



Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
7 March 2022

Original: English
English, French and Spanish only

Committee on the Elimination of Discrimination against Women

List of issues and questions in relation to the eighth periodic report of Malawi*

Women's rights and gender equality in relation to the pandemic and recovery efforts

1. In line with the Committee's guidance note on the obligations of States parties to the Convention in the context of the coronavirus disease (COVID-19) pandemic, issued on 22 April 2020, please indicate the measures implemented by the State party to redress long-standing inequalities between women and men and to give a new impetus to the implementation of gender equality by placing women at the centre of the recovery as a strategic priority for sustainable change, in line with the Sustainable Development Goals, to meet the needs and uphold the rights of women and girls, including those belonging to disadvantaged and marginalized groups and women in situations of conflict or other humanitarian emergencies, and to ensure that, in the context of lockdown measures, whether partial or total, and in post-crisis recovery plans, women and girls are not relegated to stereotypical gender roles. Please indicate measures in place to ensure that all COVID-19 crisis response and recovery efforts, including the recovery and resilience plan:

(a) Address and are aimed at effectively preventing gender-based violence against women and girls;

(b) Guarantee the equal participation of women and girls in political and public life, decision-making, economic empowerment and service delivery, in particular in the design and implementation of recovery programmes;

(c) Are designed so that women and girls benefit equally from stimulus packages, including financial support for unpaid care roles, that are aimed at mitigating the socioeconomic impact of the pandemic.

2. Please explain how the State party is ensuring that measures taken to contain the pandemic, such as restrictions on freedom of movement or physical distancing, do not limit access for women and girls, including those belonging to disadvantaged and marginalized groups, to justice, shelter, education, employment and health care, including sexual and reproductive health-care services.

* Adopted by the pre-sessional working group on 1 March 2022.



Legislative and policy framework

3. Please provide information on the status of the finalization and adoption of new Police Service Standing Orders (para. 12)¹ that are aligned with the Constitution and the Police Act, 2010.

Access to justice and legal complaint mechanisms

4. Please provide the steps taken to realize the Constitutional guarantees of equality before the law (sections 12 (1) and 24), including through:

(a) Facilitating access by women, specifically marginalized groups of women, to justice, including through the prioritization of mobile courts and Legal Aid Bureau offices at the district and council levels to receive and deal with complaints by women (para. 109);

(b) Strengthening the capacity of justice actors, included the Malawi Police Service and the judiciary, to take a gender-sensitive approach in treating complaints filed by women and in examination of their cases;

(c) Reviewing, judicially or through the exercise of the Presidential pardon, the convictions and/or sentences of women facing the death penalty in the State party, specifically to take into account the gender-specific reasons and their experience of gender-based violence, including domestic violence, that contributed to their actions;

(d) Improving the conditions in women's detention facilities and where women on death row are detained, bringing them in line with international standards, addressing overcrowding and ensuring access to health care, nutrition and hygiene.

National machinery for the advancement of women

5. Please provide details on:

(a) How the Malawi Growth and Development Strategy III, 2017–2022, has mainstreamed gender equality into all the key result areas (para. 13);

(b) Whether the gender-responsive budgeting guidelines have been renewed for successive national budgets beyond 2015/2016 (para. 25) and what areas of the Convention have seen increased investment as a result;

(c) The outcome of any impact assessment of the Gender Equality Act Implementation and Monitoring Plan, 2016–2020 (para. 14), including an evaluation of its sufficiency or the human, technical and financial resources to ensure its realization;

(d) The status of the data management system (para. 7) being developed to ensure the systematic collection of disaggregated and comprehensive data under all areas of the Convention;

(e) Procedures to systematically consult women's organizations, in particular those representing marginalized women, on implementation of gender equality strategies.

¹ Unless otherwise indicated, paragraph numbers refer to eighth periodic report of the State party (CEDAW/C/MWI/8).

National human rights institution

6. Please inform the Committee of support given to the Malawi Human Rights Commission to oversee the implementation of the Gender Equality Act, 2013, as well as of the Commission's powers to enforce compliance with the provisions of the Act.

Temporary special measures

7. Beyond the temporary special measures to ensure gender equality in education (paras. 26–27) as well as those addressed in the Gender Equality Act, which cover only public service and tertiary education, please inform the Committee of plans to implement temporary special measures to address other areas of the Convention, such as access to justice, health care, including sexual and reproductive health, vocational training, employment opportunities and acquisition of financial credit and assets, including land.

Gender stereotypes and harmful practices

8. Please inform the Committee of the outcome of any assessment carried out of the National Plan of Action against Gender-Based Violence, 2014–2020, in changing harmful social norms and how the lessons learned have been integrated into a renewed Plan (para. 36).

9. Please provide information to the Committee on steps taken to:

(a) Enforce laws prohibiting harmful practices, including the Anatomy (Amendment) Act, 2016;

(b) Empower girls to challenge discriminatory stereotypes and harmful norms, including by strengthening the local child protection committees and the Safe Space mentorship programmes;

(c) Raise public awareness of the criminal nature of harmful practices against women, in particular by engaging with community influencers, such as traditional and religious leaders;

(d) Repeal the Witchcraft Act, 1911 (para. 113), and ensure that awareness-raising efforts undertaken to combat discrimination against older women, including accusations of witchcraft and violent attacks against them, are reaching communities across the State party.

10. Please provide information on steps taken to enforce the constitutional amendment of 14 February 2017 raising the minimum age of marriage from 15 to 18 years for both girls and boys, including by sanctioning officiants of child marriages and raising public awareness of the harmful effects of child marriage on the physical and mental health of girls. Please further provide details on the midterm assessment of the National Strategy to End Child Marriages, 2018–2023.

Gender-based violence against women

11. Please inform the Committee of steps taken to:

(a) Widen the definition of marital rape to go beyond the narrow interpretation provided in section 62 of the Marriage, Divorce and Family Relations Act, 2015, and ensure that it includes all cases in which a wife does not consent to any sexual act;

(b) Develop legal procedural guidelines that comply with the judicial decision in *Steven Kaliyati v. The Republic* (Criminal Appeal No. 109 of 2018), removing the requirement for corroboration in allegations of sexual offences.

Trafficking and exploitation of prostitution

12. Please inform the Committee of:

(a) The outcome of any midterm review of the National Plan of Action Against Trafficking in Persons, 2017–2022, in particular with regard to: raising the awareness of both the general public and women and girls of the risk of being trafficked; building the capacity of front-line responders to identify trafficked women and girls; increasing the capacity of labour inspectors to obtain access to private homes; and adapting the assistance and protection offered to victims to ensure that they are gender-responsive and include adequate remedy, including compensation for lost wages;

(b) Measures to protect women in prostitution, including the dissemination to all police officers of the High Court's decision of the unconstitutionality of section 184 (1) (c) of the Penal Code on loitering, and instructions to desist from using this provision to arrest women in prostitution (para. 49) in line with the Committee's previous recommendation ([CEDAW/C/MWI/CO/7](#), para. 25).

Equal participation in political and public life

13. Please provide information on the status of:

(a) The re-tabling of the bill to introduce and reserve an additional 28 seats in the National Assembly, to be completed for only by women candidates at the district level, as recommended by the Law Commission on the Review of Electoral Laws (para. 53);

(b) Implementation of section 11 of the Gender Equality Act, 2013, providing a 60/40 quota for either sex in public appointments and recruitments;

(c) Measures to cultivate the social acceptance of women in representative and leadership positions in both the public and private sector to build their capacity and to protect women from violence in politics and elections;

(d) The revision of section 77 (3) (a) of the Constitution, which effectively disenfranchises women with psychosocial and intellectual disabilities from the right to vote.

Nationality

14. Please inform the Committee of the steps taken to inform both the general public and the respective administrators of the change in law that now permits dual citizenship, under section 9 of the Malawi Citizenship Act, 2019, the removal of any restrictions on a Malawian woman's ability to confer citizenship on her foreign spouse and the ability to retain nationality upon marriage to a foreign national, pursuant to section 48 (4) of the Marriage, Divorce and Family Relations Act.

15. Please indicate any plans to remove the requirement to present immigration-related documentation to ensure registration of births, in line with the National Registration Act, 2010, which makes birth registration compulsory. Please indicate plans to accede to the 1961 Convention on the Reduction of Statelessness.

Education

16. Please provide information on:

(a) The systematic collection of data on the number of school-going girls who become pregnant and/or get married and the number of those girls who return to school;

(b) Measures to inform the teachers, parents and adolescents across the State party of the Re-admission Policy, 2016 (para. 73), allowing all adolescent mothers to return to school without facing any bureaucracy and discrimination, and information on the existence of other measures to support girls who are pregnant and/or married in continuing their schooling;

(c) The access of schoolgirls to health-care services, and in particular to sexual reproductive health services, including free contraception, as well as prenatal and postnatal care for those who become pregnant and young mothers;

(d) The implementation of comprehensive sexuality education at all levels of schooling, in tandem with investments made at the community level in good parenting skills with regard to addressing sexual and reproductive health issues at home in the best interests of the child.

Employment

17. Please provide details on steps taken to:

(a) Address the high unemployment rate of women in the State party and their overrepresentation in the informal economy, including by setting targets to increase the recruitment of women in both the private and public sectors;

(b) Encourage the sharing of household and childcare responsibilities between men and women, including through the adoption of a paternity leave policy, declared as a Generation Equality commitment by the State party in 2021;

(c) Enforce section 7 (1) of the Gender Equality Act, 2013, prohibiting and criminalizing sexual harassment in the workplace and requiring employers in both the public service and private sectors to establish policies combating sexual harassment and to ensure that they comply with clear mechanisms for reporting violations and protecting victims;

(d) Ratify the Violence and Harassment Convention, 2019 (No. 190), of the International Labour Organization.

Health

18. Please provide information on:

(a) The allocation of adequate resources to ensure implementation of youth-friendly health services (para. 90) and to encourage social acceptance of the access of girls to sexual and reproductive health services, including contraception;

(b) Efforts to adopt into law the recommendations of the special Law Commission on the Review of the Law on Abortion – which concluded its work in 2016 – to legalize abortion, at least in cases in which the continued pregnancy would endanger the life of the pregnant woman; the termination of the pregnancy is necessary to prevent injury to the physical or mental health of the pregnant woman; the foetus is severely malformed so that its viability or compatibility with life is seriously affected; or the pregnancy is a result of rape, incest or defilement (para. 89). Please also provide information on efforts to decriminalize abortion in all other cases;

(c) Steps taken to raise the awareness of the public in general and service providers in particular, in both the public and private sectors, of the legal prohibition of discrimination on the basis of HIV status pursuant to section 6 of the HIV/AIDS (Prevention and Management) Act, 2018, as well as on the remedies that women can pursue for violations of this non-discrimination provision.

Economic empowerment and social benefits

19. Please provide details on steps taken to:

(a) Ensure gender-responsive programming in poverty reduction strategies to ensure that the needs of women are met, including by collecting data disaggregated by sex, age, disability, location and other gender-relevant indicators, on the beneficiaries of the national Social Cash Transfer Programme (*Mtukula Pakhomo*) and the National Economic Empowerment Fund, as well as by introducing quotas for access by women to economic empowerment programmes;

(b) Develop and make operational a women's economic empowerment fund to facilitate ease of access to loans and other financial facilities and services, in line with the Generation Equality commitment by the State party in 2021.

Rural women

20. Please inform the Committee of the measures taken by the State party to:

(a) Implement the Customary Land Act, 2016, which provides for gender parity in the management of customary land, including by raising awareness of the law and how to gain access to remedies when its provisions are violated;

(b) Facilitate the delivery of financial services in rural areas and take into account the needs of rural women, including by reviewing the onerous requirements of collateral, and to promote a culture of saving;

(c) Provide rural women with time- and labour-saving technologies and services to reduce their burden of unpaid domestic and community work;

(d) Improve the access of rural women to produce and input markets while considering value addition and post-harvest losses for perishables that women often sell;

(e) Meaningfully consult and involve women, in particular rural women, in the development and implementation of the National Disaster Risk Management Policy, 2015, as well as in the development of all legislation, national policies and programmes on climate change, disaster response and disaster risk reduction, to ensure they reflect the needs and concerns of women (para. 105).

Women with disabilities

21. Please provide details on any measures being taken to protect women and girls with disabilities from gender-based violence; facilitate their access to justice, health care, including sexual and reproductive health, and employment; and promote their empowerment through accessible learning and vocational institutions. Please provide details on the temporary special measures envisaged by the State party, including quotas, to increase the number of women with disabilities employed in both the public and the private sectors and enrolled in tertiary education institutions.

Equality in family relations

22. Please inform the Committee about the steps taken to:

(a) Raise awareness among women, the general public and traditional and religious leaders of the laws guaranteeing equality in family relations, including the constitutional amendment of 2017 recognizing as children all persons until the age of 18 years and the Marriage, Divorce and Family Relations Act prohibiting child marriage;

(b) Establish in law and enforce sanctions against officiants of child marriage;

(c) Address, through mass awareness-raising campaigns, prevailing cultural practices that reinforce unequal power relationships between men and women in marriage and upon its dissolution, in particular with regard to the control of resources at the family level and the care of children;

(d) Establish family counselling panels as foreseen in the Marriage, Divorce and Family Relations Act.

Optional Protocol and amendment to article 20 (1) of the Convention

23. Please provide an update on efforts to ratify the Optional Protocol and on and the acceptance of the amendment to article 20 (1) of the Convention concerning the meeting times of the Committee.
