



**Convention on the Elimination
of All Forms of Discrimination
against Women**

Distr.: General
9 February 2006

Original: English

**Committee on the Elimination of Discrimination
against Women**

Pre-session working group

Thirty-fifth session

15 May-2 June 2006

**List of issues and questions with regard to the consideration
of periodic reports**

Malawi

The pre-session working group examined the combined second, third, fourth and fifth periodic report of Malawi (CEDAW/C/MWI/2-5).

Constitution, legislation and status of the Convention

1. According to the report, the Constitution contains a non-discrimination provision, although there is no further legislative or judicial definition of this provision. The report also mentions that an ongoing law reform process may result in clear norms to eliminate forms of discrimination against women (see para. 1.5). Please describe the scope of the law reform process and whether it aims to review all laws for their compliance with the provisions of the Convention, as well as inclusion of a definition of discrimination in accordance with article 1 of the Convention in appropriate legislation. Please also clarify the impact of this reform on customary law, especially on aspects such as polygamy and forms of violence against women (see para 1.4.2).

2. In 1991, Malawi withdrew its reservations to the provisions of the Convention concerning traditional customs and practices. However, notwithstanding a constitutional requirement, no law to eliminate harmful cultural practices has been passed (para. 6.6.1). Identify the obstacles that prevent legislation from being adopted and efforts to overcome them.

3. The report indicates that the Constitution allows child marriages and that this provision is in contrast with section 19 of the Marriage Act that establishes 21 as the minimum age for marriage (para. 16.3.2). What measures are planned to ensure compliance with the Marriage Act?

4. It is stated in the report that High Court judges base their decisions on customary traditional views rather than on international human rights practice and that Malawians have more confidence in traditional justice (para. 2.6.8). Please indicate what measures are being taken to raise awareness about gender equality and women's human rights among the judiciary, village head persons and chiefs.

5. The report mentions that efforts are being undertaken to develop a Gender Equality Act (para. 6.5). Provide further information on the content of this act and the status and timetable for its adoption.

6. According to the report, the National Gender Policy was launched in 2000 and its implementation is in the final stage (para. 2.5.3). Please provide information on the impact of the Policy and identify the obstacles encountered in its effective implementation and steps taken to overcome them. In your response, clarify whether a new national gender policy will be adopted and implemented.

7. It is mentioned in the report that the fourth instrument to achieve gender equality is the poverty reduction strategy paper (para. 2.5.4). Please indicate whether the Convention and the Millennium Development Goals (MDGs) are reflected in the poverty reduction strategy paper and describe how women's priorities are reflected in the paper. In your response, include information on the mechanisms in place to monitor and assess the implementation of programmes and policies targeted at women.

National machinery for the advancement of women

8. The report states that the Ministry of Gender and Community Services is a line ministry with no coercive powers as opposed to being a central ministry (para. 2.5.6) and that it has many capacity problems, including poor funding (para. 4.4.9). Please provide information on efforts and measures to improve the status of the Ministry as well as the availability of human and financial resources for its effective functioning.

9. The report states that the Human Rights Commission has a committee on women's rights, but that it is under-funded and that the Commission's plan for 2001 does not provide for specific implementation of international equality standards for women (para. 2.6.5). In addition, the National Commission on Gender Trust is suffering from a lack of institutional support. Please provide information about the efforts to support human rights machinery and women's rights machinery politically and financially.

Stereotypes

10. Provide information on the impact of the initiatives listed under section 5.4 to modify harmful and negative sociocultural patterns, as well as on new measures to eliminate stereotypes.

Violence against women

11. According to the report, the Government, in collaboration with stakeholders, is working on a Domestic Violence Bill, which also seeks to criminalize marital rape and other sexual violence offences (para. 6.5.3). Please provide further details about the content of the Bill, including sanctions established for perpetrators, and indicate its status and timetable for adoption.

12. In light of the persistence of many forms of violence against women (listed under section 6.6, and the sexual exploitation of girls in schools, para. 6.5.2), please indicate whether the Government intends to adopt a comprehensive plan, or strategy to combat all forms of violence against women and girls, including collection of data on violence against women in a systematic way.

Trafficking and exploitation of prostitution

13. According to the report, trafficking cases brought into court could not be concluded due to the lack of legal basis for prosecution and that a new law to address trafficking has been presented to Parliament (para. 6.3.3). Provide information on the content of the proposed law, including on sanctions against perpetrators of trafficking, its status and timetable, as well as on any plans to put in place a comprehensive strategy to combat trafficking in women.

14. The report mentions that although prostitution is not criminalized, commercial sex workers are abused, even raped, and do not get full and equal protection under the law (paras. 6.4.4 and 6.4.5). Please indicate what measures are being taken to protect this group of women.

Political and public life

15. Despite signing the Gender and Development Declaration of the Southern African Development Community, which stipulates that women should occupy 30 per cent of decision-making positions, the Government has not set quotas to accelerate such measures. What are the Government's future plans concerning temporary special measures in accordance with article 4, paragraph 1, of the Convention and general recommendation 25?

16. What are the measures being taken to increase number of women at all levels of the Foreign Service, as well as at the international level?

Nationality

17. The Citizenship Act and the Immigration Act contain provisions that are contrary to article 9 of the Convention, as well as to the Constitution of Malawi. How does the Government envisage remedying this contradiction?

Education

18. In the report it is recognized that gender disparities in education persist in enrolment, retention, delivery and attainment (para. 10.7, conclusion) and that "hope lies in the implementation of the poverty reduction strategy paper". Please clarify whether specific measures are included in the strategy paper to tackle the problems faced by female students listed in paragraph 10.6.2, to encourage their enrolment and retention in schools.

19. It is mentioned in the report that although the Government established a gender appropriate curriculum initiative in 1992 to incorporate gender sensitivity in the primary school and teacher training curricula, the majority of teachers have not yet been trained (para. 10.4.1). Please identify the barriers that prevented teachers from being trained and measures planned to overcome them.

20. Please provide information about the Government's plans to adopt policies to ensure gender parity in the recruitment of trainees and in the appointment to positions at training institutions at all levels.

Employment

21. Please provide information on the extent and conditions of women working in the informal sector. Also describe measures in place to support the economic empowerment of this group of women.

Health

22. According to the report, "in addition to the insufficient health facilities, women in Malawi face problems to access health facilities, services and goods (...) and access is exacerbated by poor transport network, and lack of resources" (para. 12.3.3). It is also mentioned that discrimination is common in the health-care system against the poor and especially women (para. 12.4.1). Please indicate what measures are planned so as to overcome the problems of access to health for women including the training of health personnel and to eliminate all forms of discrimination against women in the health system.

23. According to the statistics provided in the report, the maternal mortality rate has increased from 620 deaths per 100,000 births in 1987 to 1,120 in 2000 (para. 12.13.1). Please provide more recent data, if available, and provide information on the reasons for this increase and measures taken to reverse this deterioration.

24. The report states that the HIV prevalence rate of new infections among young women in the 15 to 24 years age group is about 4 to 6 times higher than for men of the same age group (para. 12.14.1). The report further indicates that women are less knowledgeable about HIV and AIDS (para. 12.14.4) and that women who are HIV positive bear disproportionately the stigmatization compared to men (para. 12.14.10). Please indicate whether a comprehensive plan to combat HIV/AIDS is envisaged, including any specific measures to overcome the problems women face in this regard.

25. Provide information on the malnutrition levels of women and girls by age groups and indicate whether there are plans to implement specific programmes to address this problem. In your response, include information on the impact of the current food crisis and drought on women's and girls' health, and efforts in place to mitigate such impact.

Rural women and the economy

26. According to the report, poverty is worse among women and children from the rural areas (para 14.2.2). Please indicate whether the poverty reduction strategy paper includes programmes for rural women and the extent to which rural women were able to participate in the development of the strategy paper.

27. In view of the current drought and resulting food crisis, please indicate the measures to assist women who are disproportionately affected by the crisis. In particular, describe measures in place to ensure equal access for women to immediate relief as well as to long-term sustainable rural development efforts.

28. It is clear from the report that, despite the legal advances in women's access to land and credit, women still face other barriers (for example, factors of production are predominantly in the hands of men, lack of self-esteem, no "woman-friendly" credit and land transactions and low literacy levels). Please indicate what measures are being taken to overcome these barriers.

29. According to the report, property dispossession remains a big problem. Please describe the efforts undertaken to overcome this problem, including measures to effectively enforce the amended Wills and Inheritance Act.

Marriage and family relations

30. It is mentioned in the report that Malawi's system provides a diversity of marriages, which creates discrimination in the allocation of rights to women. Indicate what steps have been taken to ensure women's rights are respected in the various forms of marriage.

Optional Protocol

31. Malawi is host to a number of refugees. Please provide information about the situation of women refugees. In particular, please indicate whether the Government is investigating cases of trafficking and smuggling of refugee women. Also indicate whether refugee women have equal access to the national courts to address allegations of sexual and gender-based violence. Also indicate whether the Government is envisaging to lift its reservations to the 1951 Convention and amend the present Refugee Act in order to allow refugees, especially women refugees, to fully integrate and conclude the legal integration process by naturalization in Malawi.
