



SIHMA

Scalabrini Institute for
Human Mobility in Africa

AN ASSESSMENT OF LEGAL FRAMEWORKS FOR ACCESS TO ASYLUM FOR REFUGEES AND FOR THE PROTECTION OF CHILDREN ON THE MOVE IN MALAWI

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This report is based on a study undertaken by the Scalabrini Institute for Human Mobility in Africa (SIHMA) in 2025/2026.



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EXECUTIVE SUMMARY

Legal frameworks for access to asylum for refugees and for the protection of children on the move both exist in Malawi. However, the existence of legal frameworks does not inherently mean their effective implementation. Therefore, to contribute towards efforts of enhancing the protection of asylum seekers, refugees and children on the move especially unaccompanied and separated minors in Malawi, legal frameworks and the implementation thereof should be examined. This research aimed to understand the practical implementation of the legal frameworks by government departments and other actors working with the asylum processes and the protection of children on the move through the perspective of the different stakeholders (Government, Civil Society Organisations (CSOs) and Faith Based Organisations (FBOs) that work in support of the processes.

Data was collected between July and October 2025 using online Key Informant Interviews (KIIs) with 13 stakeholders working with the general asylum processes and 11 stakeholders working directly in the protection of children on the move. These stakeholders were purposefully selected for inclusion to provide expert knowledge on these issues to inform improvement of the legal frameworks and processes for asylum and the protection. Preliminary findings were subsequently validated during a multi-stakeholder research findings verification workshop held in Mzuzu in April 2026, which provided an opportunity for stakeholders to verify the findings, identify gaps and omissions, and strengthen the recommendations emerging from the study.

The study found that while Malawi has established legal frameworks for refugee protection and child protection, significant gaps remain in implementation. Stakeholders highlighted challenges relating to legal and policy limitations, bureaucratic procedures, weak institutional coordination, inadequate documentation systems, capacity constraints, and operational barriers that affect access to asylum procedures and protection services. These challenges are particularly acute for unaccompanied and separated children, who often face difficulties in obtaining documentation, accessing durable solutions, and navigating complex refugee status determination processes.

The findings further indicate that implementation challenges are compounded by resource limitations, weak accountability mechanisms, and an over-reliance on non-governmental actors to deliver essential protection services. Stakeholders also emphasised the need for stronger government ownership and leadership of refugee and child protection systems, improved coordination among stakeholders, enhanced screening and referral mechanisms at entry points, and greater attention to the risks of detention, trafficking, exploitation, and statelessness affecting children on the move.

The restrictive nature of refugee policies and encampment practices was also identified as limiting freedom of movement and access to livelihoods, education, and other opportunities for refugees, asylum seekers, and their families. These constraints affect both individual wellbeing and prospects for long-term integration and self-reliance.

Ultimately, the study demonstrates that protection is achieved not through legal frameworks alone, but through their effective implementation. By strengthening legal protections, improving institutional capacity and coordination, and ensuring that policies translate into practical protection measures, Malawi has an opportunity to enhance the safety, dignity, and rights of refugees, asylum seekers, and children on the move. This report provides an evidence base to inform policy dialogue, legal reform, advocacy, and programming aimed at strengthening protection systems in Malawi.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
Contents	2
1. INTRODUCTION	3
1.1 Main Objective	4
1.2 Specific Objectives	4
2. METHODOLOGY	5
2.1 Research design	5
2.2 Research Process	5
2.3 Data Analysis	6
2.4 Validation Workshop	6
3. FINDINGS	6
3.1 GENERAL ASYLUM PROCESSES	6
3.1.1 THEME 1: CHALLENGES WITH THE ASYLUM CYCLE	6
3.1.2 THEME 2: IMPLEMENTATION GAPS	15
3.1.3 THEME 3: PRACTICAL IMPACTS	18
3.1.4 THEME 4: ACCESS TO SERVICES	19
3.1.5 SUMMARY OF FINDINGS: GENERAL ASYLUM PROCESSES	21
3.2 PROTECTION OF CHILDREN ON THE MOVE	23
3.2.1 THEME 1: ACCESSING DOCUMENTATION	23
3.2.2 THEME 2: UNACCOMPANIED AND SEPARATED MINORS	26
3.2.3 THEME 3: FAMILY TRACING AND REUNIFICATION	31
3.2.4 THEME 4: CHILD EXPLOITATION, TRAFFICKING AND DETENTION	32
3.2.5 THEME 5: PRACTICAL AND EMOTIONAL IMPACTS	33
3.2.6 SUMMARY OF FINDINGS: CHILDREN ON THE MOVE	35
4. CONCLUSION	37
5. RECOMMENDATIONS	38
5.1 Short-term/Immediate recommendations	38
5.2 Medium term recommendations	39
5.3 Long term recommendations	40
6. ACKNOWLEDGEMENTS	41
7. References	41

ABBREVIATIONS

Abbreviation/Acronym	Full Meaning
BIA	Best Interest Assessment
BID	Best Interest Determination
CCPJA	Child Care, Protection and Justice Act
CRC	Convention on the Rights of the Child
CSOs	Civil Society Organisations
DRC	Democratic Republic of Congo
DSW	Department of Social Welfare
FBOs	Faith-Based Organisations
KIIs	Key Informant Interviews
NCRSH	National Committee on Research in the Social Sciences and Humanities
NRB	National Registration Bureau
OAU	Organisation of African Unity
RSD	Refugee Status Determination
SIHMA	Scalabrini Institute for Human Mobility in Africa
UN DESA	United Nations Department of Economic and Social Affairs
UNHCR	United Nations High Commissioner for Refugees

1. INTRODUCTION

Malawi continues to play an essential role as a source, transit and destination for international migrants mainly from other African countries. In 2010, the international migrant stock was estimated to be 217,772 (1.5% of the Malawian population) (UN DESA, 2025). In 2015, it was 197,238 (1.2% of the Malawian population), in 2020 it was estimated to be 191,400 (1.3% of the Malawian population), and in 2024, it was 186,700 (0.9% of the Malawian population) (Ibid). As of March 2025, there were 57,438 refugees and asylum seekers in Malawi (UNHCR, 2025) with the majority (39,063) coming from the Democratic Republic of Congo (DRC) (ibid). Malawi is also considered a safe transit route for migrants and their children heading for South Africa because of porous borders and relatively relaxed border control. Data on the number of children on the move in Malawi does not exist. However, migrant children in Malawi often accompany their parents whose migration status determines the children's status. Despite legal provisions like the Childcare and Protection Act of 2010 being put in place to prohibit the detention of children, children often experience detention in Malawi for periods between 3 – 8 months because of the irregular status of their parents (Gadisa et al., 2020).

The refugee legal framework is primarily governed by the Malawi Refugee Act of 1989, which articulates the rights and responsibilities of refugees and asylum seekers and the refugee status determination processes and mechanisms (Generis Global Legal Services, 2024; Mvula, 2010). Furthermore, the government of Malawi is a signatory to the 1951 UN Convention relating to the Status of Refugees (1951 Convention) as well as its 1967 Protocol and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention) (Mvula, 2010). Malawi collaborates with various international organizations, such as the United Nations High Commissioner for Refugees (UNHCR), to enhance the support mechanisms available to refugees and to navigate the complexities of the refugee situation in the country (Generis Global Legal Services, 2024).

In terms of the protection of children on the move, Malawi is a state party to the International Convention on the Rights of Children (CRC) which aims to safeguard the rights of children. The country has the Child Care, Protection and Justice Act 22 of 2010 which gives a general duty on local authorities to safeguard and promote the wellbeing of children (Southern Africa Litigation Centre, 2016). Refugees' rights and protection of children on the move in Malawi are also protected by other international and national legal frameworks.

The existence of legal frameworks does not inherently mean their effective implementation. This research aimed to understand the practical implementation by government departments and other actors working with the asylum processes and the protection of children on the move through the perspective of the different stakeholders (Government, Civil Society Organisations (CSOs) and Faith Based Organisations (FBOs) that work in support of the processes. This research serves as a starting point for identifying and analysing the legal frameworks and their implementation, and it will contribute to broader discussions on the rights of refugees and the need for an accessible and protective asylum system. Second, it aims to inform the improvement of legal frameworks relating to the protection of children on the move. The research will inform dialogues and advocacy actions within Malawi for improved and more protective legal frameworks and effective implementation of these laws on the ground.

1.1 MAIN OBJECTIVE

To identify the legal frameworks on access to asylum for refugees and the protection of children on the move and the implementation of these frameworks in Malawi.

1.2 SPECIFIC OBJECTIVES

- I. To identify the legal frameworks on access to asylum and the implementation processes associated with these frameworks.
- II. To identify the legal frameworks on the protection of children on the move and the implementation processes associated with these frameworks.
- III. To highlight the gaps, enablers and barriers for access to asylum for refugees and for access to protection for children on the move including unaccompanied and separated children.
- IV. To propose recommendations for advocacy actions to protect the rights and protection of refugees and children on the move.

2. METHODOLOGY

2.1 RESEARCH DESIGN

A qualitative research approach was used to identify the legal frameworks for access to asylum for refugees and for the protection of unaccompanied and separated refugee children and understand their implementation. A qualitative approach was used to develop an understanding of the experience (Fossey, Harvey, McDermott, & Davidson, 2002) of both stakeholders and refugees (through refugee-led organisations) of the application of the legal frameworks.

2.2 RESEARCH PROCESS

The study was conducted in two phases: (i) Desk review outlining and discussing the legal frameworks; (ii) Key Informant Interviews (KII) to understand the experience of stakeholders who work directly with asylum processes and in the protection of children on the move were engaged to discuss the application of the legal frameworks outlined in the desk review. These stakeholders were identified through a stakeholder/organisational mapping conducted by the researchers in collaboration with some local partners. From the stakeholders/organisations identified participants were selected for inclusion to provide expert knowledge on the two processes.

The stakeholders invited consisted of:

- Government officials
- Legal experts and Legal practitioners who were working directly with refugees and children on the move
- Social practitioners working directly with refugees and children on the move
- Refugee led organisations

	General Asylum Processes	Children on the Move
Government	2	2
Social Experts	5	4
Legal experts/legal practitioners	6	4
Refugee Led Organisations		1
Total	13	11

Keeping in mind the principle of ‘data saturation’ and the range of sectors listed above a total of 13 participants were interviewed for the General Asylum Processes and 11 for the Protection of Children on the Move. A trained researcher with knowledge and experience on asylum processes and children on the move was engaged to collect data in Malawi online using interview guides that were developed in consultation with partners working on the ground. Ethical Clearance was granted by the National Committee on Research in the Social Sciences and Humanities (NCRSH).

2.3 DATA ANALYSIS

Data was analysed thematically using ATLAS.ti, a data management software. A set of themes and sub-themes were created from the data following the six stage thematic analysis process. These were further analysed for patterns, comparisons.

2.4 VALIDATION WORKSHOP

To ensure that the findings are accurate and contextually relevant and to refine recommendations proposed in the draft report, the researchers conducted a two day workshop with stakeholders in Malawi that worked with the asylum and protection processes including the protection of children on the move. The workshop facilitated knowledge-sharing and collaboration between organizations working with the asylum processes and the protection of children on the move and it enabled the stakeholders to reach consensus on key findings, conclusions, and recommendations prior to final reporting. The workshop also discussed ways research findings can be used to inform advocacy and policy revision.

3. FINDINGS

3.1 GENERAL ASYLUM PROCESSES

This section of the report describes the themes and subthemes that emerged from the interviews with stakeholders in Malawi who worked on the general asylum processes. The stakeholders were asked to explore the extent to which legal frameworks for refugees met their rights by applying easy and accessible protective asylum processes.

3.1.1 THEME 1: CHALLENGES WITH THE ASYLUM CYCLE

ACCESSING ASYLUM

Stakeholders identified challenges to the initial access and registration for asylum at the border points. Asylum seekers entering Malawi are required to present themselves to any government authority for asylum declaration and registration at the border points normally in Karonga and Chitipa. During this process the stakeholders mentioned that some of the people seeking asylum are turned back, arrested and/or deported or at times they are asked to present travel documents which are not always available for asylum seekers. Most of the time they are treated as irregular immigrants and are prone to detention before they present their intent to apply for asylum in the country. This contravenes Section 10 (1)(2)(4) of the Malawi Refugees Act of 1989 and the Refugee Regulations of 1990 Section 3 which protects asylum seekers from non-refoulement.

Some of the stakeholders mentioned this as follows:

...there is a significant gap in how asylum seekers, refugees, and illegal migrants are treated. Often, authorities treat asylum seekers and illegal immigrants as the same. As a result, even when someone presents themselves to a competent officer at the border seeking protection, they can be treated as an illegal entrant and sent back and/or arrested.

Currently, when people enter Malawi, law enforcement often assumes they are entering illegally and arrests them, even if they are fleeing conflict or persecution in their home countries. For example, many Ethiopians coming to Malawi are escaping war, but under current practices, they may be placed in detention rather than be properly screened.

One of the gaps in the current system is that when asylum seekers present themselves to a competent officer, they are often treated as illegal immigrants.

Some of the stakeholders mentioned how the Refugees Act of 1989 is not comprehensive enough in defining a refugee and there are no guidelines in identifying refugees, which affects the screening process.

While it mentions protection and status determination for asylum seekers, it falls short in several areas particularly in screening and properly identifying who is genuinely a refugee versus someone who may not qualify. The law does not provide clear mechanisms...

The decision at entry is left to the discretion of an officer that would be in contact with the asylum seeker at that point without consulting other officers or involving other departments or stakeholders. The subjectivity of the process, absence of standardized procedures and the individuality of the decisions create loopholes in the process. Considering this, some asylum seekers choose not to enter the country through the formal channels fearing that they might be turned back at the border.

Furthermore, the stakeholders mentioned how sometimes asylum seekers are kept in transit centres in Karonga and Chitipa in inhospitable and overcrowded conditions for prolonged periods before being sent to Dzaleka camp where refugee status determination takes place:

The process begins when an individual declares their intention to seek asylum, usually to an immigration officer. In theory, they should be given temporary protection, but in practice, this often does not happen. Many refugees are placed in transit areas, such as the shelter in Karonga, which is meant to be temporary but can become prolonged.

Unfortunately, government protection is often slow and procedural. The process of registering asylum seekers and moving them to a place like Dzaleka Refugee Camp can take a long time.

Being kept in transit centres for prolonged periods is a violation of the rights of the asylum seeker since it not only blocks the refugee from applying for status determination but also protection under the refugee law. This was indicated to be a huge challenge due to shrinking resources and support from other non-governmental actors especially the UNHCR which was responsible for transporting asylum seekers from Karonga to Dzaleka. To avoid being kept in transit shelters for prolonged periods some asylum seekers avoid using the official entry points and just go straight to Dzaleka camp. Additionally, the stakeholders mentioned that due to the shortage of funds to transport asylum seekers, some are asked to find their way from the transit centre to the refugee camp, exposing them to many challenges including risk of trafficking and exploitation.

REFUGEE STATUS DETERMINATION

Upon arriving at the refugee camp in Dzaleka the asylum seeker proceeds to UNHCR for full registration, photo capturing and to get a ration card. Then after they are referred to the Refugee Status Determination (RSD) unit of the Malawi Government where they register for an interview, attend interviews, narrate their story and submit all the required documents. One of the government stakeholders working with the process outlined the steps in this process, observing how the many steps in the process lead to delays in processing the applications:

The RSD unit handles the entire process, which is why I mentioned earlier that once a person is received, they must be interviewed and their case goes through several steps before reaching the Refugee Committee. There is a three-tier process: first, the unit conducts interviews and drafts recommendations, which are then reviewed at the departmental level. Second, the cases are submitted to the Task Force Committee for an additional level of review. Finally, the recommendations from the Task Force are sent to the Refugee Committee, which primarily endorses them but also carries out a further review. You can see where the gap lies: although administratively the process is intended to be completed within three months, the multiple layers of review often make it take much longer.

During the status determination interviews, the asylum seeker has to prove that they meet the definition of a refugee as stipulated by the Refugees Act of 1989. The challenge with this process is that some asylum seekers do not attend the interviews because they are concerned that their cases might not be strong or compelling enough. This affects their status determination and the protection that they are supposed to be awarded under the national and international refugee laws.

Many do not come for interviews, most of them realize that their cases may not be strong or compelling enough to be considered for refugee status; they may not have sufficient evidence to support their claim. In that situation, once they are registered in Malawi, they can remain in the system and go about their lives without any issue.

Another challenge that emerged from many stakeholders was the issue of language.

This applies to the entire asylum cycle but is particularly problematic as asylum seekers arrive in the country during registration and the status determination interview. The stakeholders mentioned the absence of professional interpretation services; interpreters are normally fellow refugees who are not trained interpreters, who might not have a mastery of the official language (English), and does not understand the ethics of the profession. This affects the credibility during the interviews.

While we provide interpreters in the camps, the interpreters are often fellow refugees. This creates a potential risk in using refugees as interpreters. This creates a situation where the interpreter, who understands the other person's language, could potentially manipulate the story during the interview. They might do this intentionally in front of a government official or misuse the opportunity, which could affect the outcome once the interpretation is complete.

After the interpretation is done, the interpreter might claim, 'I helped you with your case, so you have to acknowledge me,' creating further complications.

Although the Refugees Act of 1989 has provisions of establishing a Refugee Committee, its composition and functions, it's not clear on how often the committee should meet. Article 5 of the Refugees Act mentions that "The Committee shall meet at such times and places as the Chairman shall determine and shall have power to determine its own procedure". However, the stakeholders mentioned that:

As far as I understand, since 2021, the committee responsible for granting refugee status has not been sitting, so the process has stalled for about four years. The system is tedious and leaves genuine asylum seekers in a very difficult position. If we're saying that the committee hasn't met in the last four years, it really shows. The committee goes four years without meeting to determine refugee status, ...it doesn't make any sense.

Furthermore, some of the stakeholders commented on the composition of the Refugees Committee, specifically the chairman, who is the Secretary to the President and Cabinet, the most senior civil servant in the country. Considering the seniority of this position and the many priorities that they juggle, they are extremely busy and convening a refugee committee meeting may not be a priority. Even though the Refugees Act stipulates that the Chairperson of the Committee can appoint a Vice-Chairman from amongst its members in his/her absence to quicken the processes, this is not being implemented in practice and meetings are not convened due to the busy schedules of the committee.

The Department of Refugees suggests that the composition of the committee may need to change. Currently, it is chaired by the Chief Secretary, who is extremely busy. The chairmanship could be assigned to someone who has the time and capacity to convene meetings and make timely determinations. So, some of the challenges stem from policy and administrative issues. At the end of the process, when we talk about the Refugee Committee, you'll notice that the chairperson of the committee is supposed to be the Secretary to the Cabinet under the Office of the President (OPC). Because the chairmanship is held at such a senior level, the other members are also expected to be senior officials. This means we'll need Principal Secretaries and secretaries from different ministries to attend. If we are trying to schedule just one meeting, it will take months close to a year for us to be able to make it happen.

The most common pattern related to accessing refugee status throughout all the interviews was the time taken for a decision to either grant or reject the application by the Refugees Committee. The Refugee Act does not indicate the stipulated time for a decision to be made; although, the 1990 Refugee Regulations stipulates that a decision should be made

within 30 days of receiving the application.

There isn't a specific restriction in place. For example, if you're a refugee or an asylum seeker, you are not required to be processed within a defined period.

As far as I understand, since 2021, the committee responsible for granting refugee status has not been sitting, so the process has stalled for about four years. The system is tedious and leaves genuine asylum seekers in a very difficult position.

Even when we receive new cases, we are still handling cases from 2008 and 2010.

The stakeholders also indicated that there are very few cases that are being adjudicated. This is attributed to the gaps in the law and its outdated nature which was enacted in 1989 when Malawi was receiving few refugees mainly from Mozambique on a prima facie basis. Now the country receives many refugees from other parts of Africa and Dzaleka camp hosts over 56 000 refugees which is beyond its 12 000 capacity. With the context changes, the Refugees Act was deemed insufficient.

In terms of refugee status determination (RSD), there are gaps in the law. The law states that the Refugee Committee is responsible for granting or denying refugee status. However, if you look at the history of the Department of Refugees, there used to be committees that would call an individual and their family to appear before them. They would conduct interviews with the person and their family and then inform them whether refugee status had been granted to all family members. That system worked when there were very few asylum seekers, perhaps only two per month. Today, however, we are dealing with an average of 250 arrivals per month, which makes the old approach impractical.

While we were able to follow the requirements of the law at that time perhaps also because the numbers were relatively small today the situation is very different. As a government, we are overwhelmed by the growing population...

The Refugee Act itself is outdated, it dates back to 1989 and many changes have occurred since then that are not reflected in the law. There is a clear need for revision.

The above quote highlights the outdated nature of the 1989 Refugee Act, which has not evolved to reflect the contemporary realities of the refugee and asylum landscape in Malawi. In addition, some stakeholders highlighted that the 1989 Refugee Act predates the 1994 Constitution of Malawi and due to this, it needs to be amended to ensure that it is sufficiently rights-based and in line with the protections in the Constitution.

Another issue reported by the stakeholders was the irregular entry of many asylum seekers through informal channels. This affected their registration and protection since the registration process begins at the border areas where biodata of new arrivals is collected before being transported to Dzaleka for processing.

The second issue relates to irregular entry. Some people avoid official channels due to fear or uncertainty about whether they will be welcomed. Instead, they attempt to enter the country illegally for example, hiding in trucks that appear to be carrying goods. This makes it difficult for authorities to track and document arrivals properly, which is essential for registering refugees, reporting to relevant authorities, and ensuring their protection. Irregular entry affects the process of transitioning refugees into the system, from registration to documentation.

Currently, some refugees and asylum seekers use uncharted routes to enter Malawi, which can delay their registration or even result in deportation.

The quotes highlight the mistrust among asylum seekers and refugees with the asylum system, which does not only discourage people from applying for asylum; but actively contributes to the production of undocumented migrants and entrenches their invisibility within the state apparatus.

One government stakeholder indicated that the law is not comprehensive enough, but the Malawian Government and its partners are doing much more than what is stipulated in the law in offering protection to refugees.

...it's important to note that Malawi is implementing many good practices. They just may not be formally codified in legislation, which can give the impression that we are not meeting current standards.

ARREST AND DEPORTATION

A recurring theme in the interviews was on the persistent threat of arrest and deportation faced by the asylum seekers mainly caused by the misconception by the authorities that asylum seekers are “illegal immigrants”. This result in many asylum seekers not coming upfront to declare asylum seeking because of the fear of being detained. The authorities do not differentiate between the two thus putting them at a risk of arrest and deportation contravening Section 10 of the Refugees Act 1989 which stipulates conditions for non-expulsion of asylum seekers prior to having their refugee status determined. Furthermore, the success rates for refugee applications and appeals are indicated to be low putting all the unsuccessful applications at a risk of detention and deportation back to the countries where they are facing persecution.

Often, authorities treat asylum seekers and illegal immigrants as the same. As a result, even when someone presents themselves to a competent officer at the border seeking protection, they can be treated as an illegal entrant and be sent back. Once an individual reaches a refugee camp, they are generally able to submit an application to the UNHCR. This involves filling out forms and participating in interviews, including questions about where they are coming from. What I observed then was that the process was largely bureaucratic, with government officials effectively “ticking boxes.” Out of many reapplications, very few were successful—sometimes only one out of 27.

The research found out that asylum seekers are put in police facilities for long periods due to lack of alternative detention centres and in these facilities are in inhospitable conditions. Detention in prisons for a long period of time without a clear charge is in itself a human rights violation. Some of the stakeholders said:

Yes, and many of them are there on remand, waiting for a decision. They have no idea how long they will be kept there. Their fate is often left to the discretion of a specific individual, or sometimes the courts, but the process takes a long time. This uncertainty is very frustrating for them. They are treated simply as illegal immigrants and dealt with harshly, as if they've committed a crime, just because they entered without documentation.

What I'm saying is that one of the gaps in the current system is that when asylum seekers present themselves to a competent officer, they are often treated as illegal immigrants. After being brought before the court, the court may order their deportation, but then they are remanded to prison while the government arranges funding for the deportation. As a result, people can remain in prison long after the court has issued its order. For example, a court might set a timeline of 14 days for deportation, yet 45 or even 60 days later, the individuals are still in custody. It raises

questions about accountability, who is responsible for ensuring that deportation orders are carried out promptly? The delays show a disconnect between the legal directives and the authorities tasked with implementing them.

Some of the stakeholders also indicated how asylum seekers are charged and tried under the Immigrations Act instead of being protected under the Refugees Act.

Okay, so the issues include unlawful and prolonged detention, being subjected to poor living conditions, such as those in prisons, and being subjected to laws that do not appropriately apply to the individual at the time—for example, applying the Immigration Act to someone who should be protected under the Refugee Act. This results in wrongful treatment.

Currently, the law addresses issues like persons with proper travel documents, but for refugees, who may not have identification because they are fleeing conflict or persecution, these provisions often work against them. For example, courts have sometimes detained refugees under laws designed for other purposes, rather than giving them the protection and time they need to seek asylum. We want to see legislation that allows refugees to be properly screened, protected, and given time, rather than being immediately penalized, fined, or deported.

This misclassification has profound consequences for access to asylum, legal protection and the rights of individuals fleeing persecution or armed conflict, which include criminalisation of asylum seekers as “illegal entrants”, lack of proper screening and referral to the Refugee Department, absence of procedural guarantees, systematic confusion about institutional mandates, and contradiction with Malawi’s international obligation.

APPEALS PROCESS

If the Refugee Committee rejects the application to grant refugee status or finds the application for refugee status as unfounded, the applicant can appeal the decision to the Minister of Homeland and Security within 14 days after receiving the decision as indicated in Section 11 of the Refugees Act. However, the stakeholders noted some challenges with this process, specifically the absence of a permanent review board to review the applications. The review board is only created on an ad hoc basis, and a new one is created for each meeting. According to one of the stakeholders this affects the continuity and consistency of the board’s mandate.

...there’s no formal board. We just invite stakeholders, and whoever they send becomes part of the panel at that moment. Afterward, there’s no continuity. We’ve suggested that a proper appeals panel should be established, with members elected to serve for one, two, or four years, and meeting regularly. This would allow for better consistency and oversight.

Some of the stakeholders explained how the appeals board takes many years before an appeals meeting, thus contributing to long waiting periods before receiving a decision and backlogs. This is largely due to capacity issues as discussed below:

There’s supposed to be an appeals board that meets once a year to review cases and address any issues. The last time we had an appeals meeting was in December of last year... Before that, the appeals panel had not met since 2021.

Previously, we had an appeals officer, but due to funding constraints, that position has been vacant for a long time.

The problem is that the appeals panel has only met once since 2021, creating massive backlogs. As a result, some people have been waiting since 2008.

Delayed appeal processes have wide-ranging and detrimental implications: they undermine legal protection, expose asylum seekers to refoulement, deepen social and economic vulnerabilities, and erode trust in state institutions.

REPATRIATION

Some stakeholders mentioned that there are unclear processes in the law and implementation of repatriating applicants that have received their final rejections. The processes of repatriation are unclear, and resources are not available to ensure that rejected applicants are repatriated. Some of the stakeholders discussed how finally rejected asylum seekers are detained for long periods of time.

It has been a very long time since the repatriation of refugees has occurred. We have always struggled with budgeting issues. Regarding government funding for repatriation, it's important to note that there is a gap in the law: repatriation of refugees is not explicitly provided for. The law only addresses repatriation at the level of the Department of Immigration, which deals with the removal of undesirable migrants, not refugees. So, when we submit lists of names to Immigration, they respond that they do not budget for this, citing various reasons.

Delay in the repatriation of failed asylum seekers creates significant humanitarian, legal, and administrative challenges. Prolonged deportation procedures in Malawi often result in extended and arbitrary detention in prison rather than proper immigration facilities, leading to severe psychological distress, deteriorating health, and the re-traumatisation of vulnerable individuals.

CHALLENGES WITH PERMANENT RESIDENCE APPLICATIONS AND NATURALIZATION

With the protracted nature of the refugee crisis in Africa, the granting of permanent residency and naturalisation are among the most transformative durable solutions available for refugees as it removes legal precarity, enables economic and social inclusion, and allows refugees to rebuild their lives with long-term security.

While the Malawi Citizenship Act makes provisions for the naturalisation of migrants who have lived in Malawi for seven years, refugees would generally need to follow the same routes to permanent residence or naturalisation set out in Malawi's immigration laws, and meet the same statutory requirements, however, legal gaps, documentation problems, Malawi's reservations to the Refugee Convention, and administrative obstacles make it difficult for many refugees to satisfy those requirements. Refugees often face practical obstacles — lack of identity papers, inability to leave camp, or restrictions on lawful employment or residence — that make it hard to show the continuous lawful residence and evidence required for permanent residence and naturalisation.

Many refugees shy away from starting the process because of these requirements. Another area that needs attention is the naturalization process. Malawi's law states that a person can apply for citizenship 7 years after receiving asylum or refugee status. However, there are cases where people have lived there for over 21 years, some even born in Malawi, yet they remain confined to the refugee camps. This is unfair — if someone is born in Malawi, they should not still be considered a refugee when the law

allows for citizenship by birth.

Although many discussions centred around naturalisation, there was limited discussion about permanent resident permits, previous work has noted gaps in the Refugee Policy as it does not provide any procedures for refugees to acquire permanent residence (AfricanLII, 2025).

"THE PROCESS BEGINS WHEN AN INDIVIDUAL DECLARES THEIR INTENTION TO SEEK ASYLUM, USUALLY TO AN IMMIGRATION OFFICER. IN THEORY, THEY SHOULD BE GIVEN TEMPORARY PROTECTION, BUT IN PRACTICE, THIS OFTEN DOES NOT HAPPEN. MANY REFUGEES ARE PLACED IN TRANSIT AREAS, SUCH AS THE SHELTER IN KARONGA, WHICH IS MEANT TO BE TEMPORARY BUT CAN BECOME PROLONGED."

(STAKEHOLDER)

3.1.2 THEME 2: IMPLEMENTATION GAPS

Almost all the stakeholders interviewed indicated that while Malawi has established legal frameworks for refugee protection, significant gaps remain in implementation.

CORRUPTION AND ABSENCE OF MONITORING MECHANISMS

Corruption was mentioned as a major challenge in accessing asylum and in the status determination process in Malawi. Accessing the system at entry at Karonga and Chitipa and status determination processing was linked with corruption where officers took advantage of the gaps in the system to get bribes. Applicants with money were given priority treatment and asylum seekers who need real protection without money had to stay for long periods without documentation or at times they would get turned away. Corruption and commercialisation of protection was indicated to be the order of the day.

To make matters worse, there is a significant issue with corruption. Those who cannot pay bribes may be denied services, while those who can pay often have their processes expedited.

Second, corruption is a major challenge. Officers may demand bribes from people seeking their legal rights to enter Malawi. Some individuals genuinely need protection as asylum seekers or refugees, but officers often cannot distinguish between them.

The issue of refugees has, in some cases, been commercialized as I mentioned earlier. We are often unsure who is a genuine asylum seeker. Unfortunately, even legitimate asylum seekers may be viewed with suspicion. Some officers may think individuals have money and could “buy their way” through the system, while corruption and other societal issues exacerbate these perceptions

Furthermore, stakeholders mentioned how lack of accountability affects the efficiency of the refugee status determination process:

Officials should be held responsible for delays or inaction. The current system, where decisions are left to individual discretion without oversight, is not effective.

OFFICIALS' KNOWLEDGE

One of the issues raised by the stakeholders is that the officials do not have knowledge on issues relating to refugees including the definition of refugees, the protection that they are entitled to and the legal frameworks for their protection. There is an indication of the need for proper training of officials dealing with the asylum processes and SOPs to guide their work.

Many immigration officers do not fully understand the concept of asylum and cannot differentiate between someone entering illegally and someone seeking safety as a refugee. People fleeing war, torture, or natural disasters often find themselves in Malawi, but immigration officers sometimes treat them all the same, assuming illegal entry.

First, there is a capacity gap. Many of the people entrusted with carrying out these functions are not adequately trained or informed. Often, they rely on instructions from colleagues or simply follow what others have done before, without a clear understanding of the legal framework.

Another critical area is raising awareness both among refugees, such as those in Dzaleka, and among officials about the laws and their rights. While some reforms and reviews are underway, there are still challenges in ensuring that the laws are fully understood and applied effectively.

Having officials who are not properly trained to manage refugee-related matters has serious implications for the protection and the rights of asylum seekers. Limited understanding of the refugee law and protection principles, such as non-refoulement, non-penalisation, and procedural fairness, often leads to incorrect application of the law, wrongful arrest, inadequate registration, and poor decision making.

PROCESS SYSTEM FAILURE

Operationalising the refugee status determination process depends on the availability of resources and functional technological systems. Findings from the interviews revealed that there are no adequate resources to support the process and the systems (to capture basic biodata at the border and the ProGres system for electronic registration) that are being used experience technical challenges which made operations difficult and at times resulting in manual processing of some cases.

While the ongoing digitization process may help address some of these challenges, there is still a significant gap in how these systems operate. Each system tends to work independently, and there is limited follow-up to track individuals effectively. For example, refugees who are currently registered in the system such as at the transit center may have their data accessible only to UNHCR. Other key stakeholders, like the Ministry of Homeland Security, often do not have full access. This limits their ability to process information or take action, creating constraints on what can be done to support refugees effectively

Limited screening capacity at the border, human resource shortages and documentation

requirements were explained to be some of the challenges during the process. One government stakeholder explained with frustration how understaffing affects the processes.

....we are very understaffed, which has created significant backlogs. Even when we receive new cases, we are still handling cases from 2008 and 2010...It can be overwhelming at times, but we do the best we can with the resources available.

Transporting asylum seekers from Karonga or Chitipa to Dzaleka for processing was identified as a challenge as it was associated with many logistical and operational challenges which affected the efficiency of the procedure.

This is particularly evident in districts such as Chitipa and Karonga, where many refugees and asylum seekers first enter Malawi, especially from countries like the Democratic Republic of Congo and Burundi. In Karonga, for instance, there's a centre where much of the screening process takes place before individuals are officially recognized as refugees. However, this process is quite cumbersome. The main refugee centre is in Dzaleka, in the Central Region, which is a long distance from Karonga where the initial screening happens. This distance itself creates logistical and operational challenges

We simply don't have the capacity or readiness to properly screen asylum seekers coming into the country. There's a lack of coordination among the authorities involved, including within the criminal justice system and those conducting the actual screening. As a result, it becomes very difficult for the country to know exactly who is entering and seeking asylum.

Capacity gaps were indicated to be a challenge in both the governmental and NGO sectors resulting in difficulty in responding effectively to the volumes of asylum seekers entering the country. Additionally, the stakeholders highlighted weak coordination mechanisms between government, border authorities and refugee agencies and limited resources as challenges that affects entry and registration, and delays asylum seeking processes.

LACK OF POLITICAL WILL AND UNFAIR DECISIONS

The asylum process system failures are not just administrative but also due to lack of political will with the government and politicians not prioritising refugee issues. The efforts by the NGO sector are met with resistance by the government thus blocking efforts in the protection for refugees.

I think one of the main challenges has been the lack of political will from the government. It often seems that the government has its own views and priorities regarding refugees and asylum seekers, which sometimes clash with what NGOs are advocating for. At one point, there was almost a 'cold war' between NGOs and the Malawi government.

The lack of political will from government stakeholders significantly affects the work we do. It impacts the speed and effectiveness of interventions, as well as the overall welfare of asylum seekers and refugees.

One of the stakeholders also pointed out the unfair treatment at the courts, where they felt that systems have been intentionally put in place to disadvantage asylum seekers and refugees leaving them with no legal recourse. This was indicated to be a challenge especially with the asylum seekers' limited access to judicial representation or legal assistance.

Yes, so I was saying that we had cases where children were taken to prison, completely

disregarding existing court rulings. We also observed that all cases involving refugees were being assigned to a single judge in Lilongwe. The way this judge treated the lawyers was, frankly, very embarrassing. From our perspective, it seemed like there may have been a coordinated effort to ensure that these individuals were not treated with the care or fairness that they deserved.

Instead of complimenting each other, the strained relationship between the government and NGOs underscore the broader political economy of refugee governance in Malawi, where limited political incentives, securitised narratives, and resource constraint, combine to deprioritise refugee protection. Stakeholders noted that coordination challenges are symptomatic of a broader leadership gap, with many protection functions effectively sustained through NGO and humanitarian actor interventions. This raises concerns regarding sustainability, accountability, and state ownership of refugee and child protection systems.

3.1.3 THEME 3: PRACTICAL IMPACTS

Without recognized documentation, rights remain inaccessible, and protection gaps widen. Stakeholders discussed ways in which slow processing of refugee claims resulted in both social and legal vulnerability including the violation of human rights through detention and inhumane treatment, xenophobia and tensions with the host communities.

Delays and inefficiencies in government processes have real impacts on refugees. Take the ones I mentioned who are in Mzuzu Prison: their right to food is not respected. In most prisons in Malawi, prisoners often only receive one proper meal a day. These refugees are not prisoners, yet they are treated the same way, which violates their basic human rights.

There has also been a trend where asylum seekers, unable to obtain formal status, move into communities to blend in, often without legal recognition. This can sometimes lead to tension or backlash from local communities.

...the expectation is that they will obtain asylum status. However, when this does not happen, they may remain undocumented and unprotected, which exposes them to various social and legal vulnerabilities.

Some stakeholders mentioned how barriers asylum seekers face impact on their mental health and wellbeing.

And that affects them not just physically, like when they are denied proper food, but also psychologically and emotionally. Being treated like prisoners, when they are not, has a serious impact on their mental and emotional well-being

For some stakeholders the lengthy status determination process and confinement to camps made the asylum seekers lose hope and limited their agency.

Yes, especially for children, the lengthy asylum process can have significant emotional impacts. Many feel like they have no future and struggle to see a path forward. This can make it very difficult for them to focus on school or personal development, as they feel confined to the camp with no clear transition out of the system they are in.

3.1.4 THEME 4: ACCESS TO SERVICES

EDUCATION

During the interviews, the stakeholders indicated how Malawi ratified the UN Convention with reservations including the freedom of movement without special permission, engaging in employment or self-employment outside of the camps and access to social services such as education, healthcare, and social security is limited for refugees (Inua Advocacy, 2024). One of the reservations of the 1951 UN Convention on the Status of Refugees, to which Malawi entered, is Article 22(1), which states that “the contracting states shall accord to refugees the same treatment as accorded to nationals with respect to elementary education”. By this reservation, Malawi is not mandated to provide basic education to refugees and asylum seekers, as it views Article 22 as a recommendation, not an obligation. However, the UN Convention on the Rights of the Child, Article 28 mandates that signatory states make primary education compulsory and available free to all children within their jurisdiction, regardless of their nationality or legal status, therefore, despite the reservation to the 1951 Convention, Malawi is bound under the CRC to provide access to education.

Even when we were enacting our law and acceding to the 1951 Convention, we entered into certain reservations, these touch on and hinge upon several specific issues. These reservations relate to issues such as education, economic activity, and other areas. However, when you observe the situation on the ground, you notice that refugees can have very viable and vibrant businesses, sometimes even more so than Malawians. These are examples of good practices that we need to capture in the law. These gaps are what I’m referring to.

However, there are notable gaps. Malawi has an encampment policy for refugees, which can restrict certain freedoms. Refugees often face limitations on movement and access to quality education, as camp services are minimal.

Primary and secondary education is generally available in the camp free of charge, however, beyond the camp setting asylum seekers and refugees are denied access.

Refugees are restricted to the camps; hence they cannot access any other services offered outside of camp unless there is a special permission. In the camp access is dependent on the availability of resources and with the limited resources and educational facilities access became problematic and corruption was indicated.

However, the main concern is the limited availability of these services. For instance, at Dzaleka camp, educational facilities are overcrowded. This congestion sometimes even creates opportunities for corruption in terms of school registration.

The setup is a hybrid: some schools are run by NGOs, while others are government-established. These schools serve both children in the camp and children from local communities, which also promotes a level of integration. Despite this, the facilities are insufficient. Overcrowding is significant, and some children even choose not to attend school at all. If you visit the camp today, you’ll find many children idling because access to schools and other essential services is limited.

Language was also raised as a barrier to education access by refugees as lessons are delivered in the local languages making it difficult for non-English speaking refugees to understand.

Additionally, children coming from other countries face language barriers, as lessons

are conducted in local languages. This makes it hard for refugee children to integrate and receive proper education.

A major challenge indicated was with the access to tertiary education beyond the camp setting:

Some of these reservations include: refugees cannot attend tertiary education; their right to movement is also limited, requiring them to stay within the camp.

And imagine, the government said, 'We cannot do this because, according to law, you are not supposed to attend tertiary education.' These are the issues where we were saying, perhaps let's sit down as a country and see. There's no harm in authorizing somebody to go and do their school, even outside Malawi. Why is it that we are rigid in terms of allowing people to go and do school? Not just that, we have tertiary schools in our country. Why are we not allowing refugees to attend tertiary schools?

Despite the limitations on access to education in Malawi, the above quotes re-emphasise the relevance of education to refugees, as access to education, particularly tertiary education enhances refugees' employability, allows individuals to become self-reliant, and reduces dependency on humanitarian aid (Goloike, 2017). It also equips refugees with skills that can contribute to both host and origin countries. Therefore, when access is denied, refugees are trapped in a cycle of marginalisation and heightened vulnerability to exploitation.

HEALTH

Although the 1989 Refugee Act is silent on health rights and the Malawi Constitution provide for the right to health but does not explicitly mention refugee/asylum seeker, in practice, health services to refugees and asylum seekers are provided through a joint partnership between the government of Malawi and non-governmental organisations like UNHCR, which plays a crucial role in funding. The Dzaleka refugee camp has a health centre that caters to the needs of refugees and asylum seekers, and members of their host communities. Due to the country's encampment policy, refugees and asylum seekers are not generally allowed to use health facilities outside the camp, but serious cases are referred to the district hospital in Dowa (Mvula, 2010). However, one of the stakeholders mentioned how access to health care was tied with documentation.

Accessing health facilities is difficult. Even if someone is very sick, when they go to a hospital, they are often asked to show documentation and if they don't have the required papers, they can't get help. Because of this, some people end up being sent back or are unable to benefit from the government policies that should be protecting them

Access to essential services is another major challenge. Many cannot get proper healthcare because hospitals require documentation that they do not have. This can lead to severe illness or even death

Like access to education, language barriers were noted to be a challenge for access.

Access to healthcare is also a problem. Language barriers and sometimes negative attitudes from health professionals make it difficult for refugees to receive medical care.

The analysis above, highlights the parallel gaps that exist between access to healthcare and access to documentation in Malawi. Because healthcare services typically require valid documentation, those without it are denied care. Thus, the challenges refugees face obtaining

documentation translate into similar barriers, and often outright exclusion, when attempting to access health services in Malawi.

3.1.5 SUMMARY OF FINDINGS: GENERAL ASYLUM PROCESSES

CHALLENGES WITHIN THE ASYLUM PROCESS

Access to the System

- Access to asylum registration at border points at 1st entry
- Barriers at entry: Turning back, arrest and deportation; Blocked from initial registration
- Challenges with the screening process at the borders-no comprehensive guidelines for refugee screening
- Prolonged stay in transit at the border

Documentation

- Slow processing -takes decades to grant refugee status
- Severe backlogs-Cases from 2008 still being processed
- Refugee Committee-no set dates for meeting, years without adjudication meetings
- Few adjudications
- No clear guidelines for documentation and repatriation processes

Language

- Lack of professional interpreters -fellow refugees are interpreters

Appeals Processes

- Appeals processes ineffective: the appeals board spend years without meeting
- Process overly backlogged
- Absence of a permanent review board: appointed on an ad hoc basis, with a new one created for each meeting

Detention and Deportation

- Widespread arrest and detention: asylum seekers treated as irregular migrants
- Criminal charges under the Immigration Act instead of protection under the Refugee Act
- Asylum seekers kept in prisons: inhospitable conditions reported
- Detention for long periods of time with no clear mechanisms for repatriation

IMPLEMENTATION CHALLENGES

Corruption

- Challenges with accessing the system-priority given at a cost
- Commercialisation of protection when registering and during refugee status determination
- Processes left at individual discretion with no accountability mechanism

Lack of Staff Training and Awareness

- Frontline staff/officials are unaware of the laws, policies and processes

- Poor application of law in providing support

System failure and delays

- System unable to handle large volumes of applications
- Lack of resources and understaffing affecting operations
- Technical challenges
- Lack of capacity to adequately screen individuals at the border
- Limited coordination between departments and stakeholders working on asylum processes
- Logistical challenges with transporting asylum seekers from the transit shelter to the Dzaleka camp
- Lack of standard operating procedures

Lack of political will and unfair processes

- Limited commitment on protecting refugees from the government and politicians
- Unfair judgements: system intentionally designed to disadvantage asylum seekers

ACCESS TO SERVICES

Health

- Health facilities are available in camps although limited and underequipped
- Health care supplemented by NGOs in the camp
- Access sometimes depends on documentation
- Denied access outside the camp: special permission required for access
- Language barriers

Education

- Reservations to the 1951 UN Convention Article 22(1) however refugees have access inside the camp
- Restrictions to access outside the camp, limited opportunities for tertiary education
- Dropouts indicated due to limited opportunities for the future beyond the camp
- Language barriers: lessons conducted in the local language

IMPACTS OF NON-DOCUMENTATION

Practical

- Denied access to health care
- Limited opportunities for work, study and application for scholarships and bursaries
- Violation of human rights, exclusion, inhumane treatment, imprisonment and xenophobia
- Restrictions in movement

Emotional

- Mental health challenges associated with detention and inhumane treatment
- Hopelessness, lack of desire and ability to participate in actions and make decisions that impact their present and future

3.2 PROTECTION OF CHILDREN ON THE MOVE

This section of the report describes the themes and sub-themes that emerged from interviews with stakeholders in Malawi around the processes for the protection of children on the move. It is important to highlight a general point before exploring the more detailed themes that emerged from discussion with stakeholders around children on the move. Several participants made the point that the lack of explicit policy focusing on children on the move in Malawi limits the protection and prioritisation of children on the move. Although there are broad national child protection laws in Malawi, participants highlighted that without policy instruments tailored to the specific needs of children on the move, protection and rights access will continue to fall short.

...while Malawi has child protection legislation—the Child Care, Protection and Justice Act of 2010—it is poorly adapted to the realities of children on the move.

3.2.1 THEME 1: ACCESSING DOCUMENTATION

Birth registration in Malawi is governed by the National Registration Act of 2010 which stipulates that birth registration is compulsory. While Section 9(2) of the National Registration Act (2010) specifies registration requirements of Malawian citizens and certain categories of non-citizens (those granted a permanent residence permit, temporary employment permit, or business residence permit), it does not explicitly include refugees and asylum seekers. Despite this, the stakeholders indicated that children of the refugees and asylum seekers can apply for birth registration through the National Registration Bureau (NRB) if there is a confirmation of birth from a Malawian hospital, if not they need to have a verification from the village head confirming birth. However, for children of refugees and asylum seekers born outside of Malawi, without documentation, and for late birth registrations, the government of Malawi through the Department of Social Welfare and other partner organisations such as the UNHCR and Plan International, facilitates birth registration as special cases enabling the children to be registered no matter the circumstance.

Although there are avenues for birth registration in Malawi, there are challenges that delay the processes for both nationals and children of asylum seekers, refugees and migrants. Hence the stakeholders explained strategies devised by the government to address this gap. For example, from 2022 the government of Malawi through the partner organisations has been rolling ad hoc mass registration campaigns to document all children in Malawi without birth certificates including children of asylum seekers and refugees.

For children under the age of 16, the government, through the National Registration Bureau (NRB), implemented mass registration to ensure all children were documented, whether born in Malawi or elsewhere. Children born in hospitals could receive a birth certificate for a fee of 2,000 Malawi Kwacha, but most refugees who were not born in Malawi or had no documentation had to pay 30,000 Malawi Kwacha. Plan International often facilitated these registrations for unaccompanied minors, covering the costs so that they could be properly documented

...This process typically requires that the mother has at least one antenatal visit to a government hospital. Many health personnel are aware of this, as they can track pregnancies and related services. We emphasize to parents that visiting a health facility for antenatal care is essential for registering their child. If this step is missed, the child falls under “late birth registration,” which costs approximately 30,000 Malawi Kwacha

(around 15–17 USD) a significant amount for refugees. This late registration applies mainly to children born in the host country who are refugees or asylum seekers.

For those who were not born in Malawi, as long as Plan International conducted the assessments and referred them, and they came forward willingly, they were able to be registered by the NRB.

The above information indicates the availability of pathways for birth registrations for refugee children, separated and unaccompanied minors. However, the costs associated with late registrations were highlighted as a challenge but partner organisations for example, Plan International that works specifically in child protection supports the parents with facilitating and covering the costs for the birth registrations.

Another challenge that was reported related to birth registration is missing information or data that is required when registering births for children that were not born in Malawi. This poses a barrier for the registration of children that were not born in Malawi.

For children not born in the host country, registration is more challenging because essential biographical data may be unavailable. This is particularly difficult for unaccompanied minors, whose names, legal status, date of birth, or place of birth may be unknown due to the absence of caregivers who can provide this information. Consequently, obtaining birth certificates for these children is very difficult.

Apart from the missing information, the stakeholders discussed the lack of age verification mechanisms or any other supporting documentation to really ensure that the applicant is really a child. In the absence of this information the service providers struggled to support the children through the birth registration process.

Some children would intentionally misstate their age to access certain privileges available to minors. They might claim to be younger than they actually are, and we would register them accordingly. However, two or three years later, many of these individuals would return, claiming their age had been recorded incorrectly, for example, saying, “I told you I was 18, but you registered me as 14. Now I want to get married, and I can’t because of that registration.” Even with interpreters present, these disputes occurred, as children sometimes sought to change their age when it suited their needs. This situation often made our work much more difficult, as it sometimes required duplicating efforts. We would handle a case for someone we believed to be a child, only to later find out they were not, or that their age had been misstated.

Another challenge indicated was that the mass registration campaign only targeted children that were below the age of 16 at that time, leaving a gap in birth registrations for other children that were between the ages of 16 to 18 years thus putting them at a risk of statelessness.

No, they were still children 16 to 17 years old. But that created a gap, because we were focusing on targeting 16 and below.

Although Malawi acceded to the 1954 Convention Relating to the Status of Stateless Persons, which protects the rights of stateless persons, the 1989 UN Convention on the Rights of the Child and the 1990 African Charter on the Rights and welfare of the Child there is no legislation in Malawi that defines statelessness and protects the rights of stateless persons. Without national legislation protecting people from statelessness, a lot of children become vulnerable to statelessness.

There is no comprehensive framework in Malawi that addresses the needs of stateless children, despite the country having ratified key treaties.

The absence of a corresponding domestic legislation to domesticate the international treaties weakens its implementation in several ways including no direct enforceability, accountability gaps, and policy practice gaps. Ratification signals intention, but without domestic legislation, implementation is largely ineffective and inconsistent.

RISK OF STATELESSNESS

Stakeholders highlighted the risk of statelessness among refugee and migrant children arising from delayed birth registration, missing biographical information, lack of age verification mechanisms, and the absence of domestic legislation addressing statelessness. During the verification workshop participants emphasised that children who missed registration exercises or lacked supporting documentation face heightened risks of exclusion from services and durable solutions.

3.2.2 THEME 2: UNACCOMPANIED AND SEPARATED MINORS

Malawi provides a legal framework for all children in need of care under Section 23(2)(i)(ii) of the CCPJA. Children arriving in Malawi specifically unaccompanied minors are identified by the authorities, registered at the border, put into the reception centre where temporary care arrangement is facilitated and assessment is done, then they are transferred to Dzaleka camp. In Dzaleka camp, Plan International receives them and facilitates refugee registration, long term support and care.

One of the challenges mentioned by the stakeholders was the lack of clear law, processes or standard operating procedures in offering protection for children on the move, specifically separated and unaccompanied minors. Most of the processes are up to the discretion of the service providers.

Some laws and procedures are not fair. In the organization where we work, we have observed many problems on the ground. Procedures are not always applied consistently. Procedures are supposed to be clear and followed uniformly. Every case should be treated according to the same rules, regardless of the client's background, family status, or economic situation. It should not matter if one child comes from a wealthy family or another from a poor family the procedures must be fair and consistent. Every human life deserves protection, and everyone should be treated equally under the law.

No, currently there aren't any dedicated laws or policies for them. The protections they receive fall under the general child protection framework, but there are no specialized provisions that specifically focus on unaccompanied or separated children.

The process of documenting unaccompanied and separated minors was indicated to be complex as various assessments had to be done to determine the category in which the child falls. The main pathway to documentation for unaccompanied and separated children was through the refugee status determination route for a refugee status.

Frequently, we were uncertain whether the children were truly unaccompanied, orphans, or simply separated minors, and there were also concerns around potential trafficking, which complicated the registration process further. According to our policy, when a child arrived, their first contact was with Plan International, where we conducted a Best Interest Assessment based on UNHCR procedures. This assessment evaluated the child's situation, needs, and potential risks, particularly for unaccompanied minors. Based on the findings, we would refer the child to the Refugee

Department for registration, determine whether the child was accompanied or separated, document how they arrived in Malawi, identify any risks they faced along the way, and refer them to relevant services, including the police if necessary. Despite these uncertainties, once the children were referred to the Department of Refugees for registration, they are registered

Even if some children could get registered as an asylum seeker, being granted refugee status was difficult because at their age they cannot provide evidence to support their claims. Subjecting minors to status determination interviews contravenes the Best Interest of the Child principle which is entrenched in the Constitution of Malawi and the CCPJA. One stakeholder discussed the challenges with the refugee status determination process of unaccompanied and separated children.

It is very difficult for unaccompanied and separated children to obtain refugee status. One of the key challenges is that, within the host country's system, information provided solely by children is often not considered sufficient evidence to support a refugee status claim. Their young age and limited maturity make it hard for them to provide a detailed and coherent account of why they fled their country of origin.

Even when these children are presented to the Ministerial Assessment Committee, their information may be regarded as inconsistent or incomplete, making it difficult for the committee to accept their claim and transition them from asylum seeker status to full refugee recognition. Therefore, from the very initial stage of interviews, the process becomes extremely challenging. The government typically requires credible evidence, yet it is not easy to rely on statements from children alone. As a result, unaccompanied minors face significant barriers in being fully registered as refugees.

Many end up remaining asylum seekers. In fact, there are cases in the host country where children have been asylum seekers for over ten years because their information is either inconsistent or incomplete, and they are unable to provide the necessary details to support their claim. As a result, they remain in the asylum process indefinitely.

One of the stakeholders discussed the situation of unaccompanied minors as particularly more challenging due to the absence of relatives to provide evidence to support their applications.

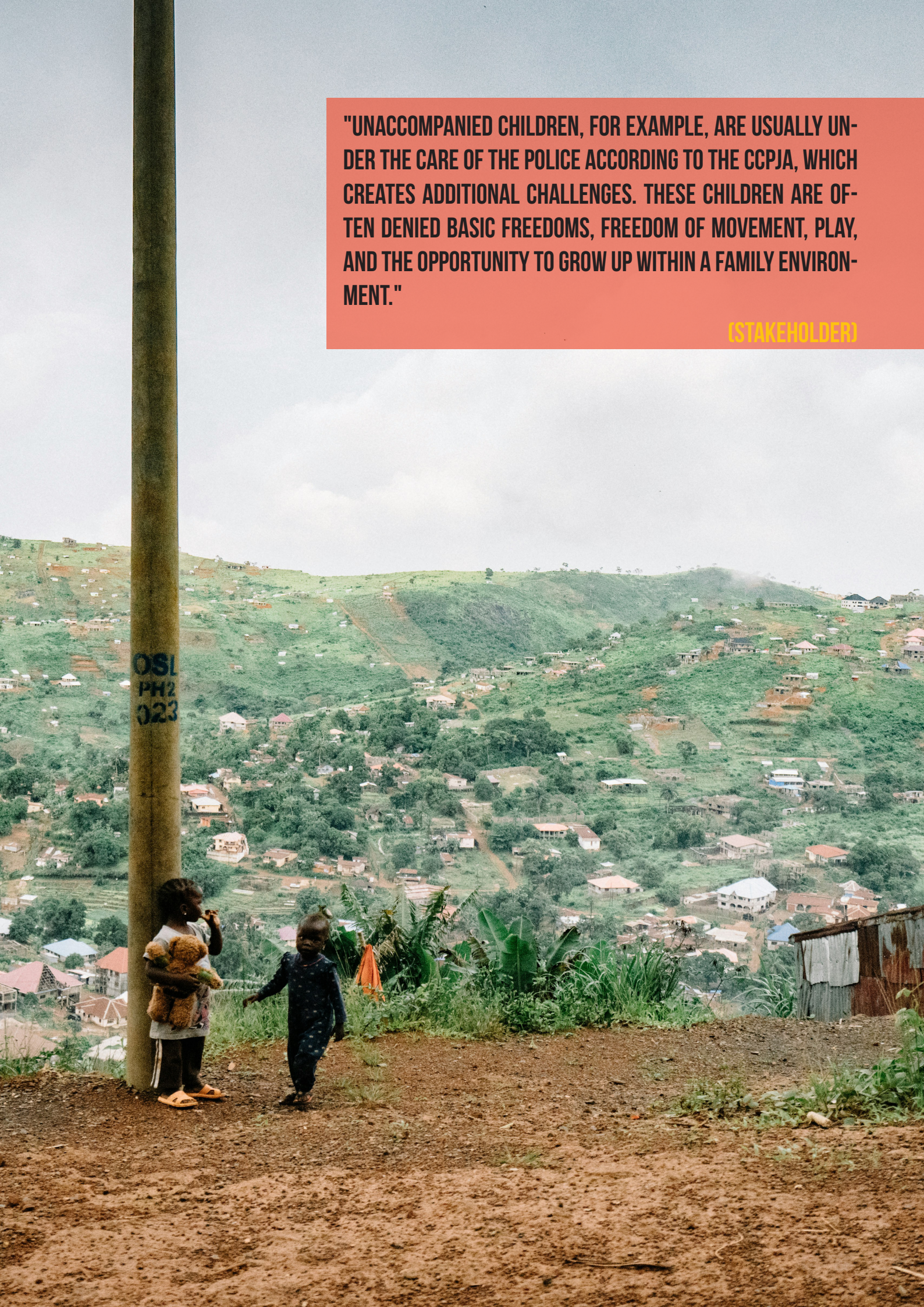
For separated children, the situation is slightly better because relatives may be able to provide supporting information to strengthen their case. However, for unaccompanied minors, it is the most challenging scenario, as there is no one to corroborate their story. Often, the only option for these children is to wait until they turn 18, at which point they may be able to present a more coherent account to the committee, potentially allowing parts of their story to be considered for refugee status. For children who arrive at a very young age, say 8 or 9, this can mean living nearly a decade without ever being granted formal refugee status.

A significant concern raised by stakeholders was the prolonged asylum status of many unaccompanied children. Participants reported cases where children remained asylum seekers for extended periods, in some instances exceeding ten years, because evidentiary requirements for refugee status determination could not be satisfied. This raises concerns regarding compliance with the Best Interest of the Child principle and highlights the need for child-sensitive refugee status determination procedures.

To ensure that they get documented and can access services, some unaccompanied minors are forced to join families. Stakeholders observed that family joining often functions simultaneously as a protection strategy and a protection risk. While joining households may

"UNACCOMPANIED CHILDREN, FOR EXAMPLE, ARE USUALLY UNDER THE CARE OF THE POLICE ACCORDING TO THE CCPJA, WHICH CREATES ADDITIONAL CHALLENGES. THESE CHILDREN ARE OFTEN DENIED BASIC FREEDOMS, FREEDOM OF MOVEMENT, PLAY, AND THE OPPORTUNITY TO GROW UP WITHIN A FAMILY ENVIRONMENT."

(STAKEHOLDER)



enable children to access documentation, food assistance, and community support, weak verification systems may expose children to exploitation, trafficking, neglect, and abuse. Some of the stakeholders explained how family joining was used as a livelihood strategy because having more children translated to getting more food rations. Participants stressed the need for stronger monitoring and verification mechanisms to safeguard children placed within informal family arrangements.

Some participants pointed out the difficulties in the resettlement processes of unaccompanied minors to their relatives in third countries. The process was described as difficult and involved many different departments which made the cases complicated especially when additional evidence is required.

At the same time, we followed UNHCR's Best Interest procedures, which included tools like the Best Interest Assessment (BIA) and Best Interest Determination (BID). The BID was used mainly in complex cases, such as resettlement of unaccompanied minors with relatives or caregivers to third countries. When Plan International conducted a BID, it was reviewed by UNHCR. If UNHCR was dissatisfied, the case would go to a panel consisting of partners from social welfare, the judiciary, the police, education, and other stakeholders. The panel would deliberate on the assessment and approve or reject the proposed course of action, ensuring the child's safety and welfare. This process could become complicated when, during resettlement assessments, a child disputed their previously recorded age. Such cases required additional assessments and review, significantly complicating the overall documentation and resettlement process.

Other participants indicated that government departments were rarely involved in the processes of protecting unaccompanied and separated minors and monitoring of the processes, case management and other support was largely provided by the civil society or non-governmental organisations on an ad hoc basis, leaving a gap in the protection of unaccompanied and separated minors especially in transit centres.

Yes. So, I was also mentioning that the systems for identification, age assessment, guardianship, and case management for children on the move are very weak and often depend on ad hoc NGO support. If [a specified organisation] is not actively intervening, children can remain at transit shelters for long periods without access to education or other essential services because the case management and identification processes are so weak

Outside of the camp setting, stakeholders reported that normally unaccompanied children are put in care of the police, normally in the cells instead of a place of safety. According to Section 24 of the CCPJA a police officer may take a child in need of care into temporary custody or place of safety and under Section 25(1), they should be brought to a child justice court within forty-eight hours for a decision to place the child. However, this is not implemented as children are reported to be kept into custody for prolonged periods.

Unaccompanied children, for example, are usually under the care of the police according to the CCPJA, which creates additional challenges. These children are often denied basic freedoms, freedom of movement, play, and the opportunity to grow up within a family environment.

Another stakeholder explained how limited safe homes for unaccompanied minors are leading them to the risk of abuse and exploitation as discussed under theme 3.

Depending on their situation, some are even placed in safe homes. However, this has

become increasingly challenging because many institutions that previously provided safe homes are no longer operational.

Stakeholders consistently highlighted the extent to which protection systems for unaccompanied and separated children depend on NGO-led interventions. Identification, case management, foster care support, family tracing, documentation assistance, and follow-up monitoring were frequently described as functions largely sustained by non-governmental organisations. While these interventions provide critical support, their project-based nature raises concerns regarding continuity, sustainability, and state accountability.

FOSTER CARE ARRANGEMENTS

The Constitution of Malawi Section 23(1) and the Child Care, Protection and Justice Act (CCPJA) of 2010 makes provisions for the protection of children regardless of circumstance and further entrench the principle of the Best Interest of the Child. Section 23 of the CCPJA provides for the protection of children in need of care including unaccompanied children through fosterage facilitated by the court. Malawi promotes foster care based on kinship relations as stipulated in Section 55 (1) of the CCPJA. In the case of unaccompanied and separated children, minors in need of protection are identified through Plan International where they are assessed and if in need of care they are put into foster homes. However, information from the stakeholders alluded to the fact that the foster processes for unaccompanied and separated minors from other countries are implemented through a different procedure than what is stipulated in the law. The procedure of going through the court is not followed but children in need of foster care in the camp are identified and placed into a foster home through Plan International. Some of the stakeholders explained the process as follows.

Some children arrive claiming to have relatives in the camp or were accompanied by them, and in such cases, we assess the relationships and, where possible, register them together to maintain family ties. After registration, if the child was unaccompanied, Plan International would work to identify a guardian. We maintain a pool of foster parents who were carefully selected, trained, and supervised by Plan International to provide a safe and secure environment for children who had no family members in the camp.

One of the key strategies we employ is the establishment of foster care arrangements within the camp. Malawi, as a country, does not generally promote formal foster care because it emphasizes kinship-based care, assuming that most children have relatives somewhere. Recognizing the challenges faced by unaccompanied minors, Plan International has established a system of foster parents responsible for the care of these children. We also work with volunteers, drawn from the seven different nationalities represented in the camp. When an unaccompanied or separated child needs temporary care such as over weekends when offices are closed, volunteers step in to provide accommodation and food until a suitable foster parent can be identified for longer-term care.

The challenge was identified with the registration of separated minors because it was difficult to verify the relationship with the claimed foster parent. Other foster parents took advantage of the situation and faked relationships with the children for their own benefit. Due to the complicated nature of providing relatedness, the officials had to rely on word of mouth in registering the separated children under the kinship arrangement.

However, verifying these relationships was often difficult, as many children lacked documentation or any form of evidence confirming family connections, meaning

we often had to rely on word of mouth, trusting a child who might say, “This is my aunt,” without supporting proof. Sometimes the way they described how they had met their relatives didn’t make sense, and as a case manager, you quickly learn to spot inconsistencies. Despite these uncertainties, once the children were referred to the Department of Refugees for registration, they were registered.

Mixing unaccompanied minors with other refugees in the camps can create serious challenges. Adults in the camps take advantage of the situation, often seeking to foster unaccompanied minors for their own benefit. Partners, including UNHCR, tend to prioritize services for unaccompanied minors, which inadvertently create competition over their care.

Outside of the camp setting, the foster care for unaccompanied and separated minors is managed through the Department of Social Welfare with the statutory responsibility to ensure alternative care or guardianship. Police/child protection units and child protection NGOs assist with the initial identification and temporary housing or accommodation with guidance from the DSW guidelines. Then they are referred to the DSW for initial registration and opening of the child protection case file, following this is the Best Interest Determination Process and family tracing and reunification attempts as durable solutions. In cases where reunification is not immediately available or possible, the children are placed in care. However, the implementation of this process indicated to be inconsistent with the guidelines due to a myriad of implementation and logistical challenges including limited identification and reach of unaccompanied minors, incomplete and poorly documented Best Interest Determination processes, limited vetting, training and follow-up of foster/kinship careers and the DSW lack of staffing, transport and resources resulting in delays and uneven case management. For legal guardianship or formal foster care the DSW initiates the process through the children’s court. However, gaps in the process were indicated including delays in the court processes, lack of legal representation, lack of legal documents and limited information to support the cases. These gaps mean that, even with guidelines in place, children face high protection risks and often do not receive consistent, rights-based care.

3.2.3 THEME 3: FAMILY TRACING AND REUNIFICATION

Family tracing and reunification are supported by strong legal frameworks including the Convention on the Rights of Children (CRC) to which Malawi is a signatory to. Section 74 of the CCPJA makes explicit provisions on family tracing. According to Section 74 of the CCPJA, “A local government authority shall make every effort, including publication through the mass media, to trace the parents or guardians of any lost or abandoned child or to return the child to the place where the child ordinarily resides; and, where the authority does not succeed, it shall refer the matter to a probation officer or social welfare officer or to the police”. In practice, family tracing and reunification of separated and unaccompanied minors is handled by international agencies. The Malawi Red Cross is responsible for managing family tracing and reunification.

The Red Cross initiates tracing, contacting the parents or relatives of the children, whether in the DRC or elsewhere. While most of the children are from Congo, there are some from other countries as well. The Red Cross facilitates tracing, and if parents or relatives were located, they would inform the children. The Malawi Red Cross also offers free phone calls, allowing children to speak or send letters to their parents or relatives.

One of the stakeholders indicated how challenging it was to undertake the process of

family tracing and reunification due to the lack of cooperation from the children.

However, there were challenges. Many children were hesitant to reunify with relatives in their home countries. Some preferred unification with family members in the US or Canada, fearing that connecting with relatives back home might affect their resettlement process. Others already knew where their relatives were and had contact, but they withheld full information from us. So, while tracing was possible, it often faced reluctance or incomplete cooperation from the children themselves.

During the study the process of family tracing, particularly cross-border coordination was pointed out to be challenging due to under-resourced systems resulting in long term delays and reduced chances of reunification. Similarly, the process of repatriating children back to their home countries was indicated as difficult and with a lot of logistical challenges:

A major challenge arises with the logistics of repatriation. For instance, children may be taken from Mzuzu and then moved to Lilongwe to access air transport. However, some are temporarily held in places like Dzaleka or Maula Prison, which creates a cycle of detention: from one facility to another, delaying their return home. This back-and-forth process can take months. Those who moved to Dzaleka are particularly vulnerable, as traffickers have easier access there.

3.2.4 THEME 4: CHILD EXPLOITATION, TRAFFICKING AND DETENTION

One of the significant challenges that was highlighted by the stakeholders is the level of irregular movements of children into and within Malawi and the persistence of child trafficking in Malawi. The country is a source, destination and transit country consisting of all forms of migrations. Due to this mixed nature of migration, gaps in protection and the inaccessibility to the protection system, the stakeholders revealed that the country is a lucrative ground for organised crime networks including trafficking and the exploitation of children.

Frequently, we were uncertain whether the children were truly unaccompanied, orphans, or simply separated minors, and there were also concerns around potential trafficking, which complicated the registration process further. According to our policy, when a child arrived, their first contact was with Plan International, where we conducted a Best Interest Assessment based on UNHCR procedures. This assessment evaluated the child's situation, needs, and potential risks, particularly for unaccompanied minors. Based on the findings, we would refer the child to the Refugee Department for registration, determine whether the child was accompanied or separated, document how they arrived in Malawi, identify any risks they faced along the way, and refer them to relevant services, including the police if necessary.

There were also concerns around potential trafficking. In some cases, children did not recognize that they might have been trafficked, they believed that someone had simply helped them come to Malawi for a better life.

Another concern is that unaccompanied children are highly vulnerable to human trafficking. Unfortunately, law enforcement often struggles to distinguish between victims of trafficking and illegal immigrants. Many of these children are treated as illegal immigrants and may even end up detained, sometimes in prisons, without a proper assessment of their circumstances. Human trafficking is complex; some children unknowingly travel with adults who may be part of trafficking networks.

Protection of minors from trafficking and support was indicated to be limited and children who were identified as irregular immigrants including victims of trafficking were housed in police cells due to the absence of safe homes. This fails to consider the Best Interest of the Child as stipulated in Section 23(1) of the Malawian Constitution which provides that the best interests and welfare of children shall be a primary consideration in all decisions affecting them and Section 23 Child Care, Protection and Justice Act (CCPJA) making provision for the protection of children under the law on an equal footing regardless of the circumstances of their birth and entrenches the principle of the Best Interests of the Child.

Malawi's Child Care, Protection, and Justice Act stipulates that children should not be detained in prisons or police cells, regardless of their status. Unfortunately, immigration authorities treating irregular migrants as criminals often keep children in prisons due to the absence of safe homes. For instance, in 2024, during a government operation targeting irregular migrants in Dzaleka and surrounding areas in Lilongwe, more than 400 people were arrested, including 118 children, some as young as 12. They were detained at Maula Prison in Lilongwe, despite the detention being intended as temporary. By October, they were still in custody.

...detention of children in police cells. This has been a recurring problem, and some children currently live in prisons. This practice is clearly not in line with our laws, which stipulate that children should not be held in detention centres. Instead, alternative protective measures should be provided for them.

Malawi law clearly states that no child should be detained, regardless of their immigration status. Yet children in transit are routinely detained, and little attention is paid to this violation. For example, in Lilongwe, children were arrested by military personnel and dumped in prison, sometimes while already injured. This is a clear breach of the law

Despite court rulings, we still found that many children were being detained...

The information from the stakeholders also revealed the absence of safe spaces or alternative care for children of asylum seekers whose parents have been arrested/detained, leaving the children with no option but staying in prison or police cells with their parents. This exposes them to harm and reflects failure to meet the child protection standards. Furthermore, with the limited legal representation and lack of interpretation services, the protection of children was indicated to be at stake.

Stakeholders stressed that trafficking should not be viewed solely as a criminal justice issue but also because of weaknesses in protection systems. Delays in documentation, limited safe shelters, weak screening procedures, prolonged detention, and inadequate case management collectively increase children's vulnerability to trafficking and exploitation.

3.2.5 THEME 5: PRACTICAL AND EMOTIONAL IMPACTS

The study revealed that unaccompanied and separated minors faced a lot of challenges including poor living conditions, starvation, limited access to education and poor housing in the camp. Support was also indicated to be limited with the government barely involved and neglecting its duties to partners. The lack of documentation was reported to have many practical and emotional implications for the children on the move which inhibits them from fully enjoying their rights and affects their wellbeing. Without proper documents it was difficult to verify age and provide support to children on the move especially when there is an infringement to their rights.

...lack of proper documentation can have serious implications for child welfare. For instance, if a child, particularly a girl, has no legal documentation, it becomes very difficult to monitor and protect her from early or forced marriage. Without proof of age, authorities cannot legally intervene, leaving the child vulnerable. Similarly, issues like trafficking become more complicated. If a child lacks documentation proving their age, it may be harder to classify them as a victim rather than a participant in the trafficking process. This gap in documentation leaves unaccompanied and separated children particularly vulnerable to abuse and exploitation. In short, inadequate or missing documentation creates significant challenges in protecting the rights and welfare of these children.

Cases like this often remain unresolved because we lack the documentation to substantiate the child's age.

Lack of documentation impacted on the ability of children on the move to access certain services or to apply for scholarships that the Malawian children have access to.

It means they are undocumented, which infringes on their right to identity. Without proper documentation, they don't have anything legally to prove who they are. This prevents them from accessing certain services. For example, a birth certificate can be important for applying to programs like WUSC World University of Canada. Without such identification, they can't participate. The only ID they might have is a form from the Department for Refugees, which only identifies them as refugees. That form allows them to access services in the camp or be recorded in the UN database, but it doesn't serve as a general ID for other purposes, like applying for programs or services outside the camp. So, the main issue is that they lack formal identity documentation.

Even with documentation, refugee children were not allowed to attend tertiary education outside the camp setting. This limited them since the other qualifications that they want are not offered at the University that is available inside the camp. Limited access to higher education and livelihood opportunities beyond the camp setting affected the young people's motivation to participate in school and in other initiatives that shape their future.

They attend school, but, as I mentioned, they often hear from friends that there's really nothing available after secondary school. This contributes to higher dropout rates, reduced engagement in education, and increased susceptibility to delinquent behaviour or other vulnerable situations.

Stakeholders also explained how being stuck in the asylum process and restrictions to movement destroys the agency of young people and at times affects their mental health and physical health.

Yes, especially for children, the lengthy asylum process can have significant emotional impacts. Many feel like they have no future and struggle to see a path forward. This can make it very difficult for them to focus on school or personal development, as they feel confined to the camp with no clear transition out of the system they are in.

The delay infringes on their basic human rights because they're promised a service, but we're not able to meet the standard set. Many become depressed and end up in very vulnerable or desperate situations, sometimes living in poverty. Some may be severely ill and need medical treatment, but they can't access it because only refugees can obtain conventional travel documents. While still in the asylum-seeking process, they cannot travel for medical care. In a way, the system is setting them up for failure. There needs to be some leeway for special cases.

Furthermore, the lack of documentation does not only affect local integration but relocation and voluntary repatriation as part of the durable solutions for refugees. The stakeholders mentioned that some children cannot be repatriated or relocated because they do not have a refugee status.

Resettlement and repatriation services are only available to children who are officially recognized as refugees. Asylum seekers do not qualify for these services, as the government only provides them to registered refugees.

3.2.6 SUMMARY OF FINDINGS: CHILDREN ON THE MOVE

ACCESS TO DOCUMENTATION

Birth Registration

- Legal framework not explicit on birth registration for refugee children
- Provision for birth registration through the NRB
- Plan International facilitates birth registration for asylum seekers, refugees, unaccompanied and separated minors

Barriers to Birth Registration

- Challenging for both nationals and non-nationals due to limited resources
- Birth confirmations required as proof of birth complicating the registration of births outside of health care facilities
- Missing data or information complicates the registration of children born of refugees, unaccompanied and separated minors.
- Age verification is problematic
- Children at the risk of statelessness because of falling out of the age gap during mass registration

Implications

- Children made vulnerable due to systemic delays, bureaucratic hurdles and absence of formal foster care arrangements.

UNACCOMPANIED AND SEPARATED MINORS

Policy Gaps

- Lack of specific provisions and processes for unaccompanied and separated minors.
- General child protection law does not translate to the needs of unaccompanied and separated children

Registration

- Complex and unclear
- Challenges with accessing the refugee status determination system-cannot provide proof evidence to support claims due to age
- Remain asylum seekers for many years-Best Interest of the Child is not considered during the process
- Compounded challenges for unaccompanied due to absence of relatives to support their

applications

Implementation Challenges

- Protection heavily reliant on NGOs with the state providing minimal support
- Limited resources/facilities for the care of children on the move

Care Practices

- Kinship based foster care is largely implemented
- Limited formal foster care in the camps, heavily reliant on NGOs
- Care of unaccompanied minors provided for in the camp through a pool of trained foster parents
- System open to abuse for financial gain
- Care for unaccompanied minors in police cells for prolonged periods of time without presentation at the children's court in 48 hours
- Limited safe homes for children in transit
- The Constitution of Malawi and the CCPJA makes provisions for children in Malawi
- Disparity between legal provisions and implementation: children's court not involved
- Verification of relationship between foster parents and the child (issues of abuse and trafficking)
- Limited information on child protection structures in the urban area

FAMILY TRACING AND REUNIFICATION

Strong legal foundation:

- Guided by international laws such as the Convention on the Rights of the Child (CRC) Article 7 and Article 22
- CCPJA Section 74 makes provisions for family tracing and reunification

Key actors in Malawi:

- International agencies lead tracing and reunification efforts.
- Malawi Red Cross: Manages all reunification cases within Malawi

Operational challenges:

- Few participants in the study discussed family tracing and reunification in detail.
- Most simply referred children to the Red Cross for support.
- No resources for repatriation or relocation

Fieldworker insight:

- Child protection officers highlighted difficulty in gathering accurate information from children.
- Children are often uncooperative and unwilling to be reunited back to their countries.

Impact:

- Prolonged stay in detention compounding trauma

TRAFFICKING, EXPLOITATION AND DETENTION

- Extent of irregular movements and trafficking makes it difficult to support unaccompanied and separated minors
- Detentions are common before assessing the situation of the child
- Children staying in Dzaleka are at a risk of trafficking

PRACTICAL AND EMOTIONAL IMPACTS

Practical Impact

- Limited/lack of protection from abuse
- Difficulty in verifying age-opening room for trafficking, early marriage and exploitation
- Denied access to opportunities e.g. Scholarships
- Restricted freedom of movement-restricting access to opportunities outside the camp and life serving interventions
- Family joining, repatriation and resettlement became difficult without documentation
- Statelessness

Emotional Impact

- Emotional distress-hopelessness and diminished self-worth
- Poor concentration and lack of interest at school
- The absence of safe, stable environments increases vulnerability

4. CONCLUSION

This research sought to identify the legal frameworks on access to asylum and the protection of children on the move and the implementation associated with these frameworks in Malawi. It is clear that the legal frameworks for the protection of asylum seekers and children on the move exist, however, there is a need for a legal reform to offer comprehensive protection in line with the regional and international standards. Gaps in the legal processes, bureaucratic processes, systematic barriers and other operational challenges affect the effective and efficient implementation of the asylum processes and the protection of unaccompanied and separated minors including getting documentation which determines access to other services. Alongside challenges with accessing documentation is the restrictive nature of the refugee policy and processes limiting asylum seekers, refugees, unaccompanied and separated minors for the freedom of movement and other freedoms beyond the camp setting.

Protection is not achieved through laws alone — it is realized in everyday life; by translating policy into practice. Malawi can turn its legal commitments into tangible progress — for refugees seeking safety and for the communities that host them. This report serves as a foundation for discussions on improving the asylum and protection in Malawi. The information can be used in other regional engagements for the development of a more regional approach for the protection of asylum seekers and children on the move, specifically unaccompanied, separated and other vulnerable children on the move. The rich data from stakeholders working with the asylum processes and the protection of children on the move presented in this report gives a graphic picture of the challenges faced by people seeking

asylum and children on the move, in their attempts to access asylum in Malawi.

Stakeholders recommended that the findings be used to inform ongoing legislative reform processes, implementation of the revised Refugee Act, development of standard operating procedures for children on the move, capacity strengthening of frontline officers, and coordinated advocacy efforts among government, civil society, and international partners.

5. RECOMMENDATIONS

Below are some of the recommendations proposed by the stakeholders both during the key informant interviews and the validation workshop held in Mzuzu to improve asylum protection and processes for protecting children on the move including separated and unaccompanied minors. These are categorised according to priority and the success of these recommendations depend on adequate resources, interagency collaboration and commitment, political will, continuity, strong institutional systems and commitment to upholding human and child rights.

SHORT-TERM/IMMEDIATE RECOMMENDATIONS

Alternatives To Detention

There is a need for advocacy against the unlawful detention of asylum seekers and children on the move including advocating for alternatives to detention in order to protect the rights and dignity of asylum seekers and children on the move, specifically unaccompanied minors. The government should prioritise the establishment of special facilities for mothers with small who have been arrested and convicted to ensure the care and protection of children.

Provision Of Translation Services

To reduce language barriers and to ensure the efficiency of the process for refugees, there is a need to recruit translators at entry points, during refugee registration, court processes and status determination interviews. The government, the different country embassies and the non-governmental actors should collaborate in ensuring the availability of translation services at all the points.

Legal Representation

There is a need for legal representation and guidance for children and asylum seekers. Through lobbying for pro bono services, partnerships with lawyers interested in child protection and protective asylum processes, training of paralegal officers specialising in children would be beneficial in improving or ensuring justice on children's cases.

Sensitization

The study pointed to the need for training of officials on the asylum processes and processes for the protecting, documenting and placing of children. Sensitization of officials, host community and refugee communities on the rights of refugees, asylum seekers, separated and unaccompanied minors and other vulnerable people on the move is essential.

VISUAL SUMMARY OF THE RESEARCH

- 1 AIM** To understand how Malawi's legal frameworks for access to asylum and for the protection of children on the move are implemented in practice, and to identify gaps, enablers and barriers from stakeholders' perspectives.

- 2 OBJECTIVES**
- Identify legal frameworks on asylum and their implementation
 - Identify frameworks protecting children on the move and their implementation
 - Highlight gaps, enablers and barriers to access and protection
 - Propose advocacy recommendations.

- 3 METHODOLOGY**
- Qualitative approach guided by an intervention mapping framework, employing methods:
1. Desk review.
 2. Key Informant Interviews (online) with 24 stakeholders
 3. Validation workshop in Mzuzu in April 2026

4 FINDINGS

THEME 1: CHALLENGES WITH THE ASYLUM CYCLE

- Access to asylum in Malawi is obstructed from the first point of contact. Asylum seekers, including children, are often turned back, arrested or blocked from registering at entry points, and there are no comprehensive screening guidelines at the border. Those who enter the system face severe delays: some cases from 2008 are still pending, and both the Refugee Committee and the ad hoc appeals board have gone years without meeting.
- Documentation is a particular barrier for children. The law is not explicit on birth registration for refugee children, and age verification is difficult. Unaccompanied and separated minors have no specific provisions, struggle to prove their claims, and remain asylum seekers for years without their Best Interest being considered.

THEME 2: IMPLEMENTATION GAPS

- Corruption, untrained frontline officials and the lack of standard operating procedures weaken registration and status determination.
- Understaffing, limited resources and weak coordination leave protection heavily reliant on NGOs, with minimal state support.
- Limited political will and unfair processes mean legal provisions are not applied in practice.

THEME 3: PRACTICAL IMPACTS

- Without documentation, people are denied health care, work, study and freedom of movement, and children risk statelessness.
- They face detention, inhumane treatment, exclusion, and xenophobia and tension with host communities.
- Emotional impacts include hopelessness, mental health challenges and loss of agency, and children struggle at school.

THEME 4: ACCESS TO SERVICES

- Health care in camps is limited and NGO-supported, and access outside the camp requires special permission.
- Education is available inside the camp but restricted outside it, with limited tertiary opportunities and school dropouts.
- Language barriers and the encampment policy restrict access to services and livelihoods.

THEME 5: FAMILY TRACING AND REUNIFICATION

- The legal foundation is strong (CRC Articles 7 and 22, CCPJA Section 74), and the Malawi Red Cross manages reunification cases.
- There are no resources for repatriation or relocation.
- Gathering accurate information from children is difficult, and prolonged detention compounds trauma.

THEME 6: CHILD EXPLOITATION, TRAFFICKING AND

- Asylum seekers and children are widely detained as irregular migrants, often before their situation is assessed.
- Children are held in police cells beyond 48 hours, and there are few safe homes for children in transit.
- Irregular movement and trafficking, especially in Dzaleka, expose children to trafficking, early marriage and exploitation.

5 RECOMMENDATIONS

- Advocate for alternatives to detention, and provide translators and legal representation throughout the asylum process.
- Train officials and sensitise host and refugee communities on refugee and child protection rights.
- Create a dedicated department, standard operating procedures and monitoring systems for children on the move.
- Amend the Refugee Act, make the Refugee Committee independent, revisit the encampment policy, and strengthen collaboration.

6 DIRECTIONS FOR FUTURE RESEARCH

- In-depth research on lessons learned and existing gaps in refugee training and support programmes to inform future implementation
- Future research should examine the diverse needs of refugees across different hosting regions to support the design of more comprehensive interventions
- Conduct in-depth research on the interaction between policy, legal frameworks, strategic planning, and implementation in practice

Transportation From The Transit To The Camp

Provision of safe and reliable transport from the transit area to Dzaleka camp is essential in ensuring that asylum seekers travel to the camp in a safe and reliable manner. Involvement of multiple institutions is also essential to help mitigate the issues of human trafficking and corruption.

Capacity Building

The research revealed the urgent need for capacitation of officials that work with the asylum processes through continuous, practical training on asylum law, child protection, and case management, combined with child-friendly procedures and strong inter-agency coordination systems.

MEDIUM TERM RECOMMENDATIONS

Composition Of The Refugee Committee

There is a need to revise the composition of the Refugees Committee to an independent inclusive committee to improve case management, timely adjudication of the applications and enhanced accountability. There is a need to reconsider the chairmanship of the committee to an official with less responsibilities to ensure that the committee functions effectively.

Places Of Safety And Child Friendly Facilities

There is an urgent need for places of safety or children's homes or reformatory centres in Malawi to protect the displaced, unaccompanied and vulnerable minors. The government should collaborate with local organisations to plan ways to protect young people as an urgent need. This is essential in preventing children from being kept in police facilities and other inhospitable conditions.

Improved Case Management

The protection and care of children specifically unaccompanied and separated minors depend on efficient processes, clear guidelines, dedicated and trained case workers and a multi-stakeholder collaboration. There is need for digitization of the children's case files to ensure accessibility and proper follow-up and monitoring of cases. There is a need to ensure that the CCJPA is implemented and implementation plans are developed, put into practice and monitored.

Regional Learning And Cooperation

The Malawi government and other NGOs could initiate and participate in regional dialogues to share learnings and co-develop complimentary pathways to manage refugee processes and protect and document children on the move.

Dedicated Department And Clear Processes For Children On The Move

The study pointed to the need to have a dedicated government department that is focused on the protection of children on the move taking into consideration the different categories. Standard Operating Procedures must be developed to guide the processes of documenting and protecting children on the move, specifically separated and unaccompanied minors in line with the Constitution of Malawi and the Child Care Justice and Protection Act and taking into consideration the Best Interest of the Child.



Setting Up Monitoring Mechanisms

There is a need to set up monitoring mechanisms including clear indicators, routine data collection, case tracking, and independent oversight to ensure asylum processes and child protection standards are consistently applied and gaps are identified and addressed in real time.

LONG TERM RECOMMENDATIONS

Inter-Agency Collaboration

There is a need for collaboration between governmental departments, and NGOs that directly work with asylum seekers and unaccompanied and separated minors from the initial registration until they get their final decision. There is also a need to institutionalise multi-stakeholder dialogues and multi-stakeholder coordination processes for asylum processes and children on the move. Continuous involvement of other institutions in screening asylum seekers and in the status determination process is essential to maintain accountability, safeguard human rights and to ensure that a certain standard is maintained in the process.

Clear Procedures For Identification, Screening And Status Determination

There is a need to develop guidelines and clear procedures on identifying and documenting asylum seekers for officers to have a standardized point of reference. Having clear procedures and training on those is essential in improving case management and in upholding the rights and dignity of asylum seekers.

Revisiting The Encampment Policy

There is a need to advocate for a refugee approach promoting inclusivity and the free movement of refugees and asylum seekers and the right to settle in other areas to promote social and economic integration, self-reliance and access to other services beyond the camp setting.

Legal Reform

There is a clear need for the Refugee Act to be amended to be comprehensive and offer dignified and respectful protection taking into consideration the changes in context and to be in line with the regional, continental and international frameworks. A more comprehensive policy is required to fully protect asylum seekers and refugees in Malawi.

Improving Asylum Processes And Reducing Bureaucracy

There is a need for multi-stakeholder collaboration devising mechanisms to streamline asylum processes and reduce bureaucracy through enactment of legislation that promotes the dignity and protection of people seeking asylum and the implementation of strategies that ensure efficiency of the asylum processes.

6. ACKNOWLEDGEMENTS

The Scalabrini Institute for Human Mobility in Africa would like to express appreciation to all the stakeholders and organisations who shared their knowledge and experience of working with the asylum process and the protection of children on the move in Malawi. We would like to acknowledge the La Chapelle Foundation for funding this project. Our appreciation

also goes to our partners in Malawi who facilitated the community, and stakeholder mapping and the Catholic Commission for Justice and Peace-Diocese of Mzuzu for supporting the implementation of this work.

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NETWORK OF SCALABRINI STUDY CENTRES



CEMLA, Buenos Aires

Centro de Estudios Migratorios Latinoamericanos, established in 1985 in Buenos Aires (Argentina)
www.cemla.com

CSER, Rome

Centro Studi Emigrazione Roma, established in 1964 in Rome (Italy)
www.cser.it

CEMI, Paris

Centre d'Information et d'Études sur les Migrations Internationales, established in 1971 in Paris (France)
www.cieml.org

CEM, Sao Paulo

Centro de Estudos Migratorios, established in 1985 in Sao Paulo (Brazil)
www.missaonspaz.org

CMS, New York

Center for Migration Studies of New York, established in 1969 in New York (USA)
www.cmsny.org

SMC, Manila

Scalabrini Migration Center, established in 1987 in Manila (Philippines)
www.smc.org.ph



The Federation of Scalabrini Centers for Migration Studies unites seven centres across the world, each devoted to research and advocacy on migration. Located in New York, Paris, Rome, Basel, São Paulo, Buenos Aires, and Manila, these centres monitor the development of international migration. All of them are organized with similar departments, including a program dedicated to research, another dedicated to specialized publications—including periodicals, monographs and academic papers—as well as programmes dedicated to documentation, conferences, and other educational activities.



The Scalabrini International Migration Network (SIMN) is an umbrella organization established in 2007 by the Congregation of the Missionaries of Saint Charles, Scalabrinians. SIMN encompasses more than 250 grassroots Scalabrini entities that serve and advocate for the dignity and rights of migrants, refugees, internally displaced people, and seafarers around the world. SIMN fulfils its mission through an extensive network of think tanks, social service centres, shelters, senior centres, orphanages, medical clinics, kindergartens, schools, employment centres, and cultural centres. SIMN works closely with other entities at the local, national, and international levels, promoting comprehensive service programs and advocating for the dignity and rights of migrants and their families.



PEOPLE BEHIND THE FIGURES