹⁴

Although African Union instruments were not directly cited for the most part in the 2014 manifestos, the main political parties singled out similar principles and ideals to those reflected in several AU instruments (Table 3):

Table 3: Synergies between 2014 election manifesto pledges and AU instruments

¹⁴ Whereas since 2005, the DPP and PP governments have devoted over 10 % of national budget to the agricultural sector, a large portion of this has been directed towards subsidizing agricultural inputs for poor Malawian farmers. While this has generally increased maize output, the staple grain, less has been devoted to agricultural investment to sustain output in future. This comes amid mounting pressure on government to reduce and gradually phase out the costly subsidy programme

Democratic Progressive Party (DPP)	Malawi Congress Party (MCP)	People's Party (PP)	United Democratic Front (UDF)
<ul style="list-style-type: none"> • Corruption • Principles of Good governance and Rule of Law • Agriculture • HIV/AIDS • Health • Children and Youth • Natural resources • Mining • Women / gender Equality 	<ul style="list-style-type: none"> • Good Governance • Human Rights • Agriculture • Natural resources • Health • Gender Equality • Corruption 	<ul style="list-style-type: none"> • Agriculture / CAADP • Health • Women • Youth • Governance\ Human Rights\ • HIV/AIDS • Environment and Natural Resources • Mining • Fighting Corruption 	<ul style="list-style-type: none"> • Agriculture • Health • Mining • Youth • Governance • Corruption

Source: 2014 Election manifestoes, DPP, MCP, PP and UDF

The fact that political parties incorporate aspects of the AU instruments in their election manifestoes, without specifically referencing the protocols and charters, suggests that the AU instruments advance issues that are also considered to be among the priority policy areas for Malawian political parties. This presents an enormous opportunity for their domestication implementation. The only challenge therefore is to sensitize political parties to become aware of the specific details of the instruments to the point where even the losing parties in the elections can pressure Government to implement these instruments.

5.4 Action Points

Actions Required by Government

- Publicize AU instruments among major Political parties, particularly those represented in Parliament.

Actions Required by Civil Society Organizations

- Engage leadership of Political parties to sensitize them about the AU instruments and alert them to the benefits that these instruments bring to the ordinary Malawian;
- Make copies of the instruments available to Political parties and urge them to incorporate their aspects in their own policy agendas;
- Incorporate Political party leaders into the National Advocacy Platform to secure political buy-in to the AU instruments;
- Undertake assessments of election manifestoes during election years and produce a report card

in terms of how Political parties are faring in incorporating the values of AU instruments in the manifestoes.

Actions Required by Political Parties

- Incorporate AU instruments in party policies and agendas;
- Push for the enactment of legislation to domesticate AU instruments in the country;
- Lobby Government to ratify the Revised African Convention to the Conservation of Nature and Natural Resources (2003).

Action Required by Donors

- Provide resources to Civil Society Organizations to engage political parties on AU protocols.

CHAPTER 6: THE ROLE OF CIVIL SOCIETY AND CITIZEN ENGAGEMENT

6.1 Overview of the Civil Society Advocacy Campaign

Since 2013, a grouping of Civil Society Organizations has been running an advocacy campaign aimed at promoting the ratification, domestication and implementation of African Union treaties and instruments in Malawi. This campaign is being coordinated by the State of the Union (SOTU), which is part of a wider continental Civil Society platform. SOTU activities in Malawi were launched in 2013 and are coordinated by two organizations, Eye for Development (EFD) and the Malawi Economic Justice Network (MEJN). Together, these two organizations host the National Advocacy Platform (NAP), which is a grouping of Malawi's leading CSO networks working in the thematic areas being championed by SOTU. These organizations include:

- Eye for Development (EFD);
- The Malawi Economic Justice Network (MEJN);
- National Initiative for Civic Education (NICE);
- Council for Non-Governmental Organizations (CONGOMA);
- Citizen Alliance (CA);
- The Civil Society Agriculture Network (CISANET);
- Malawi Healthy Equity Network (MHEN);
- Human Rights Consultative Committee (HRCC);
- Malawi Electoral Support Network (MESN);
- NGO Gender Coordination Network (NGO-GCN);
- NGO Coalition on Children Rights, (NGO-CCR);
- Youth Consultative Forum (YCF);
- Institute for Policy Interaction (IPI);
- Kasungu CSO Network;
- Balaka CSO Network;
- Mzuzu CSO Network.

By operating through the various CSO networks, SOTU-Malawi has been able to spread its advocacy and outreach efforts to most corners of the country. This study was thus able to ascertain that SOTU Malawi has achieved tremendous results within a span of the two years since the Malawi activities were launched. Through its various efforts, SOTU-Malawi has raised awareness about the African Union protocols and charters in the country several-fold. These efforts have not only contributed to sensitizing

the wider public about the African Union instruments, but also putting some pressure on public officials to start thinking about honoring commitments entered into through various protocols and treaties.

6.2 Assessment of SOTU Malawi Advocacy Efforts

SOTU activities in Malawi have been informed by recommendations of the 2014 Compliance Report and are built around three main pillars, namely:

- Informing and empowering citizens to claim their rights as enshrined in Government's commitment through AU instruments;
- Engaging Government to follow through on its AU commitments;
- Building capacity of CSOs to engage Government and empower citizens in the implementation of the 14 AU Charters and Protocols being championed by SOTU.

Operating under these three pillars, CSOs that are members of the National Advocacy Platform (NAP) have coordinated their efforts in advocating for the ratification, domestication, popularization, and implementation of African Union instruments in Malawi. This study has therefore been able to document numerous milestones that have been achieved within a span of one year, along each of the three SOTU pillars.

6.2.1 Inform and empower citizens

SOTU's efforts at addressing the first pillar (inform and empower citizens) have involved several activities. These include public hearings, citizen engagement audiences, district dialogue sessions, and panel discussions on radio and television stations, among several initiatives. These efforts have resulted in hundreds of ordinary citizens becoming informed to a greater extent about the various AU instruments that Malawi is a signatory to. Other beneficiaries have also included public officials and CSO leaders who have acquired knowledge about the AU instruments that was otherwise not being disseminated beyond the Capital Hill's narrow corridors of Government headquarters in Lilongwe.

Among the examples of the reach of these advocacy efforts, are public hearings organized by the SOTU team in Mchinji and Dedza districts, which were each attended by more than 300 people. These events were also broadcast live on Malawi's leading radio, Zodiak Broadcasting Station (ZBS), thus further expanding the reach of the messages beyond those that attended the events in person. SOTU also held a Citizen Conference event in Balaka district that was attended by more than 500 people that included ordinary citizens, government officials and civil society representatives.

Other activities under the pillar of informing and empowering citizens include district events that have focused on specific AU Protocols and Charters. These are smaller events that bring together CSOs, citizen groups, and the private sector to discuss and share information about some specific AU Protocols and Charters. Coordinated by the SOTU National Advocacy Platforms, these activities, which have since taken place in Nkhota-kota, Mzimba, Mulanje, Neno, Chikhwawa, Mwanza, Ntchisi, Kasungu and Lilongwe districts, are led by sector specific-NAP members and discuss the implementation of specific AU Charters at the district level. Based on interviews with a selected number of participants, these events are playing

a major role not only in increasing awareness of AU Protocols and Charters among ordinary citizens, but are also providing in-depth information to Government officials at the district level. In the long run, it is expected that these activities will help in aligning district sector initiatives with the AU protocols. SOTU expects to continue with these dialogue sessions to cover all the country's 29 districts.

6.2.2 Government Engagement

The second pillar of SOTU's campaign involves engaging the Malawi Government to act, ratify, implement and popularize AU Charters and Protocols. The SOTU network has also gone further and engaged the African Union regional office in Malawi to enlist them as a partner in championing the 14 AU instruments and promote their implementation. The SOTU network has, since the publication of the 2014 Compliance Report, undertaken several activities under this pillar that have delivered impressive results.

Among the notable events under this pillar has been the presentation of the 2014 State of Compliance Report to Malawi Government officials in various ministries. In a demonstration of the huge benefits of the close collaboration between CSOs and government departments, the Ministry of Foreign Affairs and International Cooperation facilitated the creation of space for SOTU to share the findings and recommendations of the 2014 Malawi State of Compliance Report with several line ministries. These include ministries of Agriculture and Irrigation; Youth, Sports Development and Culture; Gender, Children, Disability and Social Welfare; Health; Justice and Constitutional Affairs; Natural Resources, Energy and Mining; and, Finance, Economic Planning and Development.

Copies of the Compliance Report were also presented to other key constitutional bodies, notably the Anti-Corruption Bureau (ACB), the Speaker of Parliament, the Malawi Electoral Commission; and the Judiciary. Other recipients included the Leader of Opposition in Parliament; Principal Secretaries; Chairpersons of Parliamentary Committees; and Directors of key government departments. These report presentations were always accompanied by a briefing from the SOTU members that highlighted the areas that require government action in order to fully realize the objectives of the AU instruments. These engagement efforts appear to have greatly assisted Government officials, many of whom were not as familiar with the AU instruments, to become more knowledgeable and appreciate the areas that require Government attention.

Recognizing that the full realization of the objectives of the AU protocols goes beyond mere sensitization, the SOTU National Advocacy Platform has partnered with the Ministry of Foreign Affairs and International Cooperation to jointly promote the domestication and implementation of the AU instruments.

Among the main activities aimed at achieving this was the convening of a National Workshop on the AU Charters and Protocols that was jointly coordinated by the Ministry of Foreign Affairs and International Cooperation and SOTU. This was held in Kasungu district in central Malawi. This workshop, which was opened by the Minister of Foreign Affairs and International Cooperation, brought together various stakeholders from Government ministries and civil society. At the end of the workshop, participants developed a road map for coordinating and monitoring the implementation of AU Charters and Protocols in Malawi. As part of the road-map, the workshop also established a National Coordination Committee, which is headed by the Ministry of Foreign Affairs and International Cooperation whose main brief is to

spearhead the implementation of AU activities in the country. By placing Government in the lead, the engagement promises to deliver in that ultimately, it is Government that will have the responsibility in legislating and implementing the protocols and charters.

SOTU's engagement efforts have importantly gone beyond the interactions with Government officials. SOTU has also enlisted the support of two prominent members of the Malawi society, in the name of the former Speaker of Parliament, Mr. Henry Chimunthu Banda and one of Malawi's leading gospel singers, Ms. Ethel Kamwendo. These have been engaged to help the cause by serving as SOTU Malawi Ambassadors and help the network's advocacy efforts. SOTU also went ahead and prepared and delivered a Grand Petition on the implementation of AU Charters and Protocols in Malawi. This is a petition, which drew on the findings of the 2014 Compliance study, was also presented to Malawi Government through the Office of President and Cabinet (OPC). It highlighted sector specific activities that government needs to address in order to fully operationalize the AU instruments that Malawi has ratified. A copy of this petition was also shared with the Speaker of the National Assembly, the Chief Justice, the Leader of Opposition and the African Union Regional Office in Lilongwe.

Other engagement efforts have included a breakfast session bringing together 10 cabinet ministers and other top Government officials, where SOTU members presented the country's compliance with AU protocols and charters. Above all else these engagements were also premised on soliciting the support of Cabinet Ministers in ensuring that the AU instruments are fully implemented.



SOTU Ambassadors: Mr. Chimunthu Banda (Former Speaker of Parliament, second from left) and Ms. Ethel Kamwendo Banda (popular Malawi gospel singer, middle) pose for a photo with Malawi SOTU officials.

Source: Malawi SOTU Secretariat

While the National Advocacy Platform has reached out to various Government, one group that can act as a bridge between the Government and the grassroots has not been directly targeted yet, namely the

Local Government Councilors. This is largely due to the fact that at the time the SOTU campaign was being launched in 2013, Malawi did not have Local Government Councilors in place. However, these were only elected into office in 2014. If this group can be reached and engaged on the AU protocols and treaties, they could actually help by playing an important role in advancing the instruments since councilors are supposed to be the agents of development at the local level.

6.2.3 Building Capacity of CSOs

The third pillar of SOTU's campaign in Malawi has focused on building the technical capacity of Civil Society Organizations in the country and mobilizing them to champion the implementation of AU protocols through engaging government and empowering citizens.

The SOTU Platform has capitalized on the expansive list of its member organizations to reach out to many corners of the country. This is done by training and sensitizing the CSO-mother bodies who then train their affiliate organizations to take the messages to the rest of the country. In addition to sensitizing many local CSOs about AU instruments, this approach has had a multiplier effect in terms of the reach of SOTU's advocacy campaign.



Malawi SOTU National Coordinator, Mr. Edward Chileka Banda, briefs Civil Society Organizations on the Status of ratification of AU instruments in Malawi.

Source: SOTU Secretariat

As part of the capacity building efforts, SOTU has successfully also organized four regional conferences that brought together various CSOs who were briefed about the 2014 Compliance findings. Complimenting these efforts have been the Strategy & Advocacy workshops that have been bringing together CSO leaders for briefing on the AU instruments that SOTU is promoting in the country. Ultimately, these efforts are contributing to the creation of an army of CSO leaders that are eager to relate their own

work to the AU and jointly pressure Government to honor its pledges by translating its continental commitments into reality.

6.3 Awareness of AU Protocols among CSOs in Malawi

The increased profile of the SOTU Network, and its active promotion of AU protocols and charters, has also helped to significantly increase the awareness of AU Protocols and Charters in Malawi. Although many gaps still remain, the findings of this study reveal that CSO leaders who express awareness of the AU instruments, attribute this knowledge almost exclusively to SOTU's recent advocacy work.

While the knowledge of AU protocols and charters has relatively increased among the civil society sector, there are still large sections of the Malawi CSO sector that still remain ignorant about the existence of these instruments. This includes especially the CSOs that have not been a part of the SOTU National Advocacy Forum. When it comes to specific knowledge about AU protocols, the CSO members that are part of the SOTU National Advocacy Platform demonstrate a very strong grasp and understanding of the Protocols and Charters that SOTU's work is focusing on. By contrast, non-SOTU members are unable to mention specific examples of a majority of the AU instruments other than providing general terms such as gender, corruption and human rights.

6.4 Action Points

As much as the SOTU Malawi efforts have made impressive contributions in advocating for increased awareness of AU protocols, there is still slow progress in terms of domestication and implementation and, hence, much work still remains to be done. The findings of this study therefore further reveal that there is a lot of untapped potential in as far as CSO advocacy work on AU protocols is concerned. The following action points are proposed with a view to enacting the contributions that Civil Society Organizations have been making in the domestication of AU instruments in Malawi.

Actions Required by Government

- Continue working with Civil Society to popularize and implement the AU protocols and charters;
- Create a fund to for Civil Society advocacy work on AU protocols and charters.

Actions Required by Civil Society Organizations

- Sustain and strengthen the current advocacy efforts towards ratification and domestication of AU protocols and charters;
- Continue with the district dialogue sessions to cover all the country's 29 districts;
- Extend sensitization campaigns to include all civil society organizations, including those that are not part of the National Advocacy Platform;
- Lobby Government to create a basket fund for financing the on-going advocacy efforts;
- Engage with Local Government Councilors to sensitize them about the AU protocols and charters;

- Produce an abridged version of the AU instruments and translate this into local languages for distribution to ordinary citizens.

Action Required by Donors

- Provide resources to Civil Society Organizations to lobby for the implementation of AU protocols and charters.

CHAPTER 7: CONCLUSION

The main purpose of the study was to determine the extent to which Malawi has domesticated and implemented the ratified instruments and to assess the level of compliance and the impact of implementation on citizens' quality of life. The ultimate goal was to help the different stakeholders, from government, civil society and international donors to refocus, refine and rediscover the best strategies for domestication and implementation on the basis of the findings. The results are thus critical for the process of informing the country's overall strategy for domesticating and implementing African Union protocols and charters and translating these for the benefit of ordinary citizens.

As with the 2014 Compliance Study, the findings presented in this report yet again underscore the fact that Malawi is a strong performer when it comes to ratification of AU and other international instruments. However, when it comes to domestication and implementation, the record is far from convincing. Consequently, Malawian citizens are still yet to enjoy the full benefits of the AU Charters and Protocols.

On the positive front, the findings show that the CSO-led 'My African Union' campaign that was launched in Liwonde, Machinga district in 2013 aimed at championing 14 AU instruments has had tremendous impact, despite only operating for a two year period. The campaign, which is being spearheaded by the State of the Union National Advocacy Platform, has managed to energize CSOs to effectively engage Government, ordinary citizens and other stakeholders on AU instruments. This campaign has also contributed to increased awareness of the existence of AU protocols and charters. However, more work still needs to be done; and throughout this study, suggestions have been made on actions that need to be undertaken by other stakeholders.

Bibliography

African Union, Charters Protocols and Treaties, (various), Addis Ababa: AU

Democratic Progressive Party (DPP), Manifesto of the Democratic Progressive Party: Towards a People-Centered Government, Lilongwe: DPP, February 2014

DPP, A government we can trust: DPP Manifesto 2009, Blantyre: DPP, 2009

Malawi Congress Party, Manifesto 2014: A better and Prosperous Malawi is Possible, Lilongwe: MCP, 2014

Malawi Government, Marriage, Divorce and Family Relations Act, 2015, Lilongwe: Malawi Parliament, 2015

Malawi Government, National Youth Policy, Lilongwe, Government Printer, 2013

Malawi Government, Malawi National HIV/AIDS Policy, Lilongwe: Government Printer, 2004

Malawi Government, Malawi National TB Programme Manual, Lilongwe: Ministry of Health, 2004

MCP, Reconciliation, Reconstruction and Development: MCP 2004 Manifesto, Lilongwe: MCP, 2012 (Seventh Edition)

MCP, Restoration of a Strong and People Based Corruption-Free Government for Greater Prosperity of all Malawians: MCP 2009 Manifesto, Lilongwe: MCP

Mgwirizano Coalition, Governance for Sustainable Development: The 2009 Manifesto, Blantyre: Mgwirizano Coalition, April 2004

NASAF, National Salvation Election manifesto 2009, Lilongwe: NASAF, 2009

NASAF, National Salvation Election Manifesto 2014, Lilongwe: NASAF, 2014

NDA, The NDA Manifesto 2004, Blantyre: NDA, 2004

People's Party, Transforming Malawi Together: It is Possible, Lilongwe: PP, 2014
State of the Union, Malawi Compliance Report, Lilongwe: SOTU, 2014

UDF, 2004 Election Manifesto, Blantyre: UDF, 2004

UDF, Delivering Change in Malawi: Manifesto Elections 2014, Blantyre: UDF, 2014

UDF, UDF Manifesto 2009: Proud of the Past, Confident in our Future, Blantyre: UDF, 2009

Appendix 1: Status of Malawi's Compliance with the 14 AU Protocols and Charters being championed by SOTU as of June 2015

	AU Protocol and Charter	Date of Malawi signing	Date of Ratification by Malawi
1	African Charter on Human and Peoples' Rights (1981)	23 February 1990	17 Nov. 1989
2	African Charter on Democracy, Elections and Governance	Not signed	11 Oct. 2012
3	African Charter on the Rights and Welfare of the Child	13 July 1999	16 Sept. 1999
4	The Treaty Establishing the African Economic Community	13 June 1991	26 June 1993
5	Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament	10 July 2001	03 July 2002
6	African Union Convention on Preventing and Combating Corruption	Not signed	26 Nov. 2007
7	NEPAD Comprehensive African Agricultural Development Plan	Date not available	19 April 2010
8	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	Not signed	20 May 2005
9	Revised African Convention to the Conservation of Nature and Natural Resources	Not signed	Not ratified
10	Abuja Call for Accelerated Action Towards universal Access to HIV/AIDS, Tuberculosis and Malaria by 2010	Date not available	Ratified, but no date
11	African Youth Charter	Date not available	13 August 2010
12	Maputo Plan of Action for Implementing the Continental Sexual and Reproductive Health and Rights Policy Framework 2007-2010	Date not available	Malawi is listed as a signatory, but date not indicated
13	Africa Health Strategy 2007-2015	Date not available	Ratified, but no date indicated.
14	Sharma El-Sheikh Commitments for Accelerating the Achievement of Water and Sanitation Goals in Africa	Signed, date not available	Malawi ratified, but no date available

Appendix 1:

My African Union My Malawi Government

Key Policy Asks

- Sign, Ratify, Domesticated, Implement and Monitor AU Charters and Protocols.
- Strengthen Country Coordination and Monitoring Mechanisms.
- Involve Parliament in Signing, Ratification and Domestication of AU Instruments.
- Popularise AU Legal and Policy Instruments.
- Consult and Involve Citizens in AU Processes.
- Develop Positive Partnerships with Civil Society Groups.
- Enhance Compliance and Accountability Mechanisms.
- Eradicate Corruption and abuse of Public Resources.

SOTU

Engagement in Malawi



CSOs and citizens presenting a petition to Malawi Government through Chikwawa DC

'Partnership hope for domesticating treaties'

VINCENT KHONJE
MALAWI NEWS AGENCY

Minister of Foreign Affairs and International Cooperation George Chaponda has said partnership with relevant stakeholders is the only hope for domesticating and popularising African Union (AU) treaties, protocols and charters.

Chaponda was speaking during the opening of a two-day workshop on 'Strengthening the collaboration of implementation of AU treaties, protocols and charters' at Chikho Hotel in Kasungu on Tuesday.

Malawi is said to have done well at the signing and ratification of instruments level, but domestication of the ratified treaties, charters and protocols

then and it is for this reason that I am banking my hope of making good progress on innovative partnership.

Partnership will help to jointly assess the implementation status, facilitate collective learning that should result in effective coordination and monitoring mechanisms at all levels.

The workshop brought together the Ministry of Foreign Affairs, line ministries, departments and organisations, civil society organisations (CSOs) and State of the Union (Sotu) Malawi National Advocacy Platform (NAP) members.

Sotu is Pan African governance project by civil society and citizens groups launched to campaign for effective implementation of charters and protocols in AU Member states.

Chaponda: Partnerships can facilitate collective learning

into local legal and policy instruments has not been complete and clear.

Said Chaponda: "I am aware of how the AU has struggled with its members to ratify various treaties, domesticate their stipulations, popularise

PHOTOGRAPH: NACHO LIBRARY



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