



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

Distr.: General
13 June 2006

Original: English

**Committee on the Elimination of Discrimination
against Women
Thirty-fifth session**

Summary record of the 728th meeting

Held at Headquarters, New York, on Friday, 19 May 2006, at 3 p.m.

Chairperson: Ms. Belmihoub-Zerdani (Vice-Chairperson)

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06-35399 (E)



In the absence of Ms. Manalo, Ms. Belmihoub-Zerdani, Vice-Chairperson, took the Chair.

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

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

Combined second, third, fourth and fifth periodic report of Malawi (continued) (CEDAW/C/MWI/2-5 and CEDAW/C/MWI/Q/5 and Add.1)

Articles 10 to 14 (continued)

1. **Ms. Namasasu** (Malawi), replying to questions raised at the previous meeting, said that Malawi's reproductive health programmes comprised community- and clinic-based family planning, maternal and neonatal health, post-abortion care, prevention of sexually transmitted infections, cancer screening and rural health services, including the use of motorcycle ambulances to access remote areas. Malawi hoped to halve the maternal mortality rate by 2015.

2. There were campaigns to promote education for girls and school health programmes to provide information on reproductive health, health in general and career advice, with emphasis on the importance of completing education. Information on reproductive health, sanitation and other health-related issues was disseminated primarily through print and electronic media and radio broadcasts.

3. Malawi had 446 hospitals, which offered basic services free of charge. The Christian Health Association of Malawi (CHAM) ran a number of private hospitals which were accessible under an agreement between the Government and CHAM whereby the Government paid for treatment that women could not otherwise afford.

4. **Ms. Nyasulu** (Malawi) said that the study undertaken by Malawi's Human Rights Commission had led to recommendations on policy change, some of which were already being implemented. The findings of the study had also been used as the basis for education campaigns to raise awareness regarding women's rights vis-à-vis negative cultural practices.

5. **Mr. Silungwe** (Malawi) said that the Law Commission set up to develop a gender equality statute was considering the recommendations of the Human

Rights Commission for the elimination of negative social and cultural practices.

6. **Mr. Silungwe** (Malawi), referring to the questions concerning poverty and inequality with regard to access to land, said that the Government was examining the question of land redistribution with a view to addressing the problem of landlessness.

7. **Ms. Mchiela** (Malawi) said that the new Land Act enabled women to access land, particularly in the north, where previously such access had not been possible. Plots of land were also being made available to women under a programme to address landlessness. In addition, the Poverty Reduction Strategy Paper had made funds available for a programme for the economic empowerment of disadvantaged women. As regards illiteracy, she said that a number of literacy programmes were being implemented with financing from the Malawian Government, the African Development Bank (ADB), the United Nations Development Programme (UNDP) and even church organizations.

8. **Ms. Chimzimu** (Malawi) said that the Government was taking action to reduce school dropout rates inter alia through its school feeding programmes, which were supplemented by a programme to assist parents in obtaining food for their children. Some faith groups also provided basic foodstuffs to those caring for orphans. Primary education was indeed free of charge both in rural and urban areas. A number of teacher training and awareness programmes on HIV/AIDS, gender and human rights were being implemented in educational institutions, including universities.

9. **Ms. Tan**, referring to the Government's responses to the list of issues (CEDAW/C/MWI/Q/5/Add.1, para. 16), asked whether there had been any impact assessment of the national strategy on gender-based violence and whether the strategy would continue beyond 2006.

10. The State party should provide details of the new inheritance scheme designed to replace the Wills and Inheritance Act and the penalties for property-grabbing, and an explanation of how the new procedures were more user-friendly.

11. **Ms. Tavares da Silva** expressed deep concern regarding harmful traditional practices and their impact on women's health and reproductive rights, particularly

the increased vulnerability of women to HIV infection as a result of sex-related practices. Given that in its initial report, the Government had said that those practices to be gradually dying out, the continuing prevalence of the problem was troubling. In that regard, a more proactive approach going beyond educational measures and changing behaviour might be needed.

12. **Ms. Dairiam** asked what measures were envisaged to integrate the closely interrelated issues of sexual and reproductive health, gender and power relations between men and women, women's control over their bodies and HIV/AIDS. Given the high level of migration of trained nurses from the country and the difficulty of ensuring adequate access to sexual and reproductive health services, particularly in rural areas, the State party should indicate what special budgetary measures had been taken to retain nurses and midwives and what incentives they had been offered to stay and serve in rural areas.

13. **Ms. Simms** asked whether there were any plans to set up special scholarship programmes to enable girls and young women to pursue careers in science and mathematics. In that regard, it would be interesting to know whether any young Malawian woman had ever been nominated for a Rhodes Scholarship.

14. **Ms. Nyasulu** (Malawi) said that harmful traditional practices had a negative effect on women's health, particularly with regard to the transmission of HIV/AIDS. Women often refused to go to the hospital, unless they were accompanied by a man. The Government had launched sensitization campaigns targeting tribal chiefs, in an attempt to eliminate such practices.

15. **Ms. Namasasu** (Malawi) said that women were able to control their fertility through family planning and comprehensive health care and that voluntary counselling and testing for HIV/AIDS was available to women who visited hospitals. With respect to the availability of health personnel in remote areas, the Government was currently examining an incentive package. Donors had also pledged a considerable amount of money to help keep health personnel in isolated areas.

16. **Ms. Chimzimu** (Malawi) said that she could not provide any statistics regarding the Rhodes Scholarship. The Government had various scholarship programmes, including one where 32 girls and 32 boys

in grade eight were awarded scholarships to continue their studies at a private academy which focused on mathematics and science. The Government also had a sponsorship programme for underprivileged girls and a special education fund for orphans.

17. **Ms. Mchiela** (Malawi) said that an assessment of the strategy on gender-based violence had not been conducted.

18. **Ms. Dafter** (Malawi) said that the new inheritance scheme — called the Deceased Estate (Wills, Inheritance and Protection) Bill — had been presented to Parliament. It emphasized inheritance by the surviving spouse and dependants.

Articles 15 and 16

19. **Ms. Coker-Appiah** said that she would first like the delegation to address two questions on article 4. Firstly, she would like to know whether the proposed bill on nationality had been amended and if so, when. Secondly, she wondered whether a Malawian woman who married a foreign national was able to transmit her nationality to her children.

20. With reference to articles 15 and 16, she wished to receive clarification of paragraph 15.4.3 of the report which stated that “customary law underlined the importance of male involvement in civil matters and women, must, in many cases, go through men for a transaction”. She wondered whether women were able to conduct civil transactions on their own and wished to know whether the term “male” referred to a husband, father or son. Finally, she would like to receive further information regarding the position of customary law in the Malawian legal framework. Specifically, she wondered whether there were legal areas governed exclusively by customary law.

21. Given that land and credit transactions were not easily accessible to women as a result of their lack of legal literacy, it would be useful to know whether the Government was taking any measures to simplify legal procedures and provide legal literacy programmes for women.

22. She was pleased to note that Malawi had begun to amend a series of discriminatory laws on marriage, property rights and inheritance. It would be interesting to know whether the proposed Marriage, Divorce and Family Relations Bill recognized common-law marriages and whether partners in such marriages

enjoyed the same rights as those who had married formally. It would also be useful to know whether the Government planned to disseminate the contents of the Bill. Finally, she wondered whether the registration of customary marriages conferred any benefits or rights and whether any steps were being taken to encourage said registration.

23. **Ms. Banda** (Malawi), responding to the questions on article 4, said that the proposed amendments to the nationality bill provided that a Malawian woman who married a foreigner retained the nationality and could transmit that nationality to her children, which was not currently the case. However, the amendments had not yet been considered by Parliament.

24. **Mr. Silungwe** (Malawi) said, with regard to a woman's right to conduct legal transactions on her own, that women possessed such rights under the Constitution and that the Constitution took precedence over customary laws. Finally, the proposed Marriage, Divorce and Family Relations Bill recognized all types of marriage and required that they should be registered.

25. **Ms. Nyasulu** (Malawi) said that the Government had drafted the Prevention of Domestic Violence Bill to counter once and for all the contention that what happened in a family was purely a private matter. The question of legal literacy, however, then came into play. Thus, the Women's Rights and Gender Balance Committee, comprising the Law Commission and representatives of civil society, had been formed to make people aware of the need for protections against domestic violence and to get feedback from the public. Since most women in Malawi were illiterate, they did in fact want men to carry out their transactions for them; but the Committee was also working to popularize the notion that women could nonetheless stand up for themselves as individuals.

26. **Ms. Bokpé-Gnacadjia** said that since in Malawian the Constitution always prevailed over contrary legislation, it was not clear how the Government would deal with a situation such as that described in the report (CEDAW/C/MWI/2-5, para. 16.3.2), where on the issue of child marriages, it was the Constitution that violated international standards and not the law.

27. **Ms. Gaspard**, referring to the five types of marriage recognized in Malawi, some involving admittedly discriminatory arrangements (report, sect. 16.4), observed that a uniform legal regime governing

marriage and divorce was essential for the implementation of article 16 of the Convention. She asked whether the new Marriage, Divorce and Family Relations Bill would establish a uniform system in Malawi and, if so, whether its provisions would apply retroactively to existing marriages, thus requiring, for example, the registration of customary marriages.

28. **Ms. Tan** noted that women and men apparently did not enjoy equal property rights in a marriage and there was no law governing the matter. She wondered if the Law Commission would be reviewing the issue of property rights in order to eliminate any discrimination; and if it would also act to safeguard the rights of widows and children in customary marriages.

29. **Mr. Silungwe** (Malawi) assured members of the Committee that the law reform process had addressed all the concerns they had raised. The new marriage law prohibited polygamy, and set the marriageable age at 18, with no provision for parental consent to marriage at a younger age. A constitutional review process would address the disparity between international law and section 22 of the Constitution regarding child marriage.

30. **Ms. Gabr** said that many of the legal reforms and amendments discussed were still in the form of draft laws and she would like assurance that they would shortly become law by approval of Parliament.

31. **Ms. Banda** (Malawi) said that both the amended Citizenship Act and the Marriage, Divorce and Family Relations Bill were currently before Parliament. Also, there had been much discussion in the Government about the abolishment of child marriage and she was confident that the Constitution would be amended.

32. **Ms. Belmihoub-Zerdani** observed that once Malawi had sent a signal of its serious intentions by withdrawing its reservations to the Convention, the country had made substantial progress on many fronts. She believed that the Committee's comments could be useful to the Government as it continued to revise its legislation. Malawi could count on all members of the Committee to provide it with expert assistance if needed. The common goal must be universal ratification of the Convention.

33. **Ms. Banda** (Malawi) said that the delegation had learned much from the dialogue with the Committee, and it realized that the country still had a long way to go. Democratization had been under way in little more

than 10 years and freedoms were only just beginning to be felt, especially by the women of the country. No one could have imagined, just a few years earlier, that Malawi would soon have a human rights commission headed by a woman or a domestic violence bill before Parliament. The texts of the draft laws discussed would be sent to the Committee. The next report would demonstrate that all that critical legislation had been adopted.

The meeting rose at 4.40 p.m.