



**Convention on the
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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-ninth session

SUMMARY RECORD OF THE 766th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 24 January 2002, at 3 p.m.

Chairperson: Mr. DOEK

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Malawi (CRC/C/8/Add.43; CRC/C/Q/MALA/1 (list of issues); written replies of Malawi (document without a symbol number distributed in the meeting room in English only))

1. At the invitation of the Chairperson, the members of the delegation of Malawi took places at the Committee table.
2. Mr. KILEMBE (Malawi) said that his Government had formulated a number of policies taking full account of young people's needs and the best interests of children. Youth policy was aimed at enabling youngsters to develop all of their potential and become responsible Malawian citizens. Through the reproductive health programme, young people received information on sexuality and procreation. The family life education project was also focused on teaching youths between the ages of 14 and 25 about their reproductive rights. The policy on orphans had been drawn up having regard to the problems posed by the growing number of children who lost their parents to AIDS, the aim being to encourage the community to take charge of such children and avoid the need for them to be placed in orphanages. Youth policy also applied to needy children, street children and children deprived of their family environment. Malawi's national policy concerning younger children focused on the psychosocial development of under-3-year-olds. The proposed policy concerning women and development, which followed up on the national gender and development programmes, addressed problems arising from sex discrimination, including access for young girls to various services and educational institutions. The Affiliation Act provided for the recovery of maintenance for children born outside marriage. Adoption was governed by the Adoption of Children Act. Before any decision was taken, social welfare officers visited the family wishing to adopt a child to ensure that the principle of the best interests of the child was observed. Lastly, corporal punishment was forbidden by the Constitution and the authorities were taking steps to guarantee that the practice was prohibited in schools and in rehabilitation centres for young offenders.
3. Ms. KARP asked whether the Government intended to bring the laws that still authorized parents to apply light corporal punishment into line with the Constitution and the Convention. She wondered how the authorities planned to overcome the reluctance of teachers' associations to the taking of sanctions against the use of corporal punishment.
4. The CHAIRPERSON, speaking as a member of the Committee, asked whether any specific measures, such as awareness-raising campaigns or teacher training programmes, had been adopted to eradicate the practice of corporal punishment.
5. Mr. KILEMBE (Malawi) said that his Government appreciated the need to reach the public in a more tangible way than simply by passing legislation, given the weight of traditions, especially in rural areas. It had launched a number of campaigns to raise awareness and to disseminate the text of the Convention as part of the National Programme of Action for the

Survival and Development of Children and of the community education scheme run by the Government and NGOs. The Government had, moreover, introduced a number of training modules aimed at changing teachers' attitudes towards children.

6. Ms. TIGERSTEDT-TÄHTELÄ asked how the public was responding to the programmes to raise awareness about family violence and to promote gender equality.

7. Mr. KILEMBE (Malawi) said that changing mindsets was a slow process, especially in view of the fact that the illiteracy rate in the country was around 75 per cent.

8. Mr. KAWG'OMBE (Malawi) said that a message from the President urging parents and teachers not to inflict corporal punishment on children was regularly broadcast on the radio. A television spot entitled "Know your rights" taught children not to accept practices that violated their rights.

9. Contrary to what had been claimed, Malawian legislation contained provisions protecting children against all forms of discrimination. Article 20.1 of the Constitution provided that discrimination in any form was prohibited and all persons were guaranteed equal and effective protection against discrimination on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, property, birth or other status. Any law deemed to run counter to that provision would immediately become null and void. Steps were also being taken to review legislation not fully applying the principle of gender equality on issues such as land rights.

10. Nationality in Malawi was acquired by descent, naturalization or marriage. Children not brought up by their own parents and thus bearing a different name from them could request a change of their patronymic names.

11. Several years previously, the Government had decided that primary education should be dispensed in languages understood by all children. The public seemed not to be greatly in favour of that decision, which did not prepare children for the realities of social and professional life, where the use of English was essential.

12. It was true that the plan announced by the Government to provide every citizen with an identity card had not as yet materialized, but the matter was still under consideration. Inheritance rights for girls were also to be reviewed.

13. Ms. DAFTER (Malawi) said that abortion was illegal in Malawi and in fact the number of clandestine abortions had decreased, owing to the awareness-raising campaigns and family planning and reproductive health programmes launched by the Government. Initiation ceremonies marking the entry of girls of marriageable age into adult life were part of a cultural tradition which aimed to instil in them appropriate behaviour.

14. Ms. KARP asked whether it was true that young girls were forced to have sexual intercourse with their village chief after the ceremony.

15. Ms. OUEDRAOGO, referring to paragraph 361 of the report, said that there was a risk, in the context of the AIDS epidemic, in encouraging children to have sexual relations with adults.

16. Mr. KILEMBE (Malawi) said that the rites mentioned, which had come to assume a far more symbolic form than in the past, did not impose such obligations on children.

17. Returning to the situation of orphans, abandoned children and street children, he said that the Government had set up programmes to take such children into care, according to their needs, in a variety of structures that greatly depended on participation by the community and the extended family. Poor children without parental protection were, as a last resort, sent to orphanages. If, however, such an arrangement seemed to be contrary to the best interests of the child, other measures of protection were available, such as placement in a foster family, or else the child could be adopted.

18. The Government attached great importance to the question of disabled children, as shown by the recent establishment of a ministry with exclusive responsibility for matters relating to such children. It had also launched a programme for disabled people, one aspect of which was the establishment of orthopaedic services for children and facilities for the early detection of disability.

19. With regard to juvenile justice, the Government's new policy was to make the law more flexible and reduce the penalties set for young offenders. Malawi had also committed itself to the idea that prison sentences might be replaced by community service, so that instead of going to prison young people could in that way pay their debt to society for the harm which they had caused. It also needed to be recognized, however, that some minors were in practice sentenced to imprisonment and placed in cells with adults. For that reason, a prison inspection system had been set up, with the number of prison visits being increased to ensure that minors and adults were not held in the same accommodation. The justice system's new approach to minors had yielded good results, leading to a decrease in the number of juveniles held in prison.

20. Ms. KARP asked whether the State party intended to assist the reintegration of young offenders into society by organizing group meetings in which various members of the community, including the families, victims and young offenders themselves, took part.

21. Given AIDS orphans' low rates of attendance in secondary schools, she inquired whether Malawi had a programme to encourage such young people to pursue their studies beyond the primary level.

22. Mr. KILEMBE (Malawi) said that the introduction of community service was proof of the Government's will to resolve problems at community level rather than to impose prison sentences on young offenders.

23. As part of the Africa Law Initiative of the American Bar Association, machinery for reporting cases of child abuse had been set up, with contributions from various participants, including police officers, traditional chiefs and judges.

24. With a view to encouraging orphans and children from vulnerable groups not to drop out of school after primary education, the Government had launched an initiative to increase the number of community-based secondary education institutions and to improve access for potential drop-outs to the next level of education.

25. Mr. KAWG'OMBE (Malawi) said that courts dealing with divorce cases sought to ensure that the child's best interests were safeguarded. When custody was granted to the father, the mother had the right of regular visits; if the mother gained custody, the father was required to provide adequate child support.

26. The National Statistical Office undertook a population census every 10 years. The latest census had been held in 1997, but other services had been required since then to gather demographic data in various fields, such as health care.

27. It had been decided to convene the Children's Parliament every year and to adopt the recommendations made by the young participants. Its first session had been a success, with all the nation's children represented: girls and boys in equal numbers, children from towns and the countryside, disabled children, children in conflict with the law and children sexually exploited for commercial purposes.

28. The National Youth Council Act had been passed in 1996 to promote the participation of young people in the country's development and allow them to form associations. Such freedom to hold meetings had enabled children to make their views known to the competent authorities. A number of amendments to the Constitution that related to children's rights had, indeed, been made by one such organization, called Young Voices.

29. He acknowledged that little importance was attached to children's views within the family and it was essential in that regard, to change people's way of thinking. The Government was due to launch a programme to sensitize parents to the issue. Although families tended to be smaller in urban centres than in the countryside, there was no reason to conclude that the mutual support system of the extended family had broken down.

30. Ms. DAFTER (Malawi) added that the Children's Parliament had tackled such vast issues as education, poverty, HIV/AIDS, corruption and even the situation of orphans.

31. Ms. CHUTIKUL asked whether Malawi planned to involve children in decision-making at the local level, through children's committees, for example. She wanted to know, in particular, whether street children or even child workers were included in community activities and decision-making. What did children know and feel about corruption?

32. Mr. KILEMBE (Malawi) said that, as part of the follow-up to the World Summit for Children and to the ratification of the Convention on the Rights of the Child, the Government had adopted a plan of action defining a number of activities aimed at involving children in decision-making. Several forums had been organized, under the auspices of the Government and NGOs, giving children from all parts of the country the opportunity to raise issues of concern to them. A large number of children had also taken part in the preparations for the United Nations

Special Session on Children. Finally, the population of Malawi had given the Global Movement for Children a very favourable reception, with many people, at all levels, having said “yes for children”. The vote had shown that a major concern of Malawians was the elimination of violence against children.

33. Mr. KAWG'OMBE (Malawi) said that children heard about corruption from the media and blamed it for the shortage of resources available to schools.

34. Mr. CITARELLA noted that the Constitution of Malawi required the State to provide appropriate resources for the creation of a free and compulsory education system, but did not specify up to what level education should be provided. Although primary education appeared to be free, it was not really compulsory and, according to the report, Malawi's policy did not envisage free secondary education. Malawi also seemed to be experiencing serious difficulties in financing education, and the national education budget had been shrinking over recent years. As for school discipline, could the delegation describe the circumstances in which a student might be expelled from school?

35. On the subject of the administration of juvenile justice, the State party had acknowledged in its report that the provisions of the Children and Young Persons Act were rarely followed, that some children were placed in prisons without charge, that conditions in prisons were appalling, and that many children in prison were ill. It would be interesting to know what steps the Government intended to take to remedy that situation.

36. When it had ratified the 1951 Convention relating to the Status of Refugees, Malawi had announced that it was reserving the right not to allow refugee children to benefit from free and compulsory education. Did the Government of Malawi intend to withdraw that reservation?

37. Ms. CHUTIKUL asked for further details about the measures undertaken to combat smuggling of girls, who were taken abroad to work as slaves or prostitutes.

38. Ms. AL-THANI remarked that the figures relating to the AIDS pandemic in Malawi were appalling. The Government should launch a vast awareness-raising campaign to educate the public about how the virus could be transmitted.

39. She would welcome information from the delegation on the measures taken to reduce the infant mortality rate, to increase the vaccination coverage rate, which was barely over 50 per cent, to guarantee the poor, who accounted for 60 per cent of the population, access to health care, to encourage mothers to breastfeed their children, and to provide mothers with advice on nutrition.

40. Ms. OUEDRAOGO noted that, according to the report, the female labour force participation was estimated at 64 per cent. However, that figure did not include most of the work done by women which went unrecorded in the official statistics because it was not accorded economic value. It would be helpful to know what the Government was doing to remedy that situation, particularly in the light of the Beijing Platform for Action.

41. The report indicated that many children had access to violent and pornographic video material, and the Censorship Board and the police were unable to enforce the provisions of the Censorship and Control of Entertainment Act owing to lack of resources. Could the delegation explain what action the Government intended to take to address that issue?
42. She also wondered whether the Government had plans to adopt the International Code of Marketing of Breast-milk Substitutes; what measures were being taken to help the victims of sexual exploitation; and whether the Government cooperated with neighbouring countries to combat child abduction and child trafficking.
43. Mr. AL-SHEDDI asked whether Malawi received international aid from organizations such as the United Nations Educational, Scientific and Cultural Organization (UNESCO) for the purposes of financing education. The Government would appear to be focusing most of its efforts on primary education, at the expense of secondary education, while private institutions seemed to provide a better quality of education than public institutions. What did students not going on to higher education do at the end of their secondary schooling?
44. Ms. KARP asked what measures were in place to prevent minors from being subjected to sexual abuse in prison, particularly by prison guards, to provide medical care to children in prison with HIV, and to prevent the spread of the virus. She wished to know whether, as recommended in the Stockholm Declaration on the commercial sexual exploitation of children, the law protected minors against sexual abuse up to the age of 18 years, even though the age of sexual consent in Malawi was 12 years for boys and 13 years for girls.
45. Could the delegation indicate what steps the Government took to prevent parents from selling their children into prostitution and whether Malawi intended to ratify the Hague Convention on the Civil Aspects of International Child Abduction and Convention on International Adoption.
46. Ms. TIGERSTEDT TÄHTELÄ asked whether the State gave financial assistance to parents who had their children educated in private schools; whether it had concluded any contracts with private schools; whether it issued directives pertaining to their academic curricula and teaching methods; and, finally, whether it oversaw the running of those schools. Could the delegation also indicate whether the Government carried out checks on private health institutions?
47. Ms. OUEDRAOGO, noting that schooling was compulsory up to the age of 14 years, asked how the Government ensured compliance with that rule.
48. Ms. AL-THANI asked whether the practice of female genital mutilation was prohibited by law and what measures were taken to discourage such practices.
49. The CHAIRPERSON, speaking as a member of the Committee, noted from the report that the median distance to a health facility was about 5 kilometres. He wondered whether there were any roving dispensaries in poorly serviced areas, particularly to vaccinate the population.

The meeting was suspended at 5 p.m. and resumed at 5.15 p.m.

50. Mr. KAWG'OMBE (Malawi) said that the law provided for the gradual phasing in of compulsory education. The fact of the matter was that, until recently, the country had been living under a dictatorship, which had forced the population to do things against its wishes. That was why the current Government favoured persuasion over coercion.

51. It was true that since the introduction of free education the State had been finding it difficult to finance education and train good teachers, the number of students having doubled in only a short space of time. Owing to shortage of space, the same school was sometimes used for primary education in the morning and for secondary education in the afternoon.

52. With regard to school attendance, some parents admittedly did keep their children at home to perform domestic chores. The situation should improve, however, as high living standards for parents would allow them to pay someone else to do that work. If a child caused problems or played truant, the school administration summoned the child and his or her parents to discuss the problem and try to find a solution by talking it through. The State was having difficulty in financing education, as evidenced by the decline in the education budget over the previous four years.

53. Secondary education was not a poor relation of national education. Indeed, virtually every traditional authority (chieftancy) had its own secondary school with the capacity to accommodate children who had completed their primary schooling, and whose numbers had grown since the introduction of free education. The Ministry of Education had decided to focus on vocational training for pupils who completed secondary education in order to facilitate their entry into the labour market.

54. The reservation concerning the schooling of refugee children had been formulated at a time when the country was hosting large numbers of refugees from Mozambique. That problem no longer existed and refugee children were being educated, without any problems, at Malawian schools.

55. Women played a decisive role in the national economy through their work and their output. The Government had instituted a whole series of measures to strengthen their role, including by granting them loans and pursuing a policy in favour of equality between men and women.

56. Ms. DAFTER (Malawi) said that the situation with regard to breastfeeding had greatly improved, particularly as a result of information and awareness campaigns conducted in the framework of the national policy for the advancement of women. Children were often breastfed up to the age of two years, a practice which had not been so common hitherto.

57. Mr. KILEMBE (Malawi) said that, in order to promote public health, committees had been formed at the community level to study health issues and a programme had been put in place to distribute essential medicines at the local level. In addition to the services which hospitals offered, a system of mobile dispensaries had been set up in rural areas to provide

vaccinations, prenatal care, family planning and other services. Annual vaccination campaigns had helped raise the coverage rate to 81 per cent and targeted programmes were being implemented within the framework of an integrated child health management policy. A study on the demographic and health situation in Malawi had been published at the end of 2001.

58. Health-care services were generally free of charge, but the State was also gradually introducing a system of fee-paying for treatment. More than 60 per cent of health institutions were in the public sector. Most private hospitals were run by the Christian Health Association and about 1 per cent of private health centres operated without any State subsidies.

59. Approximately 200 new cases of HIV/AIDS infection were recorded each day. The Government had clearly signalled its determination to tackle that alarming situation, which the Head of State never failed to mention in his public statements, urging the population to join forces and to alter its behaviour. The National Health Plan (1999-2002) provided for numerous HIV/AIDS awareness-raising activities and for the strengthening of community-based health facilities. Paramedics at health centres were given training on HIV screening in particular. A strategic framework for the period 2002-2004 had been drawn up with the National AIDS Commission, including plans for the distribution of condoms at health centres and in shops and for voluntary screening and consultation services. A pilot project giving information on mother-to-child transmission was being implemented in five hospitals, in collaboration with NGOs and other partners. It provided, inter alia, for the distribution of antiretroviral drugs.

60. With regard to juvenile justice, it was unfortunately not always possible to apply the provisions of the law to the letter. The shortage of capacity and remoteness of the two reformatories meant that youngsters were often placed in adult prisons. The Government had established juvenile wings within some penitentiaries, but the problems of overcrowding still made it difficult to monitor children. The law expressly provided for children to be kept separate from adults. Efforts were being made, particularly at the community level, not to place juvenile offenders systematically in prison and to avoid criminal proceedings wherever appropriate.

61. Young prisoners had no access to HIV-screening services. The Government intended to take action to address that problem. Projects had been set up to improve health conditions in prisons and included a vaccination programme for the children of female inmates. Such efforts were undertaken in cooperation with the Prison Inspectorate and the Board of Visitors, which monitored the prison conditions of minors not only in terms of health care but also with regard to education and vocational training. Prison guards found guilty of ill-treating prisoners, whether adults or minors, were liable to disciplinary action and prosecution.

62. Prostitution was illegal in Malawi. The National Task Force on Children and Violence had carried out a study on ill-treatment, which had sought to shed light on the determining factors of the sexual exploitation of children, including generalized poverty and asocial behaviour in some adults. The Government intended to commission a working group to examine the recommendations and programmes of action drawn up by the World Congress against the Commercial Sexual Exploitation of Children at its meetings in Stockholm and Yokohama.

63. Although Malawi remained little affected by child trafficking, an in-depth investigation in 1998 had shown that some girls who had left school to go and work abroad had been victims of a prostitution ring. The Government had created a special team to combat the phenomenon, which seemed likely to spread, largely as a result of increasing globalization, which facilitated the movement of people. The prosecutions that had been instituted thus far had failed to result in convictions of the traffickers, because of legal loopholes in protection measures.

64. The CHAIRPERSON, speaking as a member of the Committee, said that he would welcome more details about how the work of private educational institutions was monitored.

65. Mr. AL-SHEDDI asked for more information about the cooperation with UNESCO.

66. Mr. KAWG'OMBE (Malawi) said that private schools belonged to the Private Schools Association of Malawi. They were required to offer an education meeting the standards established by the Government in cooperation with the Association. Private schools had to be approved by the Ministry of Education, which undertook inspections. The Government did not set the enrolment fees for such schools. On the subject of education, while it proclaimed the right of every citizen to attend a public school, the Government allowed everyone the freedom to choose private education.

67. An association of private hospitals also existed to oversee the running of those institutions. Hospitals had to comply with the standards laid down at the national level or face losing their licences, something which had happened several times following tours of inspection.

68. Mr. KILEMBE (Malawi) said that UNESCO had been involved in designing primary and secondary education programmes and it provided technical and financial assistance for school support activities and for those of the education and guidance centre which provided additional teacher training. Together with the United Nations Children's Fund (UNICEF), it played a vital role in efforts on behalf of young children, including in the drafting of related legislation.

69. Mr. CITARELLA said that he welcomed the fruitful dialogue which had just been held with the State party. The Committee had taken note of the measures pursued to harmonize legislation with the Convention. Nevertheless, the amendments made to the Constitution in 1995 had not gone far enough. The legal age of majority (16 years) and the age of criminal responsibility (7 years) were not in line with the provisions of the Convention. Efforts were also needed to develop customary law.

70. The State party should continue its efforts to combat the disparities between rural and urban areas affecting children in need of special care together with discrimination against refugees. Measures should be taken to eliminate corporal punishment, not only at school and in the home, but also as a criminal penalty. With regard to juvenile justice, instead of beginning by amending existing laws, the State party should undertake to enact entirely new legislation. Finally, the Committee believed that the important measures already instituted by the State party to strengthen the protection of children's rights should guide future efforts to give full effect, as expeditiously as possible, to the fundamental principles of the Convention.

71. Ms. DAFTER (Malawi) said that the dialogue with the Committee had been extremely valuable and that, as soon as it returned, the delegation would ensure that the replies to the questions that had not been answered were transmitted to the Committee. She regretted that the Committee had not received the supplementary report on the implementation of the Convention and wished to assure it that Malawi took to heart the need to honour its commitments under the Convention and to apply the principles enshrined therein, with a view to helping children grow up in dignity and security.

72. The CHAIRPERSON thanked the State party for all the information provided in its excellent report and during the course of its consideration. He congratulated Malawi on the efforts it had made, particularly at the community level, which could serve as an example to many countries.

The meeting rose at 6.05 p.m.