



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women Sixty-second session

Summary record of the 1352nd meeting

Held at the Palais des Nations, Geneva, on Friday, 6 November 2015, at 3 p.m.

Chairperson: Ms. Hayashi

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (continued)

Seventh periodic report of Malawi (continued) (CEDAW/C/MWI/7; CEDAW/C/MWI/Q/7 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Malawi took places at the Committee table.*

Articles 7 to 9 (continued)

2. **Ms. Kaliati** (Malawi), responding to the question on nationality raised at the previous meeting, said that the Citizenship Act was being reviewed in order to bring it into compliance with the Constitution and international standards.

3. **Ms. Acar** said she would appreciate it if the delegation could respond to her questions on the expected time frame for the review of the Citizenship Act and on women and children at risk of statelessness under the nationality law.

4. **Ms. Kaliati** (Malawi) said that the Government would finish reviewing the Citizenship Act by January 2016.

Articles 10 to 14

5. **Ms. Bailey** said that she was concerned about the extremely low rate of enrolment of girls in secondary education. According to the replies to the list of issues, the Ministry of Education had adopted the National Girls Education Strategy for the period 2014-2018. At the same time, a new initiative had been launched to ensure better education for girls in Malawi by the Government of Norway, with the support of a number of United Nations agencies. As the time frame for the two initiatives overlapped, she wondered whether the Government had taken steps to avoid any duplication of efforts. It would also be useful to learn whether a strategy was in place to coordinate and monitor the results of the planned activities and whether increased public funding had been allocated for the construction of new schools and girls' hostels under the above-mentioned Strategy.

6. Noting the reference made to so-called mother groups at the previous meeting, she wished to know the extent to which such groups endorsed entrenched attitudes that gave rise to such harmful practices as early marriages and placed traditional female housekeeping roles above education. She would like to know how the national education strategy dealt with such attitudes and whether specific activities had been developed to prevent parents, in particular mothers, from being influenced by them. The extremely high rate of adolescent pregnancies and early marriages had an adverse effect on girls' school attendance. She was concerned that around 50 per cent of girls were married by the age of 18 years and 25 per cent of adolescent girls had children. She commended the Government for its policy to reintegrate teenage mothers back into the school system but remained concerned that the policy was allegedly being undermined by the fact that girls who returned to school were often subjected to stigmatization and discrimination and ended up dropping out again. Information on measures being taken to address that problem would be welcome.

7. Turning to the problem of sexual violence in schools, she said that a 2014 national survey on violence against children had found that one in five girls experienced sexual abuse before the age of 18 years; furthermore, half of those girls had been abused before the age of 13. Many were allegedly subjected to sexual abuse by their classmates. According to a survey by the National Statistics Office, 26 per

cent of rape and defilement cases were reported to have taken place in schools. However, there was no information on measures taken to punish teachers in such cases. The Teachers' Code of Conduct referred to in the written replies did not explicitly address that concern. Incidents of rape and defilement involving teachers allegedly resulted in very light penalties, dismissals or transfers, or went unpunished. Such incidents had a long-term impact on girls and must be treated as criminal offences. What was the Government doing to address that problem? She wondered why the policy to combat violence against girls developed in 2012 that was mentioned in the State party's report had not yet been implemented.

8. **Ms. Patten**, referring to the replies to the list of issues, said that she was surprised to learn from the written replies that, according to data provided by the Ministry of Labour, there were no wage differences between men and women in Malawi. She asked what policies were in place to close the gender pay gap and what was being done to improve the availability of statistics on remuneration disaggregated by sex. Furthermore, it would be interesting to know whether the Employment Act guaranteed equal pay for work of equal value and how that principle was implemented in practice in the public and private sectors. It would also be useful to know what gender-neutral job classification method was being used and what job evaluation mechanism was in place. She asked which body was in charge of dealing with wage discrimination matters. Did the Government conduct regular remuneration surveys and had it sought technical assistance from the International Labour Organization (ILO) for that purpose?

9. There was a very serious contradiction between the information provided in the State party's report, according to which women continued to lose jobs or benefits as a result of pregnancy, and the information contained in the replies to the list of issues, which stated that the Ministry of Labour had not registered any cases of women losing their employment or failing to receive maternity benefits as a result of pregnancy. She wished to know whether the Ministry of Labour incorporated a gender perspective into all its programmes. It would also be useful to know how the Government implemented the Employment Act and other labour legislation, with a view to protecting women in the public and private sectors. Was there a labour inspectorate in the country which monitored the implementation of such legislation? What steps did the Government take to ensure the implementation of article 11 of the Convention, on elimination of discrimination in employment, in the private sector?

10. The delegation should provide information on gender-based segregation in employment. She asked whether the Ministry of Labour systematically analysed gender segregation and developed gender-sensitive statistics. She would welcome information on specific measures to eliminate occupational segregation. Likewise, information on efforts to promote equal participation of women in skilled and highly skilled jobs and senior management positions would be useful. What was being done to promote women's career development and mobility in the labour market and to encourage men and women to take up non-traditional jobs? Referring to question 13 of the list of issues, she asked whether the Government planned to rescind Malawi Police Service standing order No. 31, regarding pregnancy and marriage of female police officers, and, if so, when.

11. **Ms. Nwankwo**, commending the State party on its efforts to reduce the high maternal mortality rate in Malawi, said that it still remained high. The availability of sex education and access to contraceptives remained inadequate, especially for girls. She asked what was the status of the bill on the termination of pregnancy proposed by the Law Commission and whether there was a time frame for its adoption. What measures were in place to reduce the maternal mortality rate, in particular among rural women and adolescents, and to ensure access of all women, regardless of their marital

status, to a wide range of affordable, modern contraceptive devices? It would be useful to know what steps were taken to disseminate information on methods of contraception, including emergency contraceptives and post-exposure prophylaxis for victims of sexual violence.

12. Information on the provision of reproductive health services to girls and adolescents with a view to tackling the problem of teenage pregnancies would be welcome. It was not clear whether the Government had a schedule for the adoption of the HIV and AIDS prevention and management bill. She was concerned that some of the provisions contained in the bill could lead to stigmatization and discrimination, in particular the provision which enabled doctors to disclose, in certain cases, information on the health status of persons living with HIV/AIDS, without their consent; the provision on the compulsory testing for sex workers, pregnant women and persons involved in polygamous unions; and the provision on the mandatory testing of domestic workers prior to recruitment. In addition, the bill contained no provisions for young women, girls, children and people with disabilities. She asked whether the Law Commission would consider another version of the bill, which had been developed in 2013 through a consultative process and which was more in line with regional and international standards.

13. **Ms. Kaliati** (Malawi) said that the Government provided special training on discrimination issues for police officials in order to put an end to discriminatory practices. The Minister of Gender, Children, Disability and Social Welfare worked closely with the Minister of Labour and other ministries to ensure that the gender perspective was incorporated into all relevant policies and programmes.

14. The funding provided to the Malawi Government under the Norwegian-United Nations initiative referred to earlier was aimed at supporting and complementing existing Government efforts; the objectives of the National Girls Education Strategy and the United Nations proposal did not overlap. Numerous programmes, inter alia, on gender-based violence and the economic empowerment of women, were in place in all districts.

15. Efforts were being made to establish adequate infrastructure for schoolchildren. For example, girls' hostels were built in order to prevent girls who would otherwise have had to travel long distances to attend school from dropping out of school. That in turn contributed to preventing early marriages and pregnancies. Responding to the question raised about sexual abuse by teachers, she assured the Committee that teachers accused of such abuse were not transferred to other schools, but rather arrested and prosecuted.

16. With regard to the mother groups, she said that their aim was to put an end to early marriages and pregnancies and to protect the rights of girls. Numerous programmes sought to encourage children to attend school and to provide assistance to parents, in particular to female-headed households. Owing to a series of measures, including counselling by teachers, regulations and penalties for violations of those regulations, girls who returned to school were not subjected to discrimination.

17. Furthermore, she assured the Committee members that doctors and health workers could not disclose information about persons living with HIV/AIDS under any circumstances. Medical staff received training on confidentiality and related issues. A number of sexual and reproductive health programmes and family planning services had been integrated into the health system and women were encouraged to use them. The Government worked closely with local leaders to promote safe motherhood practices and to raise women's awareness of the services available to them.

18. **Ms. Patten** said that the delegation had the possibility of responding to the questions raised by members in writing if it did not have ready replies.

19. **Ms. Bailey** commended the Government for its initiatives in the area of education but said that, in future, the Government should provide more detailed information on the results of those initiatives.

20. **Ms. Kaliati** (Malawi) said that the Government had drafted a bill aimed at preventing and combating HIV/AIDS and had taken a variety of measures to eradicate mother-to-child HIV transmission. It had also introduced several family planning initiatives.

21. **Ms. Shawa** (Malawi) said that steps had been taken to increase the public's awareness of women's labour rights and to close the gender pay gap. Paid maternity leave had recently been extended to 90 days and paternity leave would be introduced in the near future. Over 350 girls had started higher education courses in 2015, but no figures were currently available regarding the number of pregnant girls who had completed their basic education. The Government had opened several homes to care for the large number of orphans whose parents had died of HIV/AIDS and had introduced a number of grants and scholarships so that orphaned children could continue their studies.

22. Numerous measures had been adopted to tackle the high maternal mortality rate and improve obstetric care. Community nurses had been trained in modern childbirth techniques and maternity centres had been established in several regions so that women diagnosed with high-risk pregnancies living in remote and rural areas could receive treatment two to three weeks before their due date. A number of national family planning programmes had also been launched in an attempt to reduce the high birth rate and a specialist treatment centre had been established to care for women with obstetric fistula.

23. **Ms. Kainja** (Malawi) said that numerous steps had been taken to facilitate access to education for girls, particularly in remote and rural areas. Additional women teachers had been trained and free school meals had been provided to vulnerable and disadvantaged groups of children. Cash transfers had also been paid to families with a view to improving school attendance rates.

24. **Mr. Nyirongo** (Malawi) said that the abortion bill was currently before the parliament. There was no clear indication yet of when it would be adopted. The HIV/AIDS bill had originally been drafted by the Law Commission in 2008. A group of experts had been appointed to review medical and technological advances in the treatment of the disease and to make recommendations aimed at improving the provisions of the existing bill. It had not been tasked with drafting a proposal for a separate piece of legislation. The Government hoped that the amended HIV/AIDS bill would be adopted in the near future. As to closing the gender pay gap, the Employment Act expressly provided for equal pay for work of equal value.

25. **Ms. Gbedemah** said that up-to-date, reliable disaggregated data were required in order to devise gender-sensitive policies and she urged the State party to take all necessary steps to improve its data-collection mechanisms.

26. **Ms. Pomeranzi** said that she wished to know what efforts had been made to incorporate a gender perspective into the national social protection programme and include specific provisions for women, particularly vulnerable and older women. She also asked what measures had been adopted to reduce the number of women living in poverty across the country. Lastly, she wished to know what specific support had been made available for women entrepreneurs, including women looking to start up businesses in the mining sector.

27. **Ms. Zou Xiaqiao** said that she would like further information on the measures taken to protect women's customary land rights, including detailed information on the status of the customary land bill. She also asked what efforts had been made to incorporate a gender perspective into national disaster management and response plans and food and nutrition security programmes, particularly with respect to rural women. Lastly, she enquired about the status of the refugee bill and the main obstacles in the path of its swift adoption.

28. **Ms. Kaliati** (Malawi) said that the Government had been closely monitoring the implementation of the national social protection programme and had adopted special measures for female-headed households to ensure that they had access to adequate housing and nutrition. It had also taken steps to provide additional assistance to women entrepreneurs and agricultural workers in order to strengthen their involvement in the economic and social development of the country.

29. **Ms. Shawa** (Malawi) said that cash transfers paid to families with school-age children had led to a reduction in the number of early pregnancies and marriage and a sharp decline in childhood malnutrition. The Government had worked in close partnership with the Scaling Up Nutrition Movement to tackle food shortages and provide appropriate assistance to vulnerable groups, particularly women and girls, during periods of food insecurity and national disasters. It had also devised a series of policies to facilitate recovery efforts following the recent severe flooding, which had included measures to combat gender-based violence.

30. **Ms. Kainja** (Malawi) said that the Malawian Government was making every effort to increase women's participation in the mining industry. For example, study visits to mining operations in South Africa had been arranged so that women could see the production processes in action and share best practices.

31. An integrated approach to providing beneficiaries with access to the various social protection programmes had enabled households reliant on multiple benefits to see a rapid improvement in their income, paving the way for them to emerge from poverty much more quickly. The corresponding data was disaggregated by sex and collected in a timely, systematic manner.

32. **Ms. Shawa** (Malawi) said it was true that, for such a small country, Malawi had a significant number of refugees. However, the country's physical dimensions meant that it was not always possible to comply with international standards, such as positioning refugee camps at least 50 km from the nearest border. While the Government was working with international partners to develop a coherent national strategy, it was not yet at the point where it could register refugees. The Government was also exploring ways to provide refugees with psychosocial support.

33. At the community level, much was being done to highlight the contributions of rural women. For example, a recent community initiative had opened the way for agricultural women to exhibit their value-added wares, such as soaps and cooking oils, and connect with potential distributors and merchants.

Articles 15 and 16

34. **Ms. Gbedemah** said that the Committee was concerned by the lack of interaction between the formal and informal justice system in the State party and by the scarcity of data on the justice system disaggregated by sex. She would appreciate further details of who applied to the formal and informal courts, why they did so and how justice was served. Information should be provided on how judges in the informal justice system were utilizing their training and how that was being overseen. Referring to the Committee's general recommendation No. 33 on women's access to justice, she asked how the Legal Aid Bureau was funded; whether there were any fees for using its

services; and whether there were plans to strengthen that entity, particularly with regard to dealing with gender issues. The Committee would also be grateful to receive a copy of the recently approved National Gender Policy.

35. She asked whether the Government intended to bring the Constitution into line with the Marriage, Divorce and Family Relations Act in order to prevent child marriage. As long as the contradiction between those two instruments continued to exist, the problem would not be resolved. The President of Malawi was renowned for his fierce opposition to child marriage; if the Constitution were to be amended to end child marriage, it would not only send a strong message to the people of Malawi but would also make an impression on other African nations. Similarly, the legislation should be amended to explicitly outlaw marital rape since, under the current provisions, it was only considered to be marital rape once a couple had separated. She would also welcome information on how the courts dealt with cases involving women with albinism.

36. She wished to know how judges arrived at decisions on the equal distribution of assets if a woman's non-financial contributions to the household were not taken into account. She also sought clarification on what was meant in paragraph 67 of the replies to the list of issues (CEDAW/C/MWI/Q/7/Add.1), in which it was stated that all provisions of the Marriage, Divorce and Family Relations Act would apply only to marriages contracted after that Act had been enacted, yet the provisions specifying the rights and obligations of the spouses would apply to all marriages.

37. **Ms. Kaliati** (Malawi) said that members of the legal profession were being trained to ensure that vulnerable persons had access to justice; however, more lawyers with specific training in family law were needed. In that connection, specialized courts had been set up to deal with, inter alia, marriage and divorce cases, children's issues and also matters involving people with albinism.

38. A grass-roots approach had been adopted to prevent, and even annul, child marriages, with the full participation of local chiefs and traditional and religious leaders. Irrespective of whether or not the marriage had actually taken place, the authorities could intervene to facilitate the child's return home and to school. Likewise, the Men for Gender Equality Network encouraged boys and men to continue with their education since men, too, could be agents for change in the fight against gender inequality.

39. The President of Malawi was not only advocating the abolishment of child marriage but also increased access to higher education and reproductive health services. Lastly, the Government was working with NGOs across the country to ensure access to justice, particularly in rural areas.

40. **Ms. Shawa** (Malawi) said that, to facilitate access to justice for sex workers, trained community-based social welfare officers could receive complaints and draw up corresponding reports, which would then be used as the basis for opening formal cases. Victims could also attend one of the 21 one-stop centres around the country for advice and support in filing a complaint. Child protection officers in rural areas worked alongside the traditional authorities to disseminate information on new laws. In so doing, traditional by-laws were aligned with the latest legislative developments. Clearly, monitoring of the informal justice system was critical; for that reason, a systematic monitoring system was being developed to provide the necessary checks and balances at all levels of the plural legal system.

41. **Mr. Nyirongo** (Malawi) said that provision had been made in the recently enacted Marriage, Divorce and Family Relations Act of 2015 for direct and indirect contributions to household income, such as the performance of domestic duties, to be taken into consideration by judges when deciding upon the division of assets between

divorced couples. In order to prevent a dualistic system of marriages, the rights and obligations set out under the Act would apply to all marriages, including those contracted prior to the adoption of the Act.

42. The Government deplored child marriage and, for that reason, had introduced a range of measures intended to protect children until such a time as a referendum could be held and the Constitution amended. For example, the Child Care, Protection and Justice Act of 2010 had introduced the principle of the best interests of the child and had made it an offence for parents to marry off their underage children. As such, there had to be a demonstrable reason as to why a child wished to marry and such a marriage had to be in the child's best interests. The Committee member's comments on marital rape would be relayed to the Government and appropriate action taken.

43. **Ms. Pomeranzi** said that she would welcome further information on how the cash transfer programme of the Malawi Vulnerability Assessment Committee was managed and whether or not women were involved in that process.

44. **Ms. Pimentel**, drawing the delegation's attention to the Committee's general recommendation No. 33, said that in the light of the necessity to create gender-sensitive family judicial or quasi-judicial mechanisms to deal with issues such as property settlement and dissolution of marriage, among others, she would welcome information on the mechanisms in place to review and monitor gender-insensitive judgements and whether any complaints of that nature had been filed.

45. **Ms. Kaliati** (Malawi) said that the Malawi Vulnerability Assessment Committee programme was managed by the Ministry of Finance, Economic Planning and Development in collaboration with other government ministries. The Ministry of Gender, Disability and Social Welfare was making every effort to ensure that women were involved in, and directly benefited from, that programme.

46. **Ms. Shawa** (Malawi) said that there had been a number of cases of alleged injustice or decisions that had not taken a gender perspective into account. Such complaints had either been brought to the attention of the authorities through the media or community-based social welfare officers. It was also possible for women to file a complaint directly with the Ministry of Gender, Disability and Social Welfare. An in-house lawyer within that Ministry had, in the first four months of her post, followed up on and, in certain cases, appealed against 40 such decisions, of which 30 had now been revised. Clearly, more lawyers were needed to increase capacity.

47. **Ms. Kainja** (Malawi) said that while the numerous social protection programmes were implemented by various government departments, with each collecting the corresponding data, the Ministry of Finance, Economic Planning and Development was responsible for overall data consolidation and management.

48. **Ms. Kaliati** (Malawi) said that, as the Minister for Gender, Disability and Social Welfare, she was committed to ensuring that women had access to justice and were educated and empowered and could thus serve as role models for younger generations. Much remained to be done in Malawi, particularly in terms of HIV/AIDS awareness and prevention, skills development and reproductive health, but the Government was steadfast in its goal of gender equality and looked forward to receiving the Committee's forthcoming recommendations to aid it in that endeavour.

The discussion covered in the summary record ended at 5.10 p.m.