

## MALAWI

### **CERD A/58/18 (2003)**

551. At its 1605th meeting (CERD/C/SR.1605), held on 19 August 2003, the Committee reviewed the implementation of the Convention by Malawi, based on a variety of materials at its disposal, and adopted, at its 1611th meeting (CERD/C/SR.1611), on 22 August 2003, the following concluding observations.

#### A. Introduction

552. The Committee regrets that the State party has not yet reported to the Committee since it ratified the Convention in 1996. The Committee notes that Malawi does not have any representation in Geneva, but nevertheless regrets that the State party was not able to respond to its invitations to participate in the meeting and submit relevant information. It wishes to draw to the attention of the State party that reporting is an obligation under article 9 of the Convention and that non-compliance in this regard creates serious obstacles to the effective functioning of the monitoring system set up by the Convention.

553. The Committee expresses concern that, although the State party has ratified the main international human rights instruments, it has not fulfilled its reporting requirements to the human rights treaty bodies. The Committee notes that between 1988 and the present, the only report submitted was the initial report to the Committee on the Rights of the Child in August 2000.

#### B. Factors and difficulties impeding the implementation of the Convention

554. The Committee is aware that the State party is currently facing a very difficult situation, owing in part to serious food shortages and a very high incidence of AIDS among the population. It further notes that the insufficient educational infrastructure and the high illiteracy rates constitute impediments to the full implementation of the Convention.

#### C. Positive aspects

555. The Committee welcomes the establishment of the Malawi Human Rights Commission in 1999, endowed with the task of protecting and promoting human rights, investigating human rights violations and following up individual complaints.

#### D. Concerns and recommendations

556. The Committee notes that the State party's Constitution prohibits discrimination, particularly on the grounds of race, colour, language, religion, nationality and ethnic origin, and allows for the adoption of legislation to address inequalities in society and to prohibit discriminatory practices. It welcomes the adoption of the Employment Act in 2000 which bans discrimination in the context of

employment. The Committee is nevertheless concerned that no further legislation has been adopted to prevent and eliminate racial discrimination.

The Committee recalls that the inclusion of a general principle of non-discrimination in the Constitution is not a sufficient response to the requirements of the Convention. The Committee recommends that the State party adopt further legislation in order to meet the requirements of articles 2, 3, 4 and 5 of the Convention. In this connection, the Committee draws attention to its general recommendations I, II, VII and XV, and emphasizes the preventive value of legislation expressly prohibiting racial discrimination and racist propaganda. It recommends that the State party, when submitting its periodic report, provide information on progress achieved.

557. The Committee recalls that, as stated in its general recommendation XX, article 5 of the Convention implies the existence and recognition of civil, political, economic, social and cultural rights and expresses its grave concern about reports of serious human rights violations. The Committee underlines that full respect for human rights is the necessary framework for the efficiency of measures adopted to combat racial discrimination.

The Committee recommends that the State party take the necessary measures to implement the Convention.

558. The Committee is concerned that the registration of births is not compulsory, except for children of non-African origin.

The Committee underlines the existing link between the registration of births and the ability of children to enjoy civil, political, economic, social and cultural rights, as enumerated under article 5 of the Convention. It recommends that the State party review the Births and Deaths Registration Act in order to make birth registration compulsory for all children without any discrimination.

559. The Committee expresses concern over the State party's reservations to the 1951 Convention relating to the Status of Refugees which, in particular, reduce the protection offered to refugees in the field of employment, access to property, right of association, education and social security.

The Committee welcomes the draft Refugee Act, which reflects the intention of the State party to withdraw these reservations, and encourages the State party to give high priority to this process. The Committee recommends, in particular, that the State party take steps to ensure that child refugees are, in practice, given access to education.

560. The Committee is concerned that, according to certain information, women continue to be victims of discriminatory practices.

The Committee draws the State party's attention to its general recommendation XXV on

gender-related dimensions of racial discrimination and recommends that the State party assess and prevent racial discrimination against women in general.

561. The Committee is concerned that the current school curriculum does not include programmes to combat prejudices and to promote tolerance among ethnic groups, as required by article 7 of the Convention.

The Committee recommends that such programmes be included in the school curriculum.

562. The Committee is concerned that the budgetary constraints facing the Malawi Human Rights Commission may limit its effectiveness.

The Committee recommends that the State party include information on this issue in its next periodic report. It also recommends that information on the functions and activities of the Malawi Human Rights Commission be disseminated both in English and in Chichewa.

563. The Committee strongly urges the Government of Malawi to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights, with the aim of drawing up and submitting as soon as possible a report drafted in accordance with the reporting guidelines. It also suggests that the State party seek, as appropriate, the assistance of the United Nations Development Programme in this regard. The Committee wishes to draw the attention of the State party to its general recommendation X on technical assistance.

564. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and recommends that it consider doing so.

565. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meetings of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194 of 18 December 2002, in which the Assembly strongly urged State parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

566. The Committee draws the attention of the State party to the provisions of the Durban Declaration and Programme of Action, according to which the International Convention on the Elimination of All Forms of Racial Discrimination is the principal international instrument for the elimination of racism, racial discrimination, xenophobia and related intolerance and urging States to cooperate with the Committee in order to promote the effective implementation of the Convention.

567. The Committee decides that a communication should be sent to the Government of Malawi setting out its reporting obligations under the Convention, urging that the dialogue with the Committee start

as soon as possible, and requesting the State party to submit its initial report as soon as possible. The Committee draws the attention of the State party to the availability of its members to conduct a mission to Malawi with a view to commencing a dialogue with the State party and assisting it to honour its obligations under the Convention.

568. The Committee requests that the State party give wide publicity to the Convention and to the present concluding observations, both in English and in Chichewa, and draw the attention of the Malawi Human Rights Commission to them.